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HOUSE LABOR AND COMMERCE COMMITTEE

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MISC. INFORMATION

SENATOR TIM KELLY, CHAIRMAN
SENATOR ED DANKWORTH, VICE-CHAIRMAN
SENATOR JALMAR KERTTULA
SENATOR ROBERT ZIEGLER
SENATOR FRANK FERGUSON

ALASKA STATE SENATE

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3704
(907) 465-3822

RULES COMMITTEE

January 11, 1982
Juneau, Alaska

To: Sen. Bob Mulcahy, Chair
Senate Labor and Commerce Committee

From: Sen. Tim Kelly, Chair
Senate Rules Committee TK

Re: Committee Records

Attached is a copy of the Committee Minutes form adopted by the Joint House and Senate Rules Committees. In addition, I have attached a copy of the Committee Records Office Manual. The manual sets out the responsibilities of committee chairpersons and procedures for record keeping.

In order to facilitate the effects of the new Uniform Rules it is imperative that the procedures be followed from the first days of the session.

If you have any questions concerning records procedures please contact the Committee Records staff.

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A. Statement of Committee responsibilities under the law and Uniform Rules procedure.

B. Committee Records Staff.

1. Purpose

2. Procedures

C. Alaska Statutes and Uniform Rules references.

D. Committee Records forms:.

1. Overview;

2. Staff Identification form;

3. Committee Minutes form;

4. Committee Minutes Request form;

5. Public Hearing and Committee Meeting Announcement form.

STATEMENT OF COMMITTEE RESPONSIBILITIES

Each chairperson of a standing, special and joint committee of the Alaska State Legislature is responsible for preparation of the following pursuant to Rule 23 of the Uniform Rules:

A. an electronic recording of committee meetings with a log of the recording adequate to locate specific testimony;

B. minutes of each meeting of the committee on a standard form prescribed jointly by the Rules Committees of the house and senate;

C. announcements of public hearings and committee meetings pursuant to Rule 23, section (a) of the Uniform Rules;

D. a chronological file of minutes, copies of which shall be made available upon request to committee members and the public; committee minutes, tapes and other materials of research value shall be delivered by the committee at the end of each session or each legislature to the legislative library for appropriate disposition;

E. In addition may make available to the Legislative Affairs Agency a copy of all minutes of committee meetings during the session for entry of the minutes as a data base on the legislative computer system.

Committee Records Staff

Purpose: The purpose of Committee Records Staff is to facilitate and insure committee compliance with the Uniform Rules by maintaining computer files for all standing, special and joint committees of the Alaska State Legislature.

The office staff will gather, collate and disseminate information required to be made upon request by committee members and the public pursuant to Rule 23 of Uniform Rules.

Procedures

1. Prepare and disseminate to person responsible the following forms;
   A. Staff Identification form;
   B. Committee Minutes form;
   C. Committee Minutes Request form;
   D. Public Hearing and Committee Meeting Announcement form;
2. Gather and collate completed forms.
3. Enter data on computer.
4. Assist in data retrieval as requested.
5. Present a bi-weekly compliance report to the Rules Committee.

COMMITTEE MINUTES FORM

This form is to be prepared and submitted to the Committee Records Staff within the next legislative day following the public hearing or committee meeting. Please submit this form completed with the following information pursuant to Rule 23 of the Uniform Rules.

Committee Name: Date:
Members Present:

Public hearing or committee meeting on:

COMMITTEE CALENDAR

bill number	bill title
bill number	bill title

WITNESS REGISTER

Witness Name:
Affiliation:
Address:
Phone:
Summarized Position Statement:

PREVIOUS ACTION

Reference Number:
Statutory Reference:
Amendments Formally Considered:

Member Moving Adoption:
Action: Passed or Failed
Voting Record:

ACTION NARRATIVE

Tape Recording Number 0000	Chair opens at _____ with members _____ present etc.

COMMITTEE MINUTES REQUEST FORM

This form is to be filled out in duplicate to the chairperson who chairs the committee of which the minutes are requested. One copy is to be retained by the chairperson, the duplicate copy sent to Committee Records Staff within the day of the request. Please complete the form with the following information.

Committee Name:

Date of meeting minutes requested:

Subject of meeting or hearing requested:

Requested by:
Affiliation:
Address:
Contact Phone:
Date of Request:

ALASKA STATUTORY REFERENCE

A.S. 24.05.135(b) The Legislature shall provide by uniform joint rule for the recording or reporting of committee session proceedings.

UNIFORM RULES REFERENCES

Rule 23. COMMITTEE MEETINGS. (a) Written notice of the time, place and subject matter of all meetings of standing, special, and joint committees during a week shall be provided by the person who chairs the committee to the chief clerk or secretary by 4:00 p.m. on the preceding Thursday. The person who chairs the committee to which a bill or resolution is first referred shall provide to the chief clerk or secretary written notice of the time and place of the first public hearing on the bill or resolution at least five days before the hearing. However, this requirement may be waived by motion of the person who chairs the committee to which a bill or resolution is first referred if concurred in by majority vote of the full membership of the house. The chief clerk of secretary shall publish and distribute copies of the weekly schedule of committee meetings and of the five-day notice of hearing.

(b) The person who chairs a standing, special or joint committee shall provide the chief clerk or secretary written notice of the change in time, place, or subject matter of a meeting. At the next daily legislative session, notice of the schedule change shall be announced by the chief clerk or secretary and published as a notice in the journal of the house.

(c) A scheduled meeting of a standing, special, or joint committee may be cancelled at any time. If possible, notice of the cancellation shall be given in the same manner as provided for notice of change in (b) of this rule.

(d) The provisions of (a) and (b) of this rule do not apply to a standing, special, or joint committee meeting scheduled after the date a conference committee has been chosen to consider amendments to or differences between versions of the general appropriation act. However, a person who chairs a standing, special, or joint committee shall post written notice of the time, place, and subject matter of a meeting at least 24 hours before the meeting.

(e) The provisions of (a) - (d) of this rule do not apply to meetings of

(1) the Rules Committee when it meets for the purpose of preparing the daily calendar;

(2) the Committee on Committees referred to in Rule 1(e); or

(3) standing, special, and joint committees when the committee meets during the interim between sessions.

(f) Each standing, special, and joint committee

(1) shall record its meetings electronically and prepare a log of the recording adequate to locate specific testimony;

(2) shall prepare minutes of each meeting of the committee on a standard form prescribed jointly by the Rules Committees of the house and senate; the minutes shall include

(A) a list of the names of each member present during the meeting;

(B) a list of the name and affiliation of each witness testifying before the committee;

(C) a brief statement of the position of the witness on the subject testified upon; and

(D) each amendment formally considered by the committee, the name of the member moving adoption of the amendment, the action taken on the amendment, and the yeas and nays if a committee member has requested a roll call vote on adoption of an amendment;

(3) shall maintain a chronological file of minutes, copies of which shall be made available upon request to committee members and the public; committee minutes, tapes and other materials of research value shall be delivered by the committee at the end of each session or each legislature to the legislative reference library for appropriate disposition;

(4) may make available to the Legislative Affairs Agency a copy of all minutes as a data base on the legislative computer system.

COMMITTEE RECORDS FORMS

Overview

The Committee Records Staff will gather, collate and disseminate information based on the return of the following completed forms to the Committee Records Office within the schedule provided.

Please submit to the Committee Records Staff the following completed forms:

1. a Committee Staff Identification form to be prepared and submitted to the C.R.O. the first (2) days upon the convening of the Alaska State Legislative session. This form will identify committee staff responsible for preparation and submission of committee minutes pursuant to Rule 23 of the Uniform Rules;

2. a Committee Minutes form to be completed and submitted to the C.R.O. within the next legislative day following the public hearing or committee meeting. A person who chairs a standing, special or joint committee is responsible for an electronic recording of committee proceedings pursuant to Rule 23 of the Uniform Rules;

3. a Committee Minutes Request form to be filled out in duplicate to the person who chairs the committee of which the meeting minutes are requested. One copy is to be retained by the chairperson with the duplicate copy to be sent to the C.R.O. the day in which the request was made.

4. a Public Hearing and Committee Meeting form to be used by committees of first referral for announcement of public hearings within the (5) days prior requirement and for announcement of committee meetings by 4:00 p.m. on the Thursday preceding the week in which the meeting is to be held pursuant to Rule 23, section (a) of the Rules.

BILL ACTION & STATUS INQUIRY SYSTEM (BASIS)

ENTER:

BILL IDENTIFICATION...
SPONSOR NAME..... HOUSE ? SENATE ?
COMMITTEE NAME..... labor&comm HOUSE x SENATE ?
SUBJECT SUMMARY.....
AWAITING ACTION..... ?

USE ARROW KEY (ADJACENT TO 'Q') TO POSITION CURSOR...
*FOR HELP PF1 OR PF13 : *FOR A VALID SPONSOR LIST PF2 OR PF14

HOUSE LABOR&COMM COMMITTEE SUMMARY 08:08 1/18/82 PAGE 1 OF 3

BILL #	ABBREVIATED TITLE	SPONSOR	DATE	REFERRALS
HB 56	RE/PAYMENT OF WAGES	RULES	2/04/81	JUDICIARY
HB 123	RE/LIMITS MORTGAGE LOANS/AK HOUSING FIN C	DUNCAN	2/05/81	FINANCE
HB 146	RE/PMT PROCEDURES/PUBLIC CONTRACTS	BROWN	3/11/81	----
HB 159	RE/WORKERS' COMPENSATION; ED	RULES	2/13/81	FINANCE
HB 169	RE/MOTOR CARRIERS	RANDOLPH	2/17/81	----
HB 178	AUTH LICENSED GROCERY STORES/SELL BEER/WI	RANDOLPH	2/18/81	HESS
HB 230	RE/REIMBURSEMENT/HOLDERS OF PERMITS & LIC	RANDOLPH	2/26/81	FINANCE
HB 303	RE/EMPLOY PREF/RESIDENTS/DEPRESSED AREAS	LABOR&COMM	3/10/81	FINANCE
HB 308	PROV ASSIST/BUSINESS/PMT INTEREST/INV & O	MALONE	3/10/81	FINANCE
HB 309	SPEC APPROP/DEPT COM&ECON DEV/INT ASSIST/	MALONE	3/10/81	FINANCE
HB 323	RE/RURAL MORTGAGE LNS/AK HOUSING FINANCE	DUNCAN	3/11/81	FINANCE
HB 324	SPEC APPROP/AK HSNG FIN CORP/REG HSNG AU	DUNCAN	3/11/81	FINANCE
HB 346	REQ/EVIDENCE/VEHICLE INS/FURNISHED/REGIS/	ANDERSON	3/17/81	JUDICIARY
HB 355	RE/SP MORTGAGE LOAN PURCHASE PRGM/AK HOUS	MILLER	3/18/81	FINANCE
HB 387	RE/ESTAB/REN REG/CONTROL/EMERGENCY SITUA	MALONE	3/24/81	JUDICIARY
HB 430	ESTAB/AK RESIDENT LOAN PRGM; ED	LABOR&COMM	3/31/81	FINANCE
HB 431	SPEC APPROP/AK RESIDENT LOAN PRGM; ED	LABOR&COMM	3/31/81	FINANCE
HB 477	RE/ACTIVITIES/LABOR UNIONS IN THE STATE	LABOR&COMM	4/06/81	----
HB 506	SPEC APPROP/AK POWER AUTHORITY/TELECOMMUN	LABOR&COMM	4/16/81	FINANCE
HB 557	RE/TELEPHONE COOPERATIVES	CARNEY	5/07/81	----

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HB 567	ESTAB/AK STATE SUPPL EMPLOYMENT & TRAININ	MALONE	5/11/81	FINANCE
HB 586	RE/PERMITS/OVERWEIGHT VEHICLES	ROGERS	5/20/81	----
HB 592	ESTAB AK HORSE RACING CMSN/PARI-MUTUEL WA	CARNEY	5/25/81	JUDICIARY
HB 595	CONTINUE EXISTENCE/BD OF WELDING EXAMINER	BROWN	5/26/81	FINANCE
HB 597	RE/SALE OF BREAD	HAUGEN	5/29/81	----
HB 600	RE/CIVIL LIABILITY/ARCHITECTS/ENGINEERS	LABOR&COMM	6/03/81	JUDICIARY
HB 612	RE/PUBLIC CONTRACTS/ARCHITECTURAL & ENGIN	LABOR&COMM	6/18/81	----
HB 614	RE/EMPLOYEE CONTRIBUTIONS/AK EMPLOYMENT S	CUDDY	6/18/81	----
HB 619	RE/LABOR RELATIONS/TEACHERS/SCHOOL DISTRI	METCALFE	6/24/81	FINANCE
HB 623	RE/GAMES OF CHANCE & CONTESTS OF SKILL; E	GRUSSENDOR	1/11/82	JUDICIARY
HB 630	RE/STATE LOAN PROGRAMS; ED	METCALFE	1/11/82	STATE AFFA
HB 634	LIMIT DAMAGES/INJURY/DEATH/ATC-REGISTER A	FULLER	1/11/82	JUDICIARY
HB 639	RE/SUPPLEMENTAL EMPLOYEE BENEFITS; ED	RANDOLPH	1/11/82	FINANCE
HB 640	RE/GAME OF CHANCE/CONTESTS OF SKILL; ED	RANDOLPH	1/11/82	JUDICIARY
HB 641	ESTAB PERSONAL LOAN PROGRAM/AK RESIDENTS;	RANDOLPH	1/11/82	JUDICIARY
HB 642	ESTAB AK NATURAL RESOURCE TRUST; ED	RANDOLPH	1/12/82	JUDICIARY
HB 659	RE/WORKERS COMP; ED	RULES	1/12/82	FINANCE
HB 662	RE/OCCUPATIONAL LICENSING FEES; ED	RULES	1/12/82	FINANCE
HR 3	RE/DOMESTIC SHORT-WAVE RADIO BROADCASTING	MOSS	5/18/81	----

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BILL #	ABBREVIATED TITLE	SPONSOR	DATE	REFERRALS
SB 84	RE/PROCESSING OF PERMITS/STATE AGENCIES;	BENNETT	1/11/82	----

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HB 123	RE/LIMITS MORTGAGE LOANS/AK HOUSING FIN C	DUNCAN	2/05/81	FINANCE
HB 146	RE/PMT PROCEDURES/PUBLIC CONTRACTS	BROWN	3/11/81	----
HB 159	RE/WORKERS' COMPENSATION; ED	RULES	2/13/81	FINANCE
HB 169	RE/MOTOR CARRIERS	RANDOLPH	2/17/81	----
HB 178	AUTH LICENSED GROCERY STORES/SELL BEER/WI	RANDOLPH	2/18/81	HESS
HB 230	RE/REIMBURSEMENT/HOLDERS OF PERMITS & LIC	RANDOLPH	2/26/81	FINANCE
HB 303	RE/EMPLOY PREF/RESIDENTS/DEPRESSED AREAS	LABOR&COMM	3/10/81	FINANCE
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HB 324	SPEC APPROP/AK HSNG FIN CORP/REG HSNG AUT	DUNCAN	3/11/81	FINANCE
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HB 355	RE/SP MORTGAGE LOAN PURCHASE PRGM/AK HOUS	MILLER	3/18/81	FINANCE
HB 387	RE/ESTAB/RENT REG/CONTROL/EMERGENCY SITUA	MALONE	3/24/81	JUDICIARY
HB 430	ESTAB/AK RESIDENT LOAN PRGM; ED	LABOR&COMM	3/31/81	FINANCE
HB 431	SPEC APPROP/AK RESIDENT LOAN PRGM; ED	LABOR&COMM	3/31/81	FINANCE
HB 477	RE/ACTIVITIES/LABOR UNIONS IN THE STATE	LABOR&COMM	4/06/81	----
HB 506	SPEC APPROP/AK POWER AUTHORITY/TELECOMMUN	LABOR&COMM	4/16/81	FINANCE
HB 557	RE/TELEPHONE COOPERATIVES	CARNEY	5/07/81	----

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HB 559	RE/LOANS/AK HOUSING FINANCE CORP	METCALFE	5/07/81	FINANCE
HB 567	ESTAB/AK STATE SUPPL EMPLOYMENT & TRAININ	MALONE	5/11/81	FINANCE
HB 586	RE/PERMITS/OVERWEIGHT VEHICLES	ROGERS	5/20/81	----
HB 592	ESTAB AK HORSE RACING CMSN/PARI-MUTUEL WA	CARNEY	5/25/81	JUDICIARY
HB 595	CONTINUE EXISTENCE/BD OF WELDING EXAMINER	BROWN	5/26/81	FINANCE
HB 597	RE/SALE OF BREAD	HAUGEN	5/29/81	----
HB 600	RE/CIVIL LIABILITY/ARCHITECTS/ENGINEERS	LABOR&COMM	6/03/81	JUDICIARY
HB 612	RE/PUBLIC CONTRACTS/ARCHITECTURAL & ENGIN	LABOR&COMM	6/18/81	----
HB 614	RE/EMPLOYEE CONTRIBUTIONS/AK EMPLOYMENT S	CUDDY	6/18/81	----
HB 619	RE/LABOR RELATIONS/TEACHERS/SCHOOL DISTRI	METCALFE	6/24/81	FINANCE
HB 623	RE/GAMES OF CHANCE & CONTESTS OF SKILL; E	GRUSSENDOR	1/11/82	JUDICIARY
HB 630	RE/STATE LOAN PROGRAMS; ED	METCALFE	1/11/82	STATE AFFA
HB 634	LIMIT DAMAGES/INJURY/DEATH/ATC-REGISTER A	FULLER	1/11/82	JUDICIARY
HB 639	RE/SUPPLEMENTAL EMPLOYEE BENEFITS; ED	RANDOLPH	1/11/82	FINANCE
HB 640	RE/GAME OF CHANCE/CONTESTS OF SKILL; ED	RANDOLPH	1/11/82	JUDICIARY
HB 641	ESTAB PERSONAL LOAN PROGRAM/AK RESIDENTS;	RANDOLPH	1/11/82	JUDICIARY
HB 642	ESTAB AK NATURAL RESOURCE TRUST; ED	RANDOLPH	1/12/82	JUDICIARY
HB 659	RE/WORKERS COMP; ED	RULES	1/12/82	FINANCE
HB 662	RE/OCCUPATIONAL LICENSING FEES; ED	RULES	1/12/82	FINANCE
HR 3	RE/DOMESTIC SHORT-WAVE RADIO BROADCASTING	MOSS	5/18/81	----

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BILL #	ABBREVIATED TITLE	SPONSOR	DATE	REFERRALS
SB 84	RE/PROCESSING OF PERMITS/STATE AGENCIES;	BENNETT	1/11/82	----

*** *** *** *** *** *** *** ***

February 4, 1982

Dear Constituents:

At the last minute, I had to cancel my trip to Anchorage. I am most sorry to not be with you today. Because of conditions beyond my control, I suddenly find myself chairman of two major standing committees--House Labor & Commerce, and House Health, Education and Social Services. Both committees have many bills to consider in this (hopefully) short session; thus weekends are fully used for research and scheduling.

By way of this letter, I introduce Mr. Jeff Barry, who is my administrative assistant. He has, on short notice, flown up at my expense to represent me. You can be most assured that Mr. Barry will forward your concerns to me, and proper follow-up action will be taken. I look forward to talking with you at our District 8 teleconference on Tuesday, February 16, at 8 PM.

Yours very truly,

Representative Terry Martin

jfm

COMMITTEE MINUTES
COMMITTEE_____
HEARING DATE_____
TAPE NO. _____

The meeting was called to order by Chairman_____ at _____ o'clock ..____.M., in Room _____, _____ Building, Juneau, Alaska. Committee members present in addition to the Chairman were _____. Committee staff in attendance were: _____

The committee schedule called for the consideration of the following items: _____. Testifying befcre the committee regarding _____ were _____

(Here insert paragraphs containing information on who testified regarding what matter, whether the testimony was in favor or against the measure, any motions, etc.)

As there were no further items to come before the committee at this time, the Chairman adjounred the meeting at _____ o'clock ___.M.

MINUTES REVIEWED AND APPROVED:

_____
Committee Chairman

Minutes

This form must be approved by joint House + Senate Rules.

DRAFT ONLY

SIGN-IN
&
MINUTES-
INTERIM COM-
MITTEE MTGS.
1981

INTERIM SCHEDULE FOR THE LABOR & COMMERCE COMMITTEE

September -- Anchorage

Monday -- 9:00 - 4:00 -- Workers' Compensation - Administration & Benefit
9/21

Tuesday -- 9:00 - 12:00 -- Auto Liability Insurance/Title & Trust Insuran
9/22 1:30 - 4:30 -- Job Service/Federal Cuts/Alaska Pick-ups
6:30 - 9:00 -- HB 600 & 612 (Dealing with civil liability and public contracts - architectural and engineerin services)

Wednesday -- 9:00 - 12:00 -- Statewide Telecommunications
9/23 1:30 - 4:30 -- Statewide Telecommunications

* for logs & agendas - see comm. file

Thursday -- 9:00 - 12:00 -- Workers' Compensation
9/24 1:30 - 4:30 -- Statewide Telecommunications *
6:30 - 9:00 -- Workers' Compensation

Friday -- 9:00 - 12:00 -- The amazing world of government permits -- Is
9/25 1:30 - 4:30 there a problem? Are there solutions? Help.

October -- Fairbanks

Monday -- 9:00 - 4:00 -- Workers' Compensation *
10/26

Tuesday -- 9:00 - 12:00 -- Auto Liability Insurance/Title & Trust Insuran
10/27 1:30 - 4:00 -- Joint meeting - Employment Security Advisory Board

Wednesday -- 9:00 - 4:00 -- Statewide Telecommunications *
10/28 6:30 - 9:00 -- Statewide Telecommunications

Thursday -- 9:00 -- 12:00 -- The amazing world of government Permits --
10/29 there a problem? Are there solutions? Help.

November & December -- Anchorage

November 30 through December 3 - Agenda to be announced later, depending on prior meetings for proposed legislation and current bills drafted or to be redrafted. Also, other subjects the committee feels should be addressed prior to the second session of the 12th Legislature.

Anchorage meetings will be held at the Legislative Affairs Office, 2nd floor, 1024 West 6th Avenue.
Fairbanks meetings will be held at the Legislative Info Office, 315 Barnette Street.

#28-31

TAPE NUMBER 1, 2, 3, 4

COMMITTEE LABOR AND COMMERCE HEARING DATE 9/21/81

MEMBERS PRESENT Chairman, Terry Martin; Bernie Bylsma; Richard Randolph

LEGISLATION CONSIDERED Workers Compensation

METER NO.		PERSON SPEAKING/ACTION
070	TP1/1	Jack McClintock, Director, Workers Compensation Division
239	TP1/1	Jack Thompson, Alaska Conference of Employers
291	TP1/1	Edward Hite, Daryl Cody Company
084	TP1/2	Richard Cattanach, Workers Compensation Committee of Alaska
278	TP1/2	Don Koch, Alaska Division of Insurance
742	TP1/2	David Pierce, Alaska Health Care Advocates
225	TP2/1	Daniel Middoff, Self
537	TP2/1	Chris Christenson, AFL-CIO
699	TP2/1	William Irwin, Lawyer
617	TP3/1	Allen Mulack, Self
034	TP3/2	Bud Obermeyer, Vice President Alaska Pacific Insur. Co.
212	TP3/2	Joseph Kalamarides, Lawyer
536	TP3/2	Pat James, Lawyer (Continued to TP4)

#32-33

COMMITTEE TAPE LOG

TAPE NUMBER 1,2

COMMITTEE LABOR AND COMMERCE HEARING DATE 9/22/81

MEMBERS PRESENT Chairman Terry Martin, Rep Bernie Bylsma

LEGISLATION CONSIDERED House Bills 600 & 612

METER NO.		PERSON SPEAKING/ACTION
012	TP1/1	Don Dent, Engineer, President of Bd. of Dir. AK Prof Design Council
204	TP1/1	Leo McGlothlin, State President, Amer. Institute of Architects
297	TP 1/1	Ken Cannon, President, CCC Architects
669	TP1/1	Ray Shumway, Dep Commissioner, DOT
384	TP1/2	Charles Tryck, Consultant Engineers Commission of AK
679	TP1/2	Ray Shumway. (correction to testimony)

COMMITTEE TAPE LOG

#34 - tape msg. 6/82

TAPE NUMBER 1

COMMITTEE LABOR AND COMMERCE HEARING DATE 9/22/81

MEMBERS PRESENT Chairman, Terry Martin; Rep Bernie Bylsma; Rep Richard Randol

LEGISLATION CONSIDERED Auto Liability/Title & Trust Insurance

METER NO.		PERSON SPEAKING/ACTION
011	TP1/1	Don Koch, Division of Insurance
362	TP1/2	Gene Reed, State Farm

#35-38

COMMITTEE TAPE LOG

TAPE NUMBER 1, 2, 3, 4

COMMITTEE LABOR AND COMMERCE HEARING DATE 9/23/81

MEMBERS PRESENT Chairman, Terry Martin; Rep Bernie Bylsma;

Rep Richard Randolph

LEGISLATION CONSIDERED TELECOMMUNICATIONS

METER NO.		PERSON SPEAKING/ACTION
078	TP1/1	Alex Hill, Deputy Commissioner
697	TP1/1	Russ Meekins, Sr., Robert Wold Company
127	TP1/2	Gene Deck, Vice President, Robert Wold Company
303	TP1/2	John Lindauer, Alaska Radio Network
026	TP2/1	Marvin R. Weatherly, Commissioner, AK Public Utilities Co.
734	TP2/1	Robert R. Blodgett, Mukluk Telephone Co. Inc.
825	TP2/2	Sam Evans, Treasurer, Alaska Cablevision
267	TP3/1	Allen Blume, President, Allen Blume Services, Inc.
424	TP3/1	Charles Northrip, Exec. Dir. AK Public Broadcasting Commission
290	TP3/2	Frank D. Price, Meteor Data, Inc.
456	TP3/2	Bob Herron, Owner-Gen Mgr, Bethel Cablevision
715	TP3/2	Bob Allison, Alaska Cablevision
044	TP4/1	Charles Northrip (questions)

#39-40

COMMITTEE TAPE LOG

TAPE NUMBER 1,2

COMMITTEE LABOR AND COMMERCE HEARING DATE 9/24/81

MEMBERS PRESENT CHAIRMAN, Terry Martin, Rep.Bernie Bylsma

LEGISLATION CONSIDERED TELECOMMUNICATIONS

METER NO.		PERSON SPEAKING/ACTION
042	TP1/1	Roger Davis, President, Executone
460	TP1/1	Michael F. Porcaro, President & Gen Mgr, AK Broadcast Services
752	TP1/1	Bill McCaughan, Univ of AK, Learn Alaska
179	TP1/2	Robert Gould, Multivisions, LTD.
632	TP1/2	Robert M. Walp, President, General Communication Inc.
196	TP2/1	Vinod Batra, President, United Utilities
613	TP2/1	Norma Goodman, Northern Television
801	TP2/1	Bob Uchetel (continued on TP 2/2)

#41-43

COMMITTEE TAPE LOG

TAPE NUMBER 1,2,3

COMMITTEE LABOR AND COMMERCE HEARING DATE 9/24/81

MEMBERS PRESENT Chairman Terry Martin, Representative Bernie Blysma, Representative Richard Randolph

LEGISLATION CONSIDERED Workers Compensation

METER NO.		PERSON SPEAKING/ACTION
034	TP1/1	Gil Johnson, Attorney
589	TP1/1	Jerry Hood, Teamsters Local 959
752	TP1/1	Harold Ritchie, SOHIO, Safety Supt.
168	TP1/2	Sudy Sanders, International Rehabilitation Assoc. Inc.
475	TP1/2	John Marion, ALASCOM
664	TP1/2	Ike Waldrop, Chap. Mgr, National Electrical Contracters
069	TP2/1	John Lewis, Lawyer
484	TP2/1	Chancy Croft, Lawyer (continued to 2/2)
040	TP3/1	Gene A. Kremer D.C. & Adrian Barber, D.C.; AK Chiropractic Soc.
478	TP3/1	Jack Thompson, Vice President, Air Van Lines
689	TP3/1	Roger Weed, Collins, Weed and Assocs.

COMMITTEE TAPE LOG

#44,45,46,47

TAPE NUMBER 1,2,3,4

COMMITTEE ADMINISTRATIVE REGULATION REVIEW/ LABOR AND COMMERCE (Joint hearing) HEARING DATE 9/25/81

MEMBERS PRESENT Chairpersons Terry Martin and Richard Randolph, Rep Bernie Blysma, Rep Mitch Abood, Rep H. Pappy Moss, Senator Mike Collett

LEGISLATION CONSIDERED Government Permits

METER NO.		PERSON SPEAKING/ACTION
070	TP1/1	Robert Mintz, Trustees for Alaska
578	TP1/1	Tim Bradner/Roger Herrera SOHIO
376	TP1/2	O.K. Gilbreth, Jr., AOGA
219	TP2/1	Don Glass, Shell Oil Co. (AOGA)
394	TP2/1	Tim Derigo, ARCO (AOGA)
666	TP2/1	Dan Hinkle, Marathon Oil Co. (AOGA)
745	TP2/1	Thomas Cook, Chevron USA (AOGA)
113	TP2/2	Marc Bond, Attorney (AOGA)
311	TP2/2	Tim Derigo (questions)
387	TP2/2	Woody Angst, Dept. of Environmental Conservation
608	TP2/2	Lauri Adams, State Attorney Generals Office
343	TP3/1	Joyce Munson, Resource Development Council
545	TP3/1	Don Cather, Department of Labor
690	TP3/1	Lynette Clark, C.J. Mining Inc.
264	TP3/2	Sheila Anjum, North Slope Burough (Power failure-not on tape)
		M. Tuck, League of Women Voters (Power failure- not on tape)
286	TP3/2	Steve Soenksen, Admin Asst., House Transportation Committee
449	TP3/2	Lauri Adams (questions)
023	TP4/1	Woody Angst (questions)

#48-50

COMMITTEE TAPE LOG

TAPE NUMBER 1, 2, 3

COMMITTEE House Labor and Commerce HEARING DATE 10/26/81

MEMBERS PRESENT Representatives Martin, Rogers, and Bylsma

LEGISLATION CONSIDERED Worker's Compensation

METER NO.	PERSON SPEAKING/ACTION
0 (T1S1)	Terry Martin
25	Brian Rogers
50	Bernie Bylsma
66	Terry Martin
130	Dee Jackson, State Rehabilation (Div of Worker's Comp)
276	Brian Rogers
280	Dee Jackson
0 (T1S2)	Dee Jackson continued
50	Jackie McClintock, State of AK Dept. of Worker's Comp.
138	John Lewis
686	Roger Kempfor State Div of Voc. Rehabilitation
0 (T2S1)	Roger Kempfor continued
650	Brad Brooks, victim
0 (T2S2)	Brad Brooks continued
155	Richard Fineberg, self
343	Don Koch, Division of Insurance
0 (T3S1)	Don Koch continued
55	Art Robson UA Local 375

COMMITTEE TAPE LOG

#50

TAPE NUMBER 3 (con't)

COMMITTEE House Labor and Commerce HEARING DATE 10/26/81

MEMBERS PRESENT Representatives Martin, Rogers and Bylsma

LEGISLATION CONSIDERED Worker's Compensation

METER NO.	PERSON SPEAKING/ACTION
330 (T3S1)	Dan Daniels, IBEW 1547
540	Jim Sampson, Labor's Local 942
0 (T3S2)	Jim Sampson continued
58	Ed Hite, Daryl A. Cody, Co.
95	Jackie McClintock

#51

COMMITTEE TAPE LOG

TAPE NUMBER 1

COMMITTEE House Labor and Commerce HEARING DATE 10/27/81

MEMBERS PRESENT Representatives Martin, Bylsma and Rogers

LEGISLATION CONSIDERED Auto Liability

METER NO.	PERSON SPEAKING/ACTION
09 (T1S1)	Don Koch, Division of Insurance
444	Judy Knight, self

COMMITTEE TAPE LOG

#52

TAPE NUMBER 1

COMMITTEE House Labor and Commerce HEARING DATE 10/27/81

MEMBERS PRESENT Representatives Martin, Bylsma and Rogers

LEGISLATION CONSIDERED Title and Trust Insurance

METER NO.	PERSON SPEAKING/ACTION
0	Don Koch, Division of Insurance

COMMITTEE TAPE LOG

#55-58

TAPE NUMBER 1,2 (55,56)

COMMITTEE House Labor and Commerce HEARING DATE 10-28-81

MEMBERS PRESENT Representatives Martin, Bylsma and Rogers

LEGISLATION CONSIDERED Telecommunications

METER NO.	PERSON SPEAKING/ACTION
37(T1S1)	Dave Thompson, KMXT(Kodiak)
250	Bill Ohenn, KMXT(Kodiak)
518	Alex Hill, Deputy Commissioner- State of AK Dept of Admin(June
0(T1S2)	Alex Hill continued
66	Charles Northrip, AK Public Broadcasting Commission (Juneau)
80	Tom Saxton; Barrow Cable TV (Barrow)
332	Alex Hill (Juneau)
565	Tom Saxton (Barrow)
0(T2S1)	Tom Saxton continued
117	Alex Hill (Juneau)
150	Bob Allison, Cable operator (Wrangell)
250	Dave Hammock, Telecommunications Consultant (Anchorage)
513	Larry Glackin, Cable operator (Haines)
0(T2S2)	Larry Glackin, continued
65	Harvey Gilliand, self employed (Petersburg)
112	David Nolvik (Petersburg)
222	Betty Philian. Alaska T.V. (Petersburg)
250	Alex Hill (Juneau)

COMMITTEE TAPE LOG

TAPE NUMBER 3,4 (57,5

COMMITTEE House Labor and Commerce HEARING DATE 10/28/81

MEMBERS PRESENT Representatives Martin, Bylsma, Rogers

LEGISLATION CONSIDERED Telecommunications

METER NO.	PERSON SPEAKING/ACTION
15(T3S1)	Representative Fred Brown
694	Jeanne Ostnes, IREM Council
0(T3S2)	Jeanne Ostnes, continued
192	Rep. Fred Brown
220	Glenn Stanley, Consultant- Telecommunications
309	Jene Demmert, U of A - Learn Alaska, Jennifer Wilke
0(T4S1)	Jene Demmert and Jennifer Wilke, continued
245	Brad Brooks
513	Jeanne Ostnes, IREM Council
0(T4S2)	Jeanne Ostnes, continued
34	Don Upham, Media Services

#59-60

COMMITTEE TAPE LOG

TAPE NUMBER 1, 2

COMMITTEE House Labor and Commerce HEARING DATE 10-29-81

MEMBERS PRESENT Representatives Martin, Bylsma, and Rogers

LEGISLATION CONSIDERED Energy Audit

METER NO.	PERSON SPEAKING/ACTION
1(T1S1)	Lloyd Pernela, Division of Energy
326	Bob Noreen, Northern Energy
0(T1S2)	Bob Noreen continued
70	Henry Wojcicki, Northern Energy
130	Geoff Kenedy, Self
292	Georf Feiler, Heat Loss Analysis
573	Jane Galblum, Superinsulated Homes
0(T2S1)	Jane Galblum continued
189	Terry Duozynski; Interior AK Dwelling Inspection Council

#61-62

COMMITTEE TAPE LOG

TAPE NUMBER 1, 2

COMMITTEE House Labor and Commerce HEARING DATE 10-29-81

MEMBERS PRESENT Representatives Martin, Bylsma, and Rogers

LEGISLATION CONSIDERED Government Permits

METER NO.	PERSON SPEAKING/ACTION
26 (T1S1)	Susan Roff, AOGA (Chevron) attorney
635	Jude Henzler, Rural Cap
0 (T1S2)	Jude Henzler continued
105	Tim Bradner, SOHIO
296	COL Lee Nunn, US Army Corps of Engineers
0(T2S1)	COL Lee Nunn continued

#63-65

COMMITTEE TAPE LOG

TAPE NUMBER #1 #2 #3

COMMITTEE LABOR + COMMERCE COMMITTEE HEARING DATE 12/3/81

MEMBERS PRESENT MARTIN, Bylsma, Rogers

LEGISLATION CONSIDERED WORKERS' COMPENSATION

METER NO.	PERSON SPEAKING/ACTION
1 (T151)	MARTIN (introduction)
26	DR. Michael JAMES, rehab program
302	KEVIN Daughtery
643	CORIN JONES, SAFETY DEVELOPMENT
1 (T152)	BILL JONES, CLAIMANT
90	LES BONNER, IBEW
247	CRAIG GOODRICH, FIRE REP.
375	JACK Gallion, municipal FIRE Dept.
600	DOUGLAS. McClure, IBEW-member
1 (T251)	" "
146	John FENWICK
700	Ed HITE, DARYL A. CODY CO.
1 (T252)	" "
260	Gene Kramer, Adrian Barker (Chiropractor society
362	David Kretzler, Dept. of Labor
1 (T351)	" "
110	DICK Calkins

SIGN-IN SHEET

Joint Meeting

COMMITTEE Labor - Commerce / Reg. Review HEARING DATE 9-25-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTER
L. Clark	P.O. Box 10492	C. J. Mining Inc.		
Don Cather	Pouch 7-020 - 99510	Dept Labor		Woodley - angst. 1st after lunch.
Glenn Akins	Pouch O Juneau 99811	Dept. Env. Conservation	Yes	
Gene Sands	Pouch 6601 Anch	Exxon	No	
Bill Shempstein	1007 W 32 Anch	KTVH	No	
Laurel Adams	Pouch K Juneau	Dept of Law	Yes	2nd after lunch
Joyce Munson	4114 W. 7th 99501	Resource Development Council	Yes	3rd after lunch.
~~Roger Herman~~	~~Pouch 6-612 99502~~	~~Sohio~~	~~Yes~~ prev. probe	
James K Barnett	Pouch 6-612 99502	Sohio	No	Del Clark -
John Sheffield	Pouch 6601 Anch 99502	Exxon	No	
Herman Schmidt	" 6-612 99502	Sohio	No	
Larry Vavra	PO Box 6247 99502	Union Oil	Yes	Dept
Robert K. Hicks	615 H Street Anch 99501	Alaska Legislature	No	
Richard F Barnes	510 L Suite #1 99501	Alaska Timberlands Co	No	
Rick Lauber	120 W. 1st St. - Juneau, 99801	Alaska Seafood Processing	No	
Bruce Kendall	[illegible]	[illegible]	No	
Sheila Anjum	3201 C Street, #602	North Slope Borough	Yes	Clark
Don Cather		Dept. of Labor.		

* wants to be 1st after lunch

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Joint Meeting

COMMITTEE Labor/Commerce/Reg. Review HEARING DATE 9-25-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTER
JEAN MARK	3300 C STREET Anchorage	FRANK Moolin & Assoc.	No	
~~Tom Cook~~	~~3001 C Street Anchorage~~	~~AOGA~~	~~YE~~	
Tim Bradner	~~Sohio~~ 3111 C Street, Anchor	Sohio	~~YES~~ O.K (Joint)	
Roger Herrera	" " "	"	~~YES~~ OK	
DOUG ELFOT	EXXON CO USA		N	
Robert E. Minth	835 D St, #202 Anch.	Trustees for Alaska	~~Yes~~ OK	
OK GILBRETH	505 W. No Lts Blvd Anch 99503	AOGA	~~Yes~~	
DON GLASS		AOGA	~~Yes~~	
~~Tim Durego~~		AOGA	~~Yes~~	
~~Don Hinkle~~		AOGA	~~Yes~~	
~~Tom Cook~~	3001 C St Anchorage	AOGA	~~Yes~~	
Marc Bond		AOGA	Yes	
Pegg Wilcox	821 Barrow St Anch	VECO	No	
[illegible]	[illegible]	[illegible]	No	
Wood, Inc T	Point O, [illegible]	AOEC	NO	
TIMKE/ HERSHBERGER	AOGA	AOGA	No	

SIGN-IN SHEET

Joint meeting

COMMITTEE Fish-House Commerce/Reg. Review HEARING DATE 9-15-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTER
Tom Miller	Box 4-928 99501	—	NO	
Bellusk	Box 4-2038 Anch. AK			
Steve Seekser	Box 2110 Valdez AK	Rep. Bette Sato	?	
S.R. JAime	P.O. Box 360	ARCO	No	
M. Tuck	1822 Cindy Lee Ln.	LWV Voters,	Yes	

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Civil Liability AND Public Contracts
Architecture & Engineering Services

COMMITTEE Labor & Commerce

HEARING DATE 9-22-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTER
DON DENT	2264 BELAIR DR ANCHORAGE	AK PROF DESIGN COUNCIL BOF DIR	YES	HB600 HB612
LEO McLAUGHLIN	605 CORDOVA SUITE 6 ANCH 99501	ALASKA CHAPTER AIA	Yes	HB600 HB612
Ken Shannon	431 W 7TH AVE ANCH. 99501	" " "	Yes	"
Dick Armstrong	3700 Bonifacio Anchorage	DOT/PF	Yes	HB600 HB612
Ray Shumiway	Box 1467 Juneau AK	DOT/PF	yes	
Charles Trucke	1801 13th Ave Anchorage 99501	G.E.G.F.F.	Yes	HB600 HB612

PRINT

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COMMITTEE House Labor & Commerce / Permits

HEARING DATE 10-29-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MA
Tim BRADNER	SRA Box 1463-E Anch	Self	~~No~~ Yes	
Col. Lee R. Nunn	PO Box 7002, Anchorage AK	US Army Corps of Engineers	Yes	

PRINT

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COMMITTEE House Labor & Commerce
Permits

HEARING DATE 10-29-81

NAME PRINT

(PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MA
JUDE HENZLER	1545 S. Hoyt #84 ANCH. 99504	RurAL CAP	Yes	
Susan Roff	575 Market - San Francisco	Chevron - AOGA	YES	
Bruce	Box 4-2038, Anch 99509		No	
Steve Marshall	PO Box 2053 Fbks 99707	—	NO	
Karen R Tony	SR 50347 Fbks 99701	—	NO	

Energy AUDIT

SIGN-IN SHEET

PRINT

COMMITTEE LABOR AND COMMERCE COMMITTEE HEARING DATE 10/29/81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or N
Denise Bottoms	P.O. Box 74486	ASAP Services	NO
John Bottoms	P.O. Box 74486	ASAP Services	NO
JANICE Brewer	P.O. Box 10-611; Anch. 99511	Div of Energy	yes
* Loyd Pernela	338 Denali, Anc 99501	Div of Energy	?
Ezekiel Landis	435 B st Fairbanks AK.	ASAP Services	NO
Bob Noreen	402 Seventh FBKS	Northern Energy	yes
HONRY NOVACICKI	BOX 60013 FAIRBANKS AK.	—	?
Bill Thomas	2011st Fairbanks, AK	TCC	NO

Energy AUDIT

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COMMITTEE LABOR AND COMMERCE COMMITEE

HEARING DATE 10/29/81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MA
Denise Bottoms	P.O. Box 74486	ASAP Services	NO	
John D Bottoms	P.O. Box 74486	ASAP Services	NO	
TANICE Brewer	P.O. Box 10-611, Anch. 99511	Div of Energy	yes	
L Pernela	338 Denali, Anc 99501	Div of Energy	?	
Ezekiel Landis	425 B St Fairbanks, AK.	ASAP Services	NO	
Bob Noreen	402 Seventh FBKS	Northern Energy	yes	
* HENRY NOVACKI	BOX 60013 FAIRBANKS, AK.		?	
Bill Thomas	201 1st Fairbanks AK	TCC	NO	
Carl & Joyce Carlson	SR Box 30173	Self	NO	
Robert Jefferson	P.O. 74464	MBE	NO	
~~Bob Reagan~~	124 7 AM	Representing 1901	?	
Terry Duzynski	SR Box 10356 FBKS	Interior AK Dwelling Insp Comm	?	
* Geoff Kennedy	1089 PARK DR	Self	YES	

~~Conservation~~ TERMS
Energy AUDIT

SIGN-IN SHEET

PRINT

COMMITTEE LABOR AND COMMERCE COMMITTEE

HEARING DATE 10/29/81

NAME (PRINTED)	ADDRESS REPRESENTING	REPRESENTING ADDRESS	PHONE	TESTIFY (YES or NO) OBSERVE	TESTI
Jane Gailblum	Superinsulated Homes	PO Box 72876 Fbks			Yes
GEOFF FEILER	Heat Loss Analysis	536 Bonanza ANCO3	277601		Yes.
Terry Dussault					

House

SIGN-IN SHEET

Cont. Liability Title Ins

COMMITTEE Labor & Commerce

HEARING DATE 10-27-81

NAME (PRINT) PRINT

ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MA
POUCH D JUNEAU AK 99811	STATE OF AK DIV OF INS	YES	
610 W. 9th Juneau AK 99802	Me.	yes	

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House

COMMITTEE Labor & Commerce

HEARING DATE 10-27-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MA
Edward JANZEN	825 E 8th Ave	ESC Advisory Council	Yes	
Edwin C. Johnson	356 South Franklin St Juneau	ESC Advisory Council	NO	
Dennis Osterdock	SR 31201 FBIS.	" " "	YES	
Art Zeeg	P.O. Box 3-7000 JUNEAU	Dep't of LABOR	YES	
Jack R. Olmsr	3335 Main St #301, Anch	" "	No	

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Auto Liability Ins. / Title & Trust Ins.

COMMITTEE Labor & Commerce

HEARING DATE 9-22-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTER
DON KOCH	P.O.B 2114 JUNEAU	STATE DIV OF INSURANCE	YES	AUTO TITLE
KEVIN BRUCE	601 W 5TH SUITE 315	SEN RODEY	no	
[illegible]	327 E. Fairweather	Estate Tax	yes	

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Workmen's Compensation

COMMITTEE Labor & Commerce

HEARING DATE 9-24-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTER
Mary Pierce	8620 Augusta Cir. Anch 99504	Anch School Dist. & RDMS	Yes	
Bud Obermeyer	4041 B ST Anch.	INA/ACPAC	NO	
Roger WEED	Suite 501 2600 Denali Anch 99503	Collins Weed & Assoc		

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Workmans' Compensation

COMMITTEE Labor & Commerce

HEARING DATE 9-21-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTER
Bill Brevik	2421 Bembridge Circle, Anchorage	Alyeska Pipeline	No	
M. Sandy Saunders	4220 "B" St. Anch. 99503	International Rehabilit. Associates	No.	
Charles S. Coley	4220 'B' St. Anch. 99503	Int'l. Rehab. Assoc.	No.	
Marvin Pierce	8620 Augusta Cr. 99504	Anch School District	NO	
Allan Mulac	6017 Doncaster Dr 99504	SELF	YES	#7
Gil Johnson	1007 W 3rd 99501	atty-for-claimants	Yes about 2:p.m. (may wish to speak on Thursday)	#9

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COMMITTEE Labor & Commerce Committee HEARING DATE Sept. 21st 1981

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTER
Richard Cattanach	810 Old Seward Hwy, Anchorage	WCCA	Yes I	✓
John Marion	949 E 36th " 99502	Alascom	No	
Jack Moran DC	SPA FDX INTL 99502	Alaska Chiropractic Society ACS	No	
DON KOCH	P.O.B 2114 JUNEAU AK 99803	ALASKA DIVISION OF INSURANCE	YES 2	
BUD OBERMEYER	4041 Fi ST POUCH 6620 ANCH 99502	INA/ALPAC	NO YES #9	
Angela Tem	Rock 6-650 Anch. 99502	Municipality	No	
ED HITE	201 DANNER AVE ANCH 99502	PAK CONF & Employer.	Yes	
Cheryl A. Cody	" " " " "	" " " "	No	
Jack Thompson	2216 Boat Anch AK	AK. Conf of Employees	Yes	
Joan Dawson	803 W 5TH Ave Anch.	Clary Ins	No	
Mike Stromberg	803 W 5TH Ave Anch.	Clary Ins	No.	
Sherrie McClelland	P.O Boating Juno AK	WIC Bonica	Yes	
Joe Kalamarides	628 F	WIC allys	yes #10	

SIGN-IN SHEET Workmen's Compensation

COMMITTEE Labor x Commerce HEARING DATE 9-21-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTE
ANN Z. COX	P. O. BOX 4-853	WCCA	No	
Groff, Dee	2518 E. Tudor #110, Anch	Insurer	No	
RA Fineberg	Box 81835 Fbx	Self	No	
GARY L. AANES	4100 SPENARD	Div Vocational Rehab	No or MAYBE	
David Pierce	1813 Bunker, Anch. 99503	Ak. Health Care Advocates	Yes (3)	
DANIEL Hildaugh	SRA 4304 Arch AK 99504	Asbestos Workers	YES (4)	D.V.R.?
CHRIS CHRISTENSEN	2810 W. N. Lights 99501	AFL-CIO ALASKA	Yes (5)	
Bee Gustafson	P.O. BOX 3130	Voc. Consultant	No	
William McGrath	632 Christensen Drive	Self Atty Claimant	Yes (6)	

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Workmen's Compensation

COMMITTEE Labor & Commerce

HEARING DATE 5-24-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATT
Gerald L. Hood *	P.O. Box 2092 Anch	Teamsters Local 959	Yes.	
Gil Johnson	1007 W 3rd # 300	claimants attorney	YES	
JOHN MARION	949 E 36th	ALASCOM	YES	
HAROLD RITCHIE	3111 C St	SOHIO	YES	
CHRIS CHRISTENSEN	407 Denali RM 303	AFL-CIO	No	
LANA KINTER	LAKE OIL/GAS LAW	AK Rock Group Co	No	
DON KOCH	BOX 2114 JUNEAU AK 99803	AK DIV. OF INSURANCE	no	
Jackie McClintock	Dept of Labor P.O. Box 1149 Juneau Juneau, 99811	a/c Division	no	
John Lewis	Box 330550 - Coconut Grove Fl 33133	—		
Lee Jackson	Box 3130 Anch. AK 99510	Rehabilitation Consult	NO	
R. CATTANACH	5101 Old Seward Hwy 99502	WCCA	No	
Judy Sanders (IRA)	4220 "B" St 99503 Anch.	Intern. Rehab. Associates Inc. I.R.A.	Yes	
David McGuire	5111 W 22nd 99503	AIB Alaska Chiropractic Society	No	
Chancy Croft	738 H St Suite 200	Self	Yes	
Jake Waldron		Nat. Assc. Elec. Workers	yes	
~~Wm. Schmidt~~				
Mr. John Lewis		Nat. Assc. of Elec. Contractors	- Yes -	

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COMMITTEE Labor & Commerce

Workmens' Compensation

HEARING DATE 9-24-87

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTER
ADRIAN BARBER DC	1577 "C" St Suite 102. ANC 99501	ALASKA CHIROPRACTIC SOCIETY	YES	HB159
Jack Thompson	2216 Post Road Anc 99501	Air Van Lines	Yes	HB157
Duane A Kremer DC	3020 Minnesota Dr Suite 10	Alaska Chiropractic Society	Yes	HB159
Anne T Col	P. O. Box 4-753, ANC	WCCA	no	✓
Jack Meehan DA	3202 Box 1447 F 99502		No	HB159
Roger WEED	Suite 501 2600 Denali Anch	Collins Weed and Assoc	Yes	

WORKERS' COMPENSATION

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COMMITTEE HOUSE LABOR + COMMERCE COMMITTEE

HEARING DATE 12/3/81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	M
~~Douglas D. McLean~~	Box 10747 Fbk. Ak	~~Alyeska Pipeline~~	Yes	
~~John Bennett~~	806 W 4th Anc	~~T&E W~~	YES	
~~Jack Morgan P.E.~~	~~BRA Box~~ 1440-F 99503	ACS		
~~Ray Hettinger~~	SRA 1503 11 99507	~~Fr. Wilcox Washington~~	N/A	
C C SERBA	P.O. Box 12666 PALMER	MYSELF		
Bruce Murray	605 W 4th Anc	Scott Wetzel Se	Yes	

SIGN-IN SHEET WORKERS' COMPENSATION

COMMITTEE HOUSE LABOR + COMMERCE HEARING DATE DEC. 3, 1981

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATT
Linda Pfisher	Box C19139 Seattle, Wa.	Pacific Marine Insurance Co	No	
Sue W. Graff	201 Denner Ave, Suite 110 Anch.	" " "	No	
J. M. Jamieson	3710 E. 20th		Yes.	
Carol Hokes	4504 Spenard Rd.	Rep. Mitch Abood.	No	
Jack Thompson	2216 Post Road Anch 99501	Workers Comp Comm. Dept of Alaska	No	
Kevin Doherty	2501 COMMERCIAL DR.	District Council of Laborers	YES	
Corinne Jones	1025 H St 99501	Gallagher-Jones & Assoc	yes	
Tom Soto	Pouch Y Juneau 99801	L.A.A - Legal Services		
R. CAERNACH	310 Old Seward Hwy Anchorage	AVCCA		
C. OBERMEYER	4041 B ST	ALPAC/INA	NO	
Roberta Allen	Hwy 45741 Anch	Industrial Indemnity	NO	
Angela Terry	SRA Box 749 A Anch.	Municipality	No	
Harry Sloberg	2911 Lexington	Municipality	No	
EDWARD L. HITE	201 DANNER Suite 201	DARYL A. COX CO	YES	
DARYL A. COX	"	"	No	
Bill Jones	4041 B, P.O. Box 3-641 ECB Anchorage, AK	SELF	Yes	

WORKERS' COMPENSATION

SIGN-IN SHEET

COMMITTEE HOUSE LABOR + COMMERCE COMMITTEE

HEARING DATE 12/3/81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATT
Douglas D. McLean	Box 20742 Fbk. AK	McLean Elect. - IBEW	YES	
John Resnick	1206 W 47th Ave	IBEW	YES	
Jack Moran DC.	SRA BOX 1447-F 99503	AGS	YES	
Roy Hollinger	SRA 15051 99507	Providence Washington	NO	

SIGN-IN SHEET WORKERS' COMPENSATION

COMMITTEE LABOR & COMMERCE HEARING DATE DEC. 3, 1981

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES) or NO)	MATTE
Les Bowker	SRA Box #1749 Anch 99507 AK	I.B.E.W.	YES	
Dick Beeck	PO Box 3440 Anch	Alaska Nat'l Co	No	
Jackie MacMurdock	P.O. Box 1149 Eag. AK	Wabeli Corp Ltd	no	
Wes Coynes	3111 Douglas Hwy, Juneau 99801	Alaska Nat. Ins. Co.	No	
L.V. Trent	Box 6627 Anch AK	Alascom Inc.	No	
Mary Pierce	Box 6-614 Anch 99502	Anch. School District	No	
Becky Branchflower	Box 7-019 Anch	W.C. Bd	No	
Lucille Odom	675 7th Ave. Fairbanks	W.C. Bd.	No	
Craig P. Gottlieb	821 Wellesley Ct. Anch.	International Assoc. of Fire Fighters #1264	YES	
Scooty VERMILEA	B I G. LAKE, 99687	I.B.E.W.	YES	
Jack Gallion	P.O. Box 621, Eagle River, AK	Myself	Yes	
DAVID A JENSEN	4700 W. INT'L AIRPORT RD.	REEVE ALEUTIAN AIR	NO	
Call back - Ed Hite				
DAVID FEIT NER	P.O. Box 1149 Juneau	Research & Analysis Dept. of Labor/Workers Comp Study	Yes	

SIGN-IN SHEET

COMMITTEE Hnse-Labor-Commerce Workmens Comp. HEARING DATE 10-26-81

NAME PRINT

(PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MAT
ANN Z. COX	P.O. Box 4-853 ANC 99509	WCCA	No	
ED HITE	201 DANNER, Suite 155, Anch 99502	Donald A. Cook Co	No	
Jackie McClintock	P.O. Box 1149, Juneau, AK	Staley AK	no	
Lee Jackson	P.O. Box 3130, Anch. AK	Self	NO	
Roger Kemplen. call this person later for written suggestions on regs. or leg.	675 7th Ave. Sta. B. Box X, Fbks 99701	State Div of Voc. Rehab		
Mr. John Lewis				
Richard Fineberg			No.	

SIGN-IN SHEET

Workmen's C. of C.

COMMITTEE House Labor - Commerce

HEARING DATE 10-26-81

PRINT

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MA
Lucille Adom	675 7th AVE, FBX	Workers' Comp.	Observe.	
Larry Kelley	600 RAILWAY ST	Sourdough Express, Inc	observe	
John Lewis	BOX 330550, MIAMI FL		Y	
[illegible]	3568 College Rd ST.	UAHeal Trs	YES	
DON KOCH YES	POUCH D JUNEAU AK 99811	DIV OF INSURANCE	OBSERVE ANSWER QUESTIONS	
[illegible]	[illegible] College	Self	Y	
DAN DANIELS	60 HALL ST FBX	IBEW 1547	NO	
Thea Postlethwaite	675 7th Ave STAB Fbks 99701	Div. of Voc. Rehab. Hatch	No	
GLENN SIMPSON	215 Barnett St.	LABORERS Local 942	Y	

SIGN-IN SHEET / WORKERS COMP Bd.

WORKERS COMP.

NAME	REPRESENTING	ADDRESS
W Reeves	WC Division	3301 Eagle
Ann S. Bittenger	Mng. Member - Anchs W/C Board	6602 Parkway Dr., Anchorage, AK 99502
Jim Robison	LABOR	Box 899 Anch. AK. 99510
David W. Richards	LABOR	3112 Wildmeadow Lane, Juneau 99803
Lucille A. Odom	W/C Div.	675 7th AVE. FAIRBANKS 99707
Jacquelyn L. McClintock	—	P.O. Box 1149, Juneau 99811
Rebecca Branchflower		3301 EAGLE, ANCH AK 99503
Jan Baughman	POB60005	PAI, Ak 99706

1981

Interim

Press

Releases

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 8
CHAIRMAN—LABOR AND COMMERCE COMMITTEE
PHONE 465-3873

3960 REKA DRIVE—80
ANCHORAGE, AK 99504
PHONE 333-6990

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE 465-3784

FOR IMMEDIATE RELEASE

November 23, 1981

Contact: Ray Tyson
272-6922

LEGISLATOR WARNS OF POLITICAL HUCKSTERS

State Representative Terry Martin today warned Anchorage residents to be on guard against political contribution solicitors out to make a fast buck off the State of Alaska.

The state contribution rebate program -- recently increased from $50 to $100 per individual -- is a lucrative target for hucksters masquerading as candidates, or for solicitors seeking cash for "worthwhile" political action committees, Martin said.

The state doled out nearly $1 million in cash and tax credits to 22,284 claimants in 1979 and 1980. Although no statistics are available for the current year, the state Department of Revenue expects to pass out $5 million in cash rebates to 50,000 claimants for the 1982 political season.

"Although this sounds like a large figure, it represents something less than a quarter of registered voters in Alaska," Martin said.

Next year will be an especially hot political season, Martin said. In addition to the statewide races of governor, lieutenant governor, and U.S. representative, most state House and Senate seats will be up for election under the new reapportionment plan.

"Not only do we now have the state bank-rolling campaigns, but the entire rebate program lends itself to widespread fraud and abuse," Martin said.

-- More --

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 8

3960 REKA DRIVE—B6
ANCHORAGE, AK 99504
PHONE (907) 333-2432

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-4943

FOR IMMEDIATE RELEASE

Contact: Ray Tyson
272-6922

November 25, 1981

LEGISLATOR WARNS OF POLITICAL HUCKSTERS

State Representative Terry Martin is warning Alaska residents to be on guard against political contribution solicitors out to make a fast buck off the State of Alaska.

The state contribution rebate program -- recently increased from $50 to $100 per individual -- is a lucrative target for hucksters masquerading as candidates, or for solicitors seeking cash for "worthwhile" political action committees, Martin said.

The state doled out nearly $1 million in cash and tax credits to 22,284 claimants in 1979 and 1980. Although no statistics are available for the current year, the state Department of Revenue expects to pass out $5 million in cash rebates to 50,000 claimants for the 1982 political season.

"Although this sounds like a large figure, it represents something less than a quarter of registered voters in Alaska," Martin said.

Next year will be an especially hot political season, Martin said. In addition to the statewide races of governor, lieutenant governor and U.S. representative, most state House and Senate seats will be up for election under the new reapportionment plan.

"Not only do we now have the state bank-rolling campaigns, but the entire rebate program lends itself to widespread fraud and abuse," Martin said.

-- More --

"For example, some supporters of various candidates and groups are misleading potential contributors into believing they can be refunded for more than $100 in any given calendar year."

Not only can a person receive a refund from the state of up to $100 contributed, he also can receive an additional maximum $25 tax credit from the federal government for the same contribution. In other words, an individual can actually make a $25 profit for a $100 contribution.

However, Martin warned, a contributor can only claim a state refund if the candidate or political action group he is giving to is registered with the Alaska Public Offices Commission (APOC).

Before contributing, Martin said the individual should:

1) Make sure the person you give to has officially filed for elective office, and that the political action committee you want to contribute to is certified by APOC.

2) Be sure the person you give to is a serious candidate. APOC records show that declared candidates have used political contributions for non-campaign related expenses.

3) Don't let anyone deceive you into believing you can be refunded for more than $100 from the state.

4) Never give cash without a receipt if you expect a refund.

5) Be wary of professionals.

6) Don't give if you are opposed to state money being used to finance political campaigns.

Martin, a District 8 Republican, pointed out that Anchorage residents should be alerted to several House and Senate bills to be considered by the Legislature next session that would repeal the refund program.

-- More --

"There is strong support among members of the majority House Coalition and conservatives in the Senate to repeal this law," he said.

At a time when the public is critical of the high cost of political campaigns, Martin said, the state rebate program only encourages prospective candidates to get into the race early for the sole purpose of "double-dipping" into the state treasury.

Double-dipping is a term used to describe candidates who file before January 1 in order to collect $100 from an individual in each of two calendar years -- 1981 and 1982 -- even though the election may be more than a year away.

"This obviously ups the ante and encourages everyone to file early," Martin said.

Martin said he personally became concerned about double-dipping after several prospective House candidates encouraged him to file early in order to take advantage of the rebate program.

"I feel this is an issue in which all voters should have a say," Martin said. "This is why I feel the question should be placed on the ballot in 1982. Voters should decide whether they want state money used to finance political campaigns."

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Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

December 23, 1981

The Honorable Jay S. Hammond
Governor of Alaska
Pouch A
Juneau, Alaska 99811

Dear Governor Hammond:

During a hearing conducted by the House Health, Education and Social Services Committee on December 9 at the University of Alaska, Anchorage, students aired deep concern about the lack of housing on campus.

The Committee feels that the student housing problem has grown to such magnitude that it should be brought to your attention, as well as the Legislature's.

More than 500 students at the Anchorage campus have signed petitions urgently requesting that student housing in Anchorage be a major priority in the state's fiscal 1983 budget. Copies of the petitions are attached for your review.

Student housing in Anchorage, I believe, would prove to be a good investment for the state.

Not only would it help the over-all housing crunch, which has reached a crisis, but it would assist in keeping students from going Outside for their education.

Not only have local high school students indicated in surveys that a lack of housing is one reason why they attend college Outside, but some 300 students who dropped out of the University in the Fall cited a lack of housing and programs as primary reasons for leaving.

It also is estimated that from $20 million to $28 million in state student loans go with these students when they leave the state. Using a conservative economic multiplying factor of six, which represents the amount of money students would normally spend in the community, this means the Anchorage business community is losing about $150 million in revenue each year.

There are two proposed Committee bills you may be interested in. Both will be introduced early next session.

The first piece of legislation---a special appropriation to the University of Alaska---would help solve the immediate housing shortage at the University. It sets aside $2.2 million for the purchase, renovation and maintenance of the Carriage House.

The second proposal--also a special appropriation to the University--would earmark $15 million for construction of 300 units on the Anchorage campus. However, this bill would be a capital improvement project only, and would not present a constant strain on the university's operating budget.

The University would merely contract for construction. The on-campus units would then be leased, operated and maintained by the private sector, eliminating the need to put more employees on the University payroll. The student dining area also would be leased.

Let me also point out that Anchorage, the state's largest community, currently has absolutely no student housing. Fairbanks not only has student housing, but there is $10 million in the 1983 fiscal budget for additional housing and some $3 million for renovation of existing housing units. President Barton has requested $12 million for housing for the Juneau campus in the 1983 budget. The Board of Regents has approved the request.

Students who attend the Fairbanks campus pay $325 per semester, (four months) while students in Anchorage pay $400 to $450 per month for an apartment off-campus. And because students cannot afford to sign long-term lease agreements, they are easily bumped from these off-campus units.

It also costs a student nearly $6,000 a year to attend the University's Anchorage campus, while at the Fairbanks campus, it costs about $3,600 a year.

Student housing in Anchorage would have additional benefits. It would cut down on automobile traffic in the campus area which also would save on fuel. Reduced rental costs would result in smaller student loans and free up loan money for students who desperately need to borrow.

Again, the Committee feels that student housing at the Anchorage campus is long overdue.

The Committee is not only seeking your support in this matter, but any assistance the state administration can provide would be deeply appreciated.

Sincerely,

Representative Mike Beirne
Chairman, House Health,
Education and Social Services

Representative Terry Martin
Vice Chairman, House Health,
Education and Social Services

TM/ld
enclosure
cc: Terry Miller
Jay Barton
Board of Regents (enclosure to President)
House Health, Education and Social Services members
Senate Health, Education and Social Services members (enclosure to Chairman)
House Finance members (enclosure to Chairman)
Senate Finance members (enclosure to Chairman)

Martin plans bill limiting regent terms

TIMES 12/10/81

Associated Press

State Rep. Terry Martin says he will propose during the 1982 legislative session that the terms of members of the University of Alaska Board of Regents be cut from eight years to five years.

The Anchorage Republican also said he might submit legislation requiring that regents be selected on the basis of population, rather than region.

Martin made the comments at a public public hearing on the UA budget. Students from the University of Alaska, Anchorage, and Anchorage Community College complained of inadequate facilities and overcrowded classrooms.

Larry Smith, the student body president at UAA, said funds for the 1982 summer session at the Anchorage campus had to be used to meet the demands of enrollment for the 1981 fall semester.

He asked legislators attending the meeting to back a $150,000 supplemental appropriation to meet the shortfall.

Rep. Sally Smith, D-Fairbanks, suggested the request be directed to the Board of Regents.

Martin said, "The students are frustrated and I'm frustrated with the Board of Regents and the administration. We shouldn't cop out. We have every right to tell the Board of Regents they're doing it wrong."

Highway hearing scheduled

A community hearing to review proposed highway and road projects in the Mountain View and Russian Jack Springs areas will be held tonight at Clark Junior High School, Room 108. State Rep. Terry Martin, who represents the area, said community councils with an interest in the projects have been invited in an effort to reach a consensus on projects to be considered in the legislative session. Uprgrading of Glenn Highway, Bragaw Street and Mountain View Drive and the proposed Boniface interchange will be discussed along with other projects proposed in the Anchorage Metropolitan Area Transportation Study. Representatives of the state Department of Transportation and Public Facilities will be on hand to give a presentation and answer questions. The hearing begins at 7:30 p.m.

12/8/81

From Daily News staff and wire reports

Rebate law pulls candidates out early

by Steve Rinehart
for The Times

Homer — A unique Alaska election law rather than tough competition or statewide reapportionment appears to be the reason for the sudden abundance of candidates filing for the 1982 elections, according to candidates and a state revenue official.

Gubernatorial candidate Tom Fink put it bluntly when campaigning in Homer last month: It's the money.

If not the major reason for filing early, one of the big ones is the state's campaign contribution rebate program, under which the state will now refund political contributions of up to $100 (last year it was $50). By stretching their campaigns over two calendar years, candidates or political action committees which have registered with the Alaska Public Offices Commission before the end of the year grant their supporters eligibility for two contribution rebates for one election.

And if filing early is a good investment for candidates, it can carry a reasonable return for contributors as well. Besides claiming up to $100 in rebates from the state, a person can claim the maximum $25 credit from the federal government, too.

This opportunity to fill campaign chests has not been lost on candidates or PACs. According to the state Department of Revenue, politicians and PACs are clamoring for rebate forms to send to potential supporters. For example, the Alaska branch of the National Education Association requested 5,000 rebate forms, according to the department's "forms manager," Colleen Brown.

Despite the demands, the department won't issue the rebate forms until the end of the year, she said.

Reapportionment puts almost all 60 seats in the Legislature up for election in 1982. The governorship and the capital move will also be included on next fall's ballot, guaranteeing a high-interest election.

"We're expecting a big year (for rebate claims)," Brown said, predicting nearly $5 million in contributions or some 50,000 claims.

Fink made no bones about it. Running for governor is expensive, he said. It's smart to file early to take maximum advantage of the refund program. Other candidates have been less specific. They need the extra couple of months this year to put their organizations together, they have said, or to overcome voter confusion about reapportionment. Of course, as a recently announced candidate agreed reluctantly, "It would be foolish not to build as large a treasury as possible."

But that's being greedy, said an Anchorage representative who opposes state-financed elections. Republican Terry Martin has circulated a news release accusing candidates, among them his competition, of taking undue advantage of the refund program, getting into the race early "for the sole purpose of double-dipping into the state treasury."

One of Martin's aides said the representative would not be filing for office until next year.

Revenue department figures show the rebate program is becoming ever more popular. In 1979, Brown said, 6,886 people filed for about $306,000 in rebates. In 1980, 15,457 filed for about $690,000 in rebates. Those years, the maximum refund was $50 and the average rebate was about $45. The department's estimate for the coming year is based on an expected average rebate of $90-95, Brown said.

There is no age limit on the refunds, Brown said. However, applicants must be able to demonstrate that they acted of their own free will. Parents cannot contribute on behalf of their children and secure rebates, for example, unless the child makes a conscious decision to back a candidate or an issue, she said.

The rebates were handled on income tax forms back when there was a state income tax. Since the tax has been repealed there are special forms, said Brown, the forms manager. All who filed for rebates in 1979 and 1980 will get this year's form in the mail. Others will be available at revenue department field offices, legislative information offices, the governor's office and other state offices.

The federal government will grant tax credits up to a maximum of $25 for the same contribution. So Alaskans can invest $100 in the candidate or PAC of their choice and get $125 back, for a 25 percent payoff on a "political investment" of a few months' duration.

Alaska State Legislature

House of Representatives

HOUSE LABOR AND COMMERCE COMMITTEE
921 West 6th Avenue.
Suite 250
Anchorage, Ak 99501
272-6922

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

December 14, 1981

TO: Billy Barrier, director
Division of Legal Services

FROM: Representative Terry Martin, chairman T.H.M.
House Labor and Commerce Committee

Subj: Telecommunications

I am requesting that your office draft a House Concurrent Resolution spelling out our policy on statewide telecommunications. The sponsor is the House Labor and Commerce Committee.

Please incorporate the following in the Resolution:

-- Whereas a significant and increasing amount of public funds is being invested in telecommunications systems; and

-- Whereas it should be the role of state government to encourage and not compete with the private sector; and

-- Whereas the private sector which deals in Alaska telecommunications faces a crowding out by government in the wake of increasing state wealth; and

-- Whereas the private sector has been the foundation and vitality of the American Democratic and economic system; and

-- Whereas the Alaska State Legislature lacks a policy regarding the burgeoning telecommunications system;

Be it resolved that the Alaska State Legislature should take the following into account to serve as guidelines when considering telecommunications appropriations:

-- When and where possible, the state Divisions of Telecommunications should procure services from private enterprise or certified and franchised utilities and contract for the construction, management, operation and maintenance of telecommunications systems.

-- When and where possible, the state Divisions of Telecommunications should reduce or eliminate airwave interference of state owned or financed stations with privately owned and operated cable television stations.

-- Artificial regulatory and government barriers for growth and development of new and innovative services by the private sector should be removed.

-- Companies owned and operated by Alaska residents and based in Alaska should be given a competitive edge over Outside interests.

-- Alaska's villages should have the opportunity to own, operate and maintain their own satellite earth stations.

-- In-state programming or Bush programming can be beneficial to sectors of the Alaskan community. However, the Divisions of Telecommunications should not only assure that such programs are cost effective, but production of these programs should be available to the private sector on a contract or bid basis.

-- No commercial advertisements shall be carried in state funded or state subsidized programs or in programs transmitted by state funded or state subsidized satellite channels.

-- The Legislature should encourage commercial radio and television news coverage of the legislative sessions by making equipment, space and satellite time available to the private sector. This would serve as a meaningful and efficient and non-controversial method of communicating legislative affairs to the public.

Billy, the committee would like a draft of the resolution by January 1, so that copies can be available to the various parties interested in this legislation.

Thanks for your help.

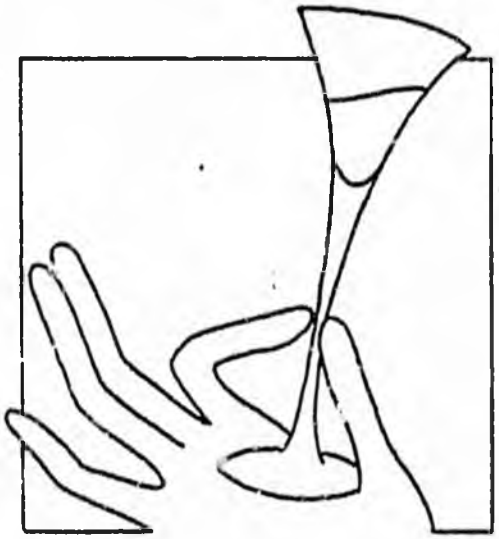
THE 1981 "WHO'S KIDDING WHOM?" AWARD

TANANA VALLEY COMMUNITY COLLEGE

FOR THE MOST IMAGINATIVE COMMUNITY COLLEGE
COURSES STRICTLY FOR SURVIVAL OF THE INSTITUTION.

TVCC IS GLAMOROUS,

UPBEAT,



AND VERY CORDIAL.

WOULD WE KID YOU?

REPRESENTATIVE
TERRY MARTIN
DISTRICT 6

3960 REKA DRIVE—B6
ANCHORAGE, AK 99504
PHONE (907) 333-2432

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-4943

FOR IMMEDIATE RELEASE

Contact: Ray Tyson
(907) 272-6922

August 22, 1981

"WHO'S KIDDING WHOM?" AWARD GOES TO TANANA

Tanana Valley Community College has been awarded the 1981 "Who's Kidding Whom?" award in education for the most imaginative courses strictly for survival of the institution.

In presenting the award, state Rep. Terry Martin, R-Anchorage, said TVCC barely edged out other community colleges with such creative non-credit course offerings as "Make-up for The Contemporary Woman," "Disco Partner Dancing," "Brandies, Liquors & Cordials," and a "Seminar on Menopause."

"I have presented this award only to demonstrate that post-secondary institutions have gone to extremes to justify their existence," said Martin, a member of the state House Finance Sub-committee on the University of Alaska's budget last session.

Martin this week released a report outlining what he calls the unnecessary competition among the state's community colleges for students and money.

Community colleges, in part, are allocated funds based on how many students they can attract to their respective campuses.

-- More --

"The recent change in laws in 1978 that allows the University to count persons taking non-credit courses offered under its umbrella, only to obtain a higher count of students, has most offensively been misused -- to gain more money to feed a bloated monster that seems to strive to reach all the citizens of Alaska under various disguises," Martin said.

For example, courses in "Fortune Telling" and "Corn Husk Dolls" were offered at Matanuska-Susitna Valley Community College during the 1979-80 school year. At Kodiak Community College, courses were given in "Furniture Arrangement," "Knives & Scissors, How to Sharpen," and "Pinata Workshop." And in Anchorage, "Principles of Occult Theory" and "Wines of The World" were offered.

"And the list goes on and on," Martin said. "The point is that courses offered at community colleges should be for students preparing for a four-year baccalaureate degree or for those preparing for a career requiring certain technical skills."

The Anchorage legislator said it would be more appropriate to offer such entertainment type courses through the community schools system or REA.

"The prestige of the University system of Alaska deteriorates in direct proportion as it becomes more involved with non-essential academic issues and activities," Martin said.

"Common understandings of the terms 'university' and 'community college' are severely strained when one re-evaluates the course offerings . . ."

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 8
CHAIRMAN—LABOR AND COMMERCE COMMITTEE
PHONE 465 3873

3960 REKA DRIVE—D6
ANCHORAGE, AK 99504
PHONE 333-6990

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE 465-3784

FOR IMMEDIATE RELEASE

Contact: Ray Tyson
272-6922

November 6, 1981

MARTIN UNVEILS PLANS FOR UAA STUDENT HOUSING

The University of Alaska, Anchorage campus would get its first 300 units of student housing under plans disclosed today by Representative Terry Martin, vice chairman of the House Health, Education and Social Services Committee.

Martin said he will introduce legislation in January calling for $15 million in housing construction that could begin as early as next summer.

The on-campus units could be leased, operated and maintained by the private sector, he said, eliminating the need to put more employees on the University payroll. The student dining area could be catered.

"The lack of student housing on the Anchorage campus is causing a multitude of problems in the community," Martin said.

High rent in the open market, for example, adds a great deal to a student's educational costs and, in many cases, forces him to attend a college or university outside the state, he said.

And students renting off campus place an additional burden on an already tight Anchorage housing market.

"So far this year, some 300 students have dropped out of UAA, and they cite a lack of programs and housing as primary reasons for leaving," Martin said. "It is impossible to calculate the number of prospective UAA students forced to enroll in other schools because of the lack of housing at the Anchorage campus."

-- More --

Students who attend the Fairbanks campus pay $325 per semester (four months) while students who attend college in Alaska's largest city pay $400 to $450 per month for an apartment off campus.

"It costs a student nearly $6,000 a year to attend the University's Anchorage campus, while at the Fairbanks campus, where there is student housing, it costs about $3,600 a year," Martin said.

Martin said student housing would have additional benefits.

It would cut down on the automobile traffic in the University area. Students would save on fuel costs.

Reduced rental costs also would result in smaller student loans, freeing up loan money for students who need to borrow.

"Now is the time to appropriate funds for the long over due needs of student housing at the UAA campus," Martin said.

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11/26/81

Rep. Martin warns of rebate fraud

Times 11-26-81

Rep. Terry Martin warned Anchorage residents to be on guard against soliciters out to make a fast buck off the state of Alaska.

The state contribution rebate program is a lucrative target for hucksters masquerading as candidates, or for solicitors seeking cash for "worthwhile" political action groups, Martin said.

Refundable campaign contributions recently increased from $50 to $100 per individual. The state doled out nearly $1 million in cash and tax credits to 22,284 claimants in 1979 and 1980. Although no statistics are available for this year, the state revenue department expects to pass out $5 million in cash rebates to 50,000 claimants, about one quarter of Alaska's registered voters.

"Not only do we now have the state bank-rolling campaigns, but the entire rebate program lends itself to widespread fraud and abuse," Martin said. He also noted that next year will be a particularly "hot" political season, with the pending election of the governor, lieutenant governor, U.S. Representative and many state House and Senate members.

Not only can voters receive a refund from the state for up to $100 for a political contribution, they can receive an additional $25 from the federal government for the same contribution, making it possible to actually makes a $25 profit from a $100 contribution.

Martin noted that at a time when the public is critical of the high cost of campaigns, the state rebate program encourages prospective candidates to get into the race early for the sole purpose of "double-dipping" into the state treasury.

Double-dipping is a term used to describe candidates who file before Jan. 1 in order to collect $100 from individuals in each of two calendar years. (Individuals are allowed a $100 refundable contribution per year.) "This obviously ups the ante and encourages everyone to file early," Martin said.

Martin said he became concerned about the double-dipping after several prospective House candidates encouraged him to file early in order to take advantage of the rebate program.

He said there is strong support among House coalition members and Senate conservatives to repeal the rebate law.

Martin said that a contributor can claim a state refund only if the candidate or political action group receiving the funds is registered with the Alaska Public Offices Commission.

Before contributing, Martin said individuals should:

— Be sure the person you give to has officially filed for elective office and that the political action committee you give to is certified by the commission.

— Make sure the person you are contributing to is a serious candidate. Commission records show candidates have used political contributions for non-campaign expenses.

— Don't let anyone deceive you into believing that the state will refund more than $100.

— Never give cash without a receipt if you expect a refund.

— Be wary of professionals.

— Don't give if you are opposed to state money being used to finance political campaigns.

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

FOR IMMEDIATE RELEASE

Contact: Lynn Danis
272-6922

December 7, 1981

HIGHWAY PROJECTS TO GET AIRING

Proposed highway and road projects for the Mountain View and Russian Jack Springs areas will be discussed during a community hearing at Clark Junior High School, Room 108, at 7:30 p.m. Tuesday, December 8.

State Representative Terry Martin, who represents the area (District 8), said today community councils in the area have been invited to attend the meeting in an effort to reach consensus on construction projects to be considered in the up-coming legislative session.

"Residents in the area are urged to attend the meeting," Martin said. "This may be their final opportunity to publicly address these proposals prior to the session."

Projects to be discussed include upgrading of Glenn Highway, Bragaw Street, Mountain View Drive and the proposed Boniface interchange and other projects proposed in the Anchorage Metropolitan Area Transportation Study (AMATS).

Martin added that the State Department of Transportation and Public Facilities will be on hand to give a presentation and answer questions regarding the AMATS recommendations.

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House coalition lists priorities for new session

by Sean Hanlon 12-4-81
Times Writer

The coalition of Republicans, Democrats and Libertarians which took control of the Alaska House of Representatives last year will be dusting off some old bills — many in the crime prevention field — when the Legislature convenes in January.

The legislative program emerged from a caucus of about 20 coalition members held in Anchorage Wednesday. Specific priorities will be set the week before the session, when the coalition will caucus in Juneau.

House Speaker Joe Hayes, R-Anchorage, who replaced Jim Duncan, D-Juneau, as a result of the coup, said most of the coalition's legislative package is sitting in committee waiting for action.

Anti-crime legislation is a top priority of the coalition. Their program calls for election of the attorney general and consideration of bills now in the Judiciary Committee to toughen penalties for violent crime, sexual assault and drug abuse.

Ramona Barnes, R-Anchorage, who was made chairman of the Judiciary Committee after the coup, said the crime package urges many of the same reforms endorsed in the recent preliminary report of the Anchorage Crime Commission.

One bill, which Barnes said "has been around in some form or another for the past six years," involves a comprehensive overhaul of Alaska drug laws to bring them in line with federal laws. This bill does not, however, provide for the re-criminalization of marijuana, which the crime commission recommended.

Another crime bill would set specific minimum penalities of between five and 99 years for persons convicted of rape. A third bill would prevent the release on bail of persons awaiting appeal on their convictions of violent crimes such as murder, rape and armed robbery.

"There's considerable public support for all these bills," Barnes said. "I would expect that you would see some action on these bills early in the session."

The coalition's outline of its legislative program also deals with tax relief, debt reduction, land disposal, tourism development and fisheries access abuse.

Property tax relief would be provided through revenue sharing or a direct grant program such as Senate Bill 168, which this year funded millions of dollars in capital projects and allowed cities to appropriate unspent money for tax relief, Hayes said.

The majority coalition's continued stability depends, in part, on the ability of the Republicans to keep the Libertarians and renegade Democrats in the fold. According to Hayes, some coalition legislation is designed to appeal to the interest of the rural Democrats who joined in the move to oust the Democratic leadership of the House.

"They're naturally interested in the improvement of the transportation infrastructure," Hayes said. "They're looking at economic development as opposed to the great number of social programs that may have been offered by the other leadership."

Al Adams, D-Kotzebue, who was named chairman of the Finance Committee after the coup, outlined the objectives of coalition Democrats.

"Our objective is we're still going to be working on basic needs in the rural areas — airports, schools, housing, education." Of particular interest, Adams said is the fate of Mt. Edgecumbe, a high school near Sitka which may soon be closed by the U.S. Bureau of Indian Affairs for budget reasons.

Adams expressed his support for the coalition and said the Democrats plan to stay with the group until the end of the session.

"As far as I'm concerned, the Democrats in the coalition support the coalition because it is necessary and is looking out for the benefits and services of all Alaskans," Adams said.

Libertarian participation in the coalition resulted from a promise that several bills introduced by Dick Randolph, L-Fairbanks, which languished for months in committee would finally be sent to the floor.

"He's got several pieces of legislation that are his pets. As a member of the majority coalition, he has reason to expect that his issues will move out of committee and have the opportunity to be debated on the floor. Of course, that doesn't mean that everyone's going to vote for them," Hayes said.

Randolph wants the state to make interest-free loans of $10,000 to every adult Alaskan and set up the permanent fund as a trust from which adult Alaskans receive yearly dividends.

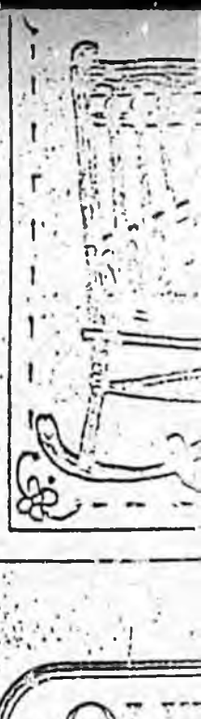
Hayes hopes to limit the session to between 100 and 120 days but said the session could be extended under certain circumstances.

"The pattern which has been established of meeting for 140, 150 or 160 days is completely unacceptable, unnecessary, and unproductive," Hayes said.

Permanent fund trustees cautioned about policy

Associated Press

In contrast, during the past year,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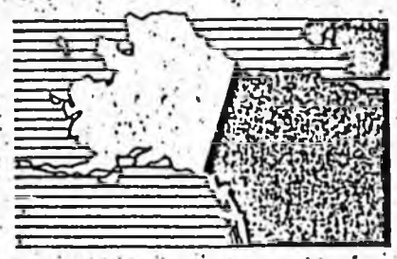
UA ills may prompt restructuring of board of regents

By STAN JONES
Daily News reporter

The structure of the University of Alaska Board of Regents should be altered to make it more responsive to the needs of individual campuses, students and legislators said Wednesday night at a public hearing on the university budget.

Representatives from student governments at Anchorage Community College (ACC) and the University of Alaska, Anchorage (UAA) complained of inadequate facilities, overcrowded classrooms, and widespread course closures caused by the failure of local campus budgets to keep pace with the growth in enrollment.

Larry Smith, student body president at UAA, said funds programmed for the 1982 summer session had to be used to meet the enrollment demands for this fall's semester, and asked the legislators for a



$150,000 supplemental appropriation to meet the looming shortfall.

Rep. Sally Smith, D-Fairbanks, suggested that such requests should be channeled through the regents, but Rep. Terry Martin, R-Anchorage, disagreed. "The students are frustrated and I'm frustrated with the board of regents and the administration," he responded. "We shouldn't cop out. We have every right to tell the board of regents they're doing it wrong."

Martin said he planned to submit legislation that would shorten the regents' terms to five years from the current eight and possibly require that they be appointed on a population basis.

Martin said he objected to some items in this year's university budget submitted by the regents, including a $22 million building in Fairbanks for the statewide university staff and a $24 million construction project at Tanana Valley Community College, also in Fairbanks. Martin said he also objected to a $55 million building program for the University of Alaska, Juneau, which he claimed has only 157 students.

Anchorage, he said, is in line for only one $20 million in 1987.

Anchorage regent John Shively said he felt the eight-year terms probably had been adopted to insulate the regents from minor political pressures, but that switching to five-year terms probably would not make much difference.

Alaska State Legislature

House of Representatives

HOUSE LABOR & COMMERCE COMMITTEE
921 West 6th Avenue
Suite 250
Anchorage, Ak 99501
272-6922

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

FOR IMMEDIATE RELEASE

Contact: Ray Tyson
272-6922

November 24, 1981

LEGISLATIVE COMMITTEE SCHEDULES FINAL HEARINGS

The State House Labor and Commerce Committee will hold a final round of interim public hearings on government permits and workers' compensation next week in Anchorage.

Hearings will be held at the Legislative Affairs Office, 1024 West 6th Avenue.

Committee Chairman Terry Martin has scheduled a hearing on proposed legislation designed to streamline the governmental permitting process from 9 a.m. to 4:30 p.m. Wednesday, December 2.

The Committee also will take public testimony on House Bill 159 regarding proposed revisions of the state workers' compensation law from 9 a.m. to noon Thursday, December 3.

Written testimony and tapes of hearings held in Anchorage in September and in Fairbanks in October are available for public review at the Committee office, 921 West 6th Avenue.

For further information, feel free to stop by the Committee office, or call 272-6922.

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REP TERRY MARTIN
465-4943

NOT ALL THE FAVORABLE PUBLICITY ALASKA IS RECEIVING THIS YEAR COST $150,000 PER ISSUE, AS DID THE CONTROVERSIAL SPREAD ON VOGUE MAGAZINE A FEW WEEKS AGO. THE JUST-RELEASED "RUNNER'S GUIDE TO THE U.S.A.', BY MARTINA D'ALTON, A 400-PAGE PEDESTRIAN TRAVEL HANDBOOK, HAS AN EIGHT-SECTION ON ALASKA, FEATURING SEVERAL OF THE MORE POPULAR DISTANCE RACES HELD IN THE STATE.

REPRESENTATIVE TERRY MARTIN, HIMSELF AN AVID MARATHONER AND ORGANIZER OF THE POPULAR MAYOR'S MIDNIGHT SUN MARATHON IN ANCHORAGE, PROVIDED INFORMATION AND MAPS FOR THE PUBLICATION, WAS ENTHUSIASTIC ABOUT THE PUBLICITY IT WOULD PROVIDE FOR ALASKA. "RUNNING IS THE FASTEST-GROWING SPORT IN AMERICA, AND HAS MORE DEVOTEES THAN NEARLY ANY OTHER ATHLETIC PASTIME. THIS BOOK WILL REACH UNTOLD THOUSANDS OF PEOPLE AND IT DIDN'T COST THE ALASKAN TAXPAYERS A DIME. THERE ARE NO GLACICERS OR POLAR BEARS OR SEXY GIRLS IN THE BOOK BUT THERE IS A LOT OF ATTRACTIVE AND WORTHWHILE INFORMATION IN IT WHICH WILL CERTAINLY DRAW RUNNERS TO ALASKA." MARTIN SAID THAT HE ALREADY HAS SOME THREE DOZEN APPLICANTS FOR THIS YEAR'S MAYOR'S MARATHON, THE FARTHEST AWAY FROM SAUDI ARABIA. HE SAID THERE IS CONSIDERABLE INTEREST AMONG RUNNERS IN COMBINING AN ALASKAN VACATION WITH ONE OR MORE OF THE SUMMERTIME RACES IN THE STATE. "THEY ESPECIALLY LIKE THE CLEAN ALASKAN AIR TO RUN IN, WHICH THEY CAN'T FIND IN MANY OTHER PLACES."

"THE RUNNER'S GUIDE" IS PUBLISHED BY SUMMIT BOOKS, 1230 AVENUE OF THE AMERICAS, NEW YORK 10020, AT $6.95.

State lawmaker lashes out at non-academic college courses

Associated Press

Fairbanks — Sen. William Proxmire, D-Wis., has his "Golden Fleece" award for illustrating what he believes to be the wasteful practices in the federal government. State Rep. Terry Martin, R Anchorage, has his "Who's Kidding Whom" award for Alaska.

And this year's winner is Tanana Valley Community College.

Martin is incensed by such course offerings as "Make-up For the Contemporary Woman;" "Disco Partner Dancing;" "Brandies, Liquors and Cordials," and "Seminar on Menopause."

But those courses barely edged out Matanuska-Susitna Valley Community College's "Furniture Arrangement" and "Knives and Scissors, How to Sharpen;" Kodiak Community College's "Principles of Occult Theory," and Anchorage Community College's "Wines of the World," Martin said in a news release.

"I have presented this award only to demonstrate that post secondary institutions have gone to extremes to justify their existence," Martin said.

TVCC President Rod Enos said all non-credit courses at the school are self-supporting and wanted by the taxpayer.

"They pay for their own supplies and their own instruction" through fees and material charges, he said.

Martin said community colleges should be offering courses "for students preparing for a four-year baccalaureate degree or those preparing for a career requiring technical skills."

The problem arises, Martin said, from a change in the law in 1978 that allowed schools to count persons taking non-credit courses when calculating entitlements.

It has "most offensively been misused — to gain more money to feed a bloated monster that seems to strive to reach all the citizens of Alaska under various disguises."

He said "entertainment-type" courses could be offered more appropriately through local schools or regional education systems.

Barnes seeks third term in new district

Rep. Ramona Barnes, R-Anchorage, filed Tuesday in East Anchorage's District 14 for a third term in the state House.

Barnes, 43, filed for seat A in the double member district. Barnes is the only incumbent living in that district. No one else has filed against her or for seat B.

The only individual who has ever run from this newly carved House district was Cy Barker.

Barnes, who was first elected to the House in 1978, said she decided to get into next year's race early "because I feel it's necessary to inform (other Republican hopefuls) thinking of running so they don't file against me."

There is growing speculation that Anchorage School Board member Walt Furnace, a Republican, will file for seat B.

Barnes, who replaced Rep. Don Clocksin as chairman of the House Judiciary Committee in the aftermath of the leadership shakeup June 12, said she intends to push for early action on the violent crime bills now before her committee, especially those dealing with sexual assault.

The Anchorage Republican gained some notariety this year for her leadership roll in advocating the position of urban sportsmen on the hotly contested subsistence issue.

"The present leadership coalition is committed to conducting state business in a responsible and timely fashion," Barnes said. "And I hope to have the opportunity to bring that to pass in the next legislative session."

RAMONA BARNES
Trying for third term

The Anchorage Times

Wednesday, August 26, 198

General News

F

College courses win legislator's 'award'

Associated Press

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Martin says Mulcahy dome isn't what he had in mind

By JIM ERICKSON
Daily News correspondent

Representative Terry Martin (R-Anchorage) says he is the "culprit" behind the move to put a dome over Mulcahy Stadium, but he contends a dome isn't what he had in mind.

A May 15 story in the Anchorage Daily News reported on the confusion surrounding a $25,000 grant made to the municipality of Anchorage during the final days of the legislative session by the Free Conference Committee. That funding called for a feasibility study on the shielding of Mulcahy Stadium from the elements, perhaps with a dome.

"I'm the culprit," Martin told the News May 16. "Basically what happened was, I had been keeping it quiet because I didn't want any opposition to it."

Martin, who was not a member of the Free Conference Committee, said that, while he had asked House minority leader Joe Hayes to put funding for the study on the special projects list, he was surprised to find it in the budget. " I had been told it was cut out... I didn't know it was there until I saw the final budget," he said.

"My main emphasis," he added, "wasn't to put a dome over Mulcahy, the baseball field... this has always been a participatory community. We did not want an elaborate stadium, we just wanted to protect it from the outside elements."

Martin stressed his intent was to provide a year-round playing field — "nothing fancy, just four walls and an arched roof" — for Anchorage residents, along the line of East coast fieldhouses.

"I don't know what it's gonna cost, but it's nowhere near the umpteen million they've talked about before," he said.

Martin said that while he probably "should have," he did not discuss the project with municipal officials before lobbying to have it put in the budget.

Free Conference Committee member Bill Sumner (R-Anchorage), who inserted the grant along with a $50,000 appropriation to pave the parking lot at Mulcahy, could not remember talking to Martin specifically about the project. "He (Martin) has been all along a supporter of athletic programs... this particular interest had parallel support (among the Free Conference Committee members)," Sumner said.

Martin did request an estimate of preliminary costs of the project from Dick Holden, Deputy Commissioner for Planning and Research in the Department of Transportion.

Holden said his department provided Martin with two estimates, one for a cursory review — " a quick and dirty feasibility study," Holden said — detailing what kind of structure might be suitable for the area. Holden said his department estimated the cost of such a study would be about $25,000.

The second estimate was for a "full-fledged feasibility study," which would cost approximately $60,000, including the cost of the cursory review, he said.

Holden added that a "schematic design" study, estimating actual cost of a specific building and including structural, ventil and seismic analysis, woul about $120,000.

Martin said he thinks the s ture could be built for a " rea ble cost," and would like t building funds budgeted for year out of the state's general f

For that to happen "we ca over one and one half, two m dollars," in building costs, he s

Photo by Mark Kelley

Delta Rep. Pappy Moss with Anchorage Republican Rep. Terry Martin, left, and Eagle River Rep. Randy Phillips, also a Republican.

Help for Chrysler?

Moss proposes loan for automaker

By The Associated Press

Worried about Alaska's image as filthy rich "blue-eyed Arabs," state Rep. Pappy Moss has suggested the state loan $400 million of its multi-billion dollar surplus to the ailing Chrysler Corp.

Moss says he's growing more and more concerned that the federal government is about to "stick its hands in our hip pocket" and grab some of Alaska's vast oil wealth.

"I want to let them know we're not blue-eyed Arabs and that we are concerned with the national interest," the Delta Junction Democrat said today. "I want to protect Alaska's image...and our future bankroll."

Moss said discussions about a possible loan are in the preliminary stages and that his staff plans to talk with Alaska's congressional delegation and legislative lawyers before deciding whether to go ahead and push for the loan.

An aide to Moss called Chrysler Corp. Wednesday to talk about a possible loan. "They're real interested," Moss said.

Chrysler Corp. isn't the only company under consideration. Moss said International Harvester or even a financially strapped city such as New York or Cleveland would be a possible borrower.

The 1981 Legislature is in the enviable position of having an unprecedented $5.5 billion to spend — more than ever before, and at least $3 billion more than is needed to run the state bureaucracy, according to Gov. Jay Hammond's budget proposal.

Moss acknowledges he is worried his suggestion will prompt a backlash of criticism from Alaskans who think the state's money should be invested in Alaska. He responds by arguing there's an increasing chance that many of the poorer states will convince Uncle Sam to reach into Alaska's treasury.

Juneau Empire
front page
1/22/81

House bill allowing district jump fails

Associated Press

Juneau — Amid debate that deteriorated into sharp partisan jabs, the House has defeated a bill that an Anchorage lawmaker said would create a new breed of "sleeping bag politicians" in Alaska.

Lawmakers voted 19-21 against a measure Wednesday which would have extended by one month the deadline for declaring candidacy for the 13th Legislature.

Rep. Brian Rogers, D-Fairbanks, said the bill (HB555 am) he introduced would let candidates review final recommendations for redistricting the state's legislative seats before deciding which area they want to represent and moving if necessary.

But Rep. Fr ck Halford, R-Chugiak, said putting off from June 1, 1982 to July 1, 1982 the deadline for declaring candidacy fo: the next Legislature "allows political carpetbaggers to jump districts."

Rep. Terry Martin, R-Anchorage, said the bill "would be beneficial to the sleeping bag politician. This is a very selfish piece of legislation."

But Rogers strenuously objected to the charges, and pointed out that under proposed redistricting plans he is the only member of the Fairbanks delegation living in the district he plans to file for in 1982.

He said the reapportionment board has until June 10 to make final recommendations for redistricting legislative seats. Then Gov. Jay Hammond has 90 days to approve a final plan.

State law requires candidates to live in the districts they wish to represent for one year before filing for office. The existing deadline of June 1 would not give lawmakers enough time to review the recommended redistricting plan, and move if necessary, Rogers said.

Rep. Pappy Moss, D-Delta Junction, was one of three Democrats voting against the bill. He said the measure is "silly. If you can't fight it out in the district you are in, you shouldn't be do n here."

Delaying the filing deadline also would shorten political campaigns, said Rep. Mike Miller, D-Juneau.

'Sleeping bag' politician bill defeated in House

By The Associated Press

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THE ALASKA RAILR

House kills abortion amendment

Associated Press

Juneau — House lawmakers killed an amendment Thursday night which would have blocked hospitals from receiving state funds if they perform elective abortions.

The amendment was proposed to a hospital aid bill, which won House approval following the abortion debate.

Rep. Terry Martin, R-Anchorage, proposed the amendment to prevent hospitals from collecting state funds unless the facility refused to perform abortions except when a mother's life is threatened, or if the pregnancy is the result of rape or incest.

But Rep. Don Clocksin, D-Anchorage, said the amendment would prohibit hospitals from performing abortions, a likely violation of the state constitution. Lawmakers voted 14-25 against the amendment.

The bill introduced by Rep. Ernie Haugen, R-Petersburg, would more than double revenue sharing money which pays part of the operating costs of nearly every hospital and health facility in the state.

Funding would be boosted from $75,000 to $250,000 for hospitals with more than 10 beds, and from $25,000 to $50,000 for facilities with less than 10 beds. Also, health facilities would receive double the current level of state funding.

The measure (CSHB131 HESS) would cost an estimated $2.4 million in fiscal 1982.

Rep. Russ Meekins, D-Anchorage, said he "reluctantly" voted for

Martin's amendment because he objects to abortions in some cases. But in a speech from the House floor, he said "doctors should make decisions on a moral basis, not an economic basis . . . This kind of amendment works like a financial club."

Meekins said he would prefer to handle the abortion issue "head on" in legislation aimed at changing abortion laws.

Voting in favor of Martin's amendment were Reps. Meekins, Martin, Mitch Abood, R-Anchorage; Charles Anderson, R-Anchorage; Ramona Barnes, R-Anchorage; Mike Beirne, R-Anchorage; Bernie Bylsma, R-Anchorage; Jim Duncan, D-Juneau; Rick Halford, R-Chugiak; Joe Hayes, Anchorage; Vern Hurlbert, D-Sleetmute; Ray Metcalfe, R-Anchorage; Mike Miller, D-Juneau, and Pat O'Connell, R-Soldotna.

In other action, the House:

— Voted 27-12 in favor of a bill (CSSSHB43 Finance) introduced by Rep. Thelma Buchholdt, D-Anchorage, which would make private, nonprofit child care facilities eligible for state loans of up to $50,000 for construction, renovation and equipment.

The bill also would allow grants to child care facilities of up $50 per month for each child to fund operating expenses. The measure would cost an estimated $1.7 million in fiscal 1982.

— Voted 36-2 for a bill introduced by Rep. Hugh Malone, D-Kenai, which would allow municipalities to exempt residential property from local taxes, when approved by voters. Existing law allows municipalities to exempt to $10,000 of the value of a home from taxes.

Minority Leader Joe Hayes, R-Anchorage, gave notice of reconsideration on his vote on the bill (HB421), which means it may come up for another vote today.

Certain volunteer fire departments could get state grants of $10 per person living in the area served by the department, under a bill introduced by Malone that was unanimously approved by the House.

Martin Optimistic Over New Bill On Moving Capital

As many as 24 members of the state House of Representatives may co-sponsor a bill which would allow the Matanuska - Susitna Borough to develop a new state capital city at Willow, according to Rep. Terry Martin.

Martin said legislators from Southcentral Alaska are to meet in Juneau today with Matanuska-Susitna mayor Don Larson to review legislation prepared by the borough.

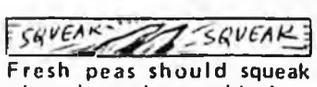
Although the estimate of 24 co-sponsors may be high, Martin said he feels the necessary 21 votes to assure passage would be gained. Support has been expressed by representatives from Bush areas, who according to Martin are not opposed to moving the capital but who do not support large expenditures of state funds which would impact Bush projects.

In other matters discussed in a recap of legislature activities, Martin said a salary increase scheduled suggested by the state salary and emoluments commission is in for rough sailing. The bill has twice been sent back for additional committee work, Martin said.

Taxpayers were saved some money this week, Martin said, when a substitute solution was suggested for connecting South Naknek with North Naknek. An appropriation of $22 million had been asked to build a bridge between the two islands. That state presently is paying $32,400 per year to fly students from one location to schools in the other.

Martin said that House Speaker Terry Gardiner suggested that instead of a bridge, the state should purchase a Hovercraft at a cost of $100,000. Such a craft is presently in use in the Ketchikan area, he said, to ferry passengers between populated areas which cannot be connected by bridge. Martin said the sponsor of the appropriation agreed with Gardiner's suggestion.

A request for $619 million to implement disposal of 50,000 acres of state land has created a furor in the House, Martin said. A request for that amount was made Monday by the state Division of Lands to fund surveys, access improvements and water and sewer programs. An appropriation of $13 million had been made last year and legislators were surprised to learn that the money had been expended in administrative work, Martin said, with no actual surveying of land accomplished.



Fresh peas should squeak when the pods are rubbed together. Store them unshelled in your refrigerator.

State House Gets Tougher On Gas Line Money Request

JUNEAU (AP) — The Alaska louse has voted overwhelmingly to xpand and strengthen its "wait and ee" approach to state financial help or the Alaska Highway natural gas ipeline.

And the Monday action erupted nto one of the legislative session's irst public debates over whether to ive any state financial assistance to lorthwest Alaskan Pipeline Cc., ponsor of the Alaska portion of the talled pipeline project.

With Resources Committee hairman Bill Miles saying it would e "absolutely irresponsible" to do therwise, the House said more in- ative approval of any revenue bond inancing plan, rather than letting he plan go into effect next year un- ess it was voted down.

Meekins cited increasing num- ers of lobbyists and financing re- ated advertising. He said his propo- al would make sure that backers would have to seek traditional af- irmative approval and "have to rove it's a good idea."

The House passed both a bill HB438), after adding the affirma- ve action amendment, and a resolu- on (HCR20) on final votes of 37-1 ormation is needed before the laska Gas Pipeline Financing uthority can move closer to issuing billion in tax-exempt revenue onds for Northwest.

The House has previously said it doesn't have enough information to act on Northwest's request for $500 million in direct state investment.

"We're still asking the same questions we were asking a year ago,' Miles said.

House Finance Committee chairman Russ Meekins proposed — and House members overwhelmingly agreed — to change part of the proposal to require affirmative legis- (Rep. Brian Rogers, D-Fairbanks, voting against) and 24-5. The financing authority was required to report back to the Legislature this year, and the measures essentially would put the question off until next year.

Looming over the issue was whether Senate failure to pass the House proposals would actually kill the bonding authority.

Miles said it was an open question but added that the Legislature's top lawyer said he doubts Senate inaction would eliminate the body. But Rogers disagreed.

Meanwhile, Congress must approve the tax exemption on the revenue bonds before they can be issued.

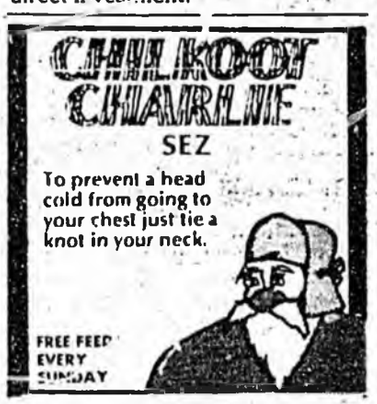
Rogers said the House bill "puts roadblocks" in the path of the financing authority and could delay financing.

Meekins, D-Anchorage, said he was "ready to say no to both the revenue bonding authority and the $500 million . . . despite the . . . advertising campaign."

Anchorage Republican Terry Martin said all legislators opposed to a Canadian pipeline should quit "kidding" and vote against all measures having to do with a Canadian line. An all-Alaska project would provide jobs "all up and down the line," he said.

Fairbanks Democrat Charlie Parr said the revenue bonds were not like the proposed direct investment. With the bonds, the state wouldn't be risking any money, and issuing the bonds could include provisions for Alaska hire, he said.

He said he didn't think there were currently two votes in the House for direct investment.



Route Issue Delays Line

(Continued from Page 1)

id, adding that he felt there is a ong possibility the bureau could erride Army complaints. "We're t going to make our recommenda- n until after we find out."

The military says alternative B uld interfere with the helicopter ining practices in the foothills st of Muldoon. Two helicopter ding pads, the Army says, would eliminated by the municipality's commended route.

But the Bureau of Land Manage- nt, residents of Chugach Foothills d Pleasant Valley subdivisions, the chorage Assembly and Alaska s. Mike Gravel and Ted Stevens ve responded negatively toward ernative K.

The Army's route has been ticized by area residents the po- l cause of property devalua- safety and noise prob- ems country if [illegible] any appreciabl

This is to ADVISE the public that Howard Cooper's I.H. Truck Franchise **only** has been terminated effective with the opening of Business on 4/2/79. We are sorry for any inconvenience this may cause you.

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The Management of Howard Cooper Corp.

said in a statement. "The facts revealed at this hearing and future [illegible] mine the

15th Avenue and extending Bragraw Street south of Northern Lights Boulevard to Tudor Road.

Among the at-

Local College Center Escapes Wrath Of Legislator

Absent in a report by Rep. Terry Martin which blasts non-credit course offerings at community colleges in the state is any reference to Chugiak - Eagle River College Center, an extension of Anchorage Community College which operates as an arm of the University of Alaska.

Omission of the local college is deserved, according to its director. Of a total of 52 course offerings listed in a brochure for the Fall '81 semester, only three are non-credit. Two are adult basic education classes designed to lead to an equivalency of high school graduation. The third is a class on wine tasting and liquer selection.

All other course offerings are classes with college credit. They include bookkeeping and accounting, vocabulary development, mathematics, psychology, government, introduction to criminal justice. Three less usual classes are listed — dog mushing, fall and winter plant care and International Morse code. Credits range from one to three with the vast majority full three-credit classes.

Martin, a Republican from this district, served on a House Finance sub-committee on the University of Alaska budget. He charged that some community colleges in the state have "misused" changes in state laws to offer "creative" courses designed to lure more students merely to increase enrollment counts in order to gain more state money. He said such courses as wine tasting, furniture arrangement and corn husk doll-making should be left to community schools programs which also operate in part on grants from the state but usually use volunteer instructors.

Dr. James Irany, director of the Chugiak - Eagle River College Center, asked not to be quoted in response to Martin's report.

He did say, however, that the college center here does not compete with the local community schools program which is active. He said course offerings are coordinated between the two educational programs and "we have an excellent relationship. I find we're both doing better under that arrangement."

Irany defended the only non-credit course on his offering list, saying the wine tasting class has grown over the past years from 10 to 15 students and last year had more than 30. It is in demand, he said, as are many of the other offerings. He said this area has room enough for the dog mushing class which has drawn many students from Anchorage as well as local residents.

The Chugiak - Eagle River College Center, Irany said, is "a good example" of what a community college can do. He said it does not have the expense of a campus and offers "a good course offering" with most of those courses leading toward a degree.

Classes are offered during evening hours except for one ABE daytime class. Seven will be held at the college offices in the Parkgate Building, two will be held at Eagle River Correctional Center, two will be at Birchwood Elementary and the remainder will be in classrooms at Chugiak High School. The wine tasting class will be held at The Villa.

Registration for classes is now underway at the college office in the Parkgate Building from 9 a.m. to 6 p.m. daily. Classes begin the week of Sept. 8.

Martin Hits Non-Credit Classes As College Raid On Funding

The 1981 "Who's Kidding Whom?" award in education for "the most imaginative courses strictly for survival of the institution" has been given by Rep. Terry Martin to Tanana Valley Community College.

Announcement of the award was coupled with a report issued by Martin which blasted what he called unnecessary competition among community colleges for students and money.

Martin, a member of the House Finance Sub-committee on the University of Alaska budget last session, said community colleges have "misused" a 1973 change in state laws which allow the university to count persons taking non-credit courses in its enrollment. Many have gone far afield, he indicated, to offer non-credit courses as a means to gain a higher count of students "to gain more money to feed a bloated monster that seems to strive to reach all the citizens of Alaska under various disguises."

As examples, he cited courses in "Fortune Telling" and "Corn Husk Dolls" offered at Matanuska-Susitna Valley Community College during the 1979-80 school year. At Kodiak Community College, the legislator said course offerings included "Furniture Arrangement," "Knives & Scissors, How to Sharpen" and "Pinata Workshop." In Anchorage, he said, courses on "Principles of Occult Theory" and "Wines of the World" were offered.

It would be more appropriate, Martin said, to offer such "entertainment type' courses through the community schools system. The university's community college system, he said, "should be for students preparing for a four-year baccalaureate degree or for those preparing for a career requiring certain technical skills."

In singling out the Tanana Valley school, Martin cited "creative" courses offerings of "Make-Up for the Contemporary Woman," "Disco Partner Dancing," "Brandies, Liquors & Cordials," and a "Seminar on Menopause."

Care Of Game Meat

By Pat Aune
Extension Home Economist

The Hunter Returns is a publication written for the big game hunter. Field care of the animal (moose, deer or caribou) affects the quality of the meat. Gutting and cooling the carcass, casing the meat to protect it from insects, and field cutting for transportation are discussed.

Aging the carcass, letting it hang at temperatures between 35 degrees and 40 degrees, allows body enzymes to work on muscle tissue and tenderizes the meat. How long does an animal need to age? Large, older animals may need a week or two. Young, small animals from 36-48 hours.

Butchering at home is not easy. It requires advance planning so you have the right equipment and do a good job. Sharp meat saws and butcher knives are essential. A knife sharpener will also be needed during this process. A large flat surface at waist height

2 Campers Cut Short

Two [illegible] who were

Auction Raises $161 To Aid Production C Scholarship Pagean

Cygnet Business and Profe sional Women's Club preside Sandie Jackson was thrill Saturday after an auction donated items brought a total $1613. Proceeds of the auction be used to help defray expenses connection with the Mi Chugiak - Eagle River Schola ship Pageant.

The club, which is made up local business and profession women, will take over sponso ship of the pageant this year. will be held in mid-March durin the annual Sourdough Day community celebration. Th cygnet club was formed i October, 1980.

Mrs. Jackson sa. 101 item were offered at the auction whic was presided over by Fred an Maxine Veake of Denton-Wrigh Auction Co. in Anchorage. It wa held at Jackson's Barbecue i Eagle River Shopping Center.

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Alaska State Legislature

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DISTRICT 8

3960 REKA DRIVE — B6
ANCHORAGE, AK 99504
PHONE (907) 333-2432

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-4943

August 11, 1981

Dear Editor:

As a member of the state House Finance Subcommittee on the University of Alaska's budget last session, I feel compelled to point out a serious problem in our post-secondary educational system -- the unnecessary competition among our community colleges for students and money.

The most recent controversy springing from the closure of Chukchi Community College in Kotzebue provides a good example, a case where officials ignored two guidelines in establishing community colleges.

Senator Frank Ferguson of Kotzebue is absolutely correct in his efforts to close the college. He believes that Chukchi shouldn't be operated as a community college when the institution is not meeting the needs of the people in his area, especially when you consider Northwest Community College in Nome is nearby. When Chukchi opened, predictably, Northwest's enrollment dropped. Here you had two colleges competing for a limited number of students.

As Senator Ferguson suggests, it would be much more reasonable to return to the former system where practical extension courses were offered through the Northwest Arctic School District. Then those students who live in Kotzebue who want to go to a community college in preparation for a four-year baccalaureate degree can take a short flight to nearby Northwest Community College in Nome.

One wonders whether University of Alaska officials and the Board of Regents were so worried about competition they started Chukchi too soon, sacrificing the credibility of Northwest Community College and, in doing so, violated the two major guidelines -- that the community college should be established for an area of 12,000 residents and that community colleges should maintain at least 200 fulltime students to be viable.

A quick look at enrollment statistics at Northwest and Chukchi between 1978 and 1980 demonstrates the point. Between the Fall of 1978 and Fall of

1980, enrollment at Northwest dropped from 90 to 49 full-time students. During the same period, enrollment at Chukchi increased from 29 to 65 full-time students.

It is quite clear that Chukchi has been detrimental to Northwest's growth. It also is clear that recent statements made by Dr. Patrick O'Rourke, former chancellor of Alaska's community college system, demonstrates a double standard that has contributed to the problem.

Before a House interim committee this year, Dr. O'Rourke said that for a state of 400,000 people "thirteen separately accredited institutions of higher education are too many" and that "students whose ultimate goal is a baccalaureate degree are probably better off enrolling from the start in universities if such is available to them."

Yet in a newspaper article, O'Rourke defends the community college system by laying the blame for lack of funding on the Legislature. "I find it somewhat frustrating," O'Rourke said in the interview. "We go forward each year with requests for resources for places like Kotzebue and have the Legislature turn down our requests, and then turn around and offer three or four or five times as much money to a school district to perform a similar service. That is just a political power play in my mind."

Such statements make me wonder just who it is that's playing politics. I feel the finger is pointed at the University of Alaska administration in fighting for survival of Chukchi Community College.

I really had no intention of saying anything on this matter, but when the "guilty" finger was pointed at the legislators then I felt compelled to let the public know the facts as I see them.

Sincerely yours,

Terry Martin

Rep. Terry Martin

INTRIM PRESS RELEASES

August 22, 1981

UNIVERSITY OF ALASKA

POST-SECONDARY EDUCATION

"WHO'S KIDDING WHOM?"

BY

REP. TERRY MARTIN

While it is true that words are of human invention, they are not open to random use without the result of utter chaos.

Words do evolve, however, and their original meaning may become lost in subsequent use.

During the past legislative session, I was fortunate to serve on the subcommittee of the University of Alaska budget for the House Finance Committee. Although frustrated, as you will learn later, the experience in itself was quite an education.

I began this mission with an open and optimistic mind. But soon it became apparent that the system is not quite what the average person conceives a university system to be. As I progressed through the volumes of material and research papers available about the 14 institutions under the University of Alaska umbrella, I found myself in an Alice in Wonderland world, which reminds me of what Humpty Dumpty said about words.

"When I use a word," Humpty Dumpty said, in a rather scornful tone, "it means just what I choose it to mean -- neither more nor less."

"The question is," said Alice, "whether you can make words mean so many different things."

"The question is," Humpty Dumpty said, "which is to be the master -- that's all."

Words and phrases are frequently used throughout various university and college reports to justify their existence (and quite often compete with other public and private institutions).

There are some 30 categories under the title of Post Secondary Education -- everything from university, college and community college, to extra-curricular activities, instructional television, educational innovation, senior citizens education, hobbies and leisure time activities.

There are enough of them to support a statement by Mr. Michael Moorman of Douglas, Alaska, in testimony to a committee on community colleges. He quotes a long-time observer of the university system:

"The growth of the University of Alaska into a statewide system had more to do with securing voter approval for more buildings at Fairbanks than any well thought out plan for delivery of higher education. To get massive support, the University of Alaska is trying to be everything to everyone."

Oh, how painfully true this becomes when one studies the University of Alaska operating and capital budgets for fiscal year 1982.

There are tremendous battles for the dollars -- each local area seems to want to justify a community college for the positive image it gives to a community. There seems to be a serious inferiority complex over other higher populated areas, so there is the very real emotional cries for more money for building, instruction and administrators. Then there is the battle to be different for self-preservation, to induce local citizens to come through their doors, to be head-counted to justify more money from the state.

Following are some of the community service courses and one-time programs offered at community colleges during the 1979-1980 academic year.

Aikido classes were offered at Tanana Valley Community College. At Ketchikan, Mat-Su and Prince William Sound, a student could take beginning belly dancing. In Ketchikan, you could move up to intermediate belly dancing if you so chose, but you had to travel to Prince William Sound to take advanced belly dancing.

A course in beginning boxing was offered at Kenai. Or how about a course in brandies, liquors & cordials -- tasting recipes, at Tanana Valley, or a course in childbirth and caesarean section, at the same school.

And the list goes on and on.

At Mat-Su: corn husk dolls, fortune telling; at Kodiak, furniture arrangement, knives & scissors sharpening, a neighborhood slide show, pinata workshop; in Anchorage, disco dancing, every woman her own historian, principles of occult theory, and wines of the world.

The community college system also seems to be getting into the day-care business. For example, introduction to preschool and songs and activities for 2-3 year olds were offered at Tanana Valley, as well as magic classes, monsters & mythical beasts and sewing for kids.

And there are courses for the teens, too, including aviation for juniors, dancing for young people, it's no fun being shy, and young teen modeling.

There are many good and meaningful courses taught at community colleges. But there are extremes.

Statistics show the Anchorage Community College produces the most credit hours for the fewest dollars. The public certainly gets its money's worth from this institution.

However, as any layman can readily see, the Tanana Valley Community College, for example, is really going to extremes to justify its existence.

In the fight for survival, we see that between FY 79 and FY 80 budget requests, community colleges received an 87 percent increase in general fund dollars, while the university, statewide administration, or research combined received a 65.4 percent increase, a difference of 21.4 percent.

The recent change in laws in 1978 that allows the university to count persons taking non-credit courses offered under its umbrella, only to obtain a higher count of "students," has most offensively been misused -- to gain more money to feed a bloated monster that seems to strive to reach all the citizens of Alaska under various disguises.

The prestige of the University of Alaska deteriorates in direct proportion as it becomes more involved with non-essential academic issues and activities. Common understandings of the term "university" and "community college" are severely strained when one re-evaluates the course offerings I mentioned earlier.

Post-secondary education to me means that higher level courses offered to one after completion of high school -- 12 years of formal education with the object of obtaining a baccalaureate degree or higher degree. To compete with the local community to serve the public in other entertaining or developing educational activities is detrimental to the University's image.

Alaska is five times above the U.S. average of dollars spent per credit hours earned.

Freedom of inquiry, freedom of discussion, and freedom of teaching -- without these a university cannot exist. A university exists to find and to communicate the truth.

I do believe in academic freedom, but not at the price of $228 million coupled with low productivity in credit hours.

How afar has the University of Alaska strayed from the traditional concept of an institution of higher learning which grants degrees and offers instruction in arts and sciences and learned professions?

To demonstrate my point, I have decided to issue the annual "Who's Kidding Whom?" award in education to Tanana Valley Community College for the most imaginative community college courses strictly for survival of the institution.

Courses like: "An Adventure In Coffeeland"; "Decorating My Home - Where Do I Begin?"; "Disco Partner Dancing"; "Dungeons And Dragons"; "Expression Through Adult Excercise"; "Is Your Heart Killing You or Are You Killing Your Heart"; "Make-up For The Con-Temporary Woman"; and "A Seminar on Menopause."

In all, Tanana Valley Community College claimed an enrollment of 4,872 in FY 80. At Tanana, as well as at many other community colleges, such courses can be conducted through the REA or community schools.

I firmly believe the administration and Board of Regents should resist pressures from within and without and put major emphasis on building the university system and not compete with other regional educational agencies to rationalize expansion.

I also believe the University of Alaska has ignored its own guidelines for establishing community colleges: that a community college should be established for an area of at least 12,000 residents and that community colleges should maintain at least 200 full-time students to be viable.

No where is this more clearly demonstrated than at Chukchi Community College in Kotzebue and Northwest Community College in Nome.

Senator Frank Ferguson of Kotzebue was absolutely correct in his efforts to close Chukchi. He believes, as I do, that Chukchi shouldn't be operated as a community college, especially when you consider that Northwest in Nome is nearby. When Chukchi opened, predictably, Northwest's enrollment dropped. Here you had two colleges competing for a limited number of students.

As Senator Ferguson suggests, it would be much more reasonable to return to the former system where practical extension courses were offered through the Northwest Arctic School District. Then those students who live in Kotzebue who want to go to a community

college in preparation for a four-year baccalaureate degree can take a short flight to nearby Northwest Community College in Nome.

One wonders whether University of Alaska officials and the Board of Regents were so worried about competition they started Chukchi too soon, sacrificing the credibility of Northwest Community College, and, in doing so, ignored the two major guidelines.

A quick look at enrollment statistics at Northwest and Chukchi between 1978 and 1980 demonstrates the point. Between the Fall of 1978 and Fall of 1980, enrollment at Northwest dropped from 90 to 49 full-time students. During the same period, enrollment at Chukchi increased from 29 to 65 full-time students.

It is quite clear that Chukchi has been detrimental to Northwest's growth. It also is clear that recent statements made by Dr. Patrick O'Rourke, former chancellor of Alaska's community college system, demonstrates a double standard that has contributed to the problem.

Before a House interim committee this year, Dr. O'Rourke said: "In a state of only 400,000 people, thirteen separately accredited institutions of higher education are too many, and there are arbitrarily decided turf boundaries which, rather than assisting the delivery of higher education services, have a tendency to create too parochial a view, sometimes at the expense of students. Students whose ultimate goal is a baccalaureate degree are probably better off enrolling from the start in universities if such is available to them. Community colleges must provide students with options -- we should not try to hamper them in their goals by coercing them

into other institutions if their needs can be better served elsewhere."

Yet in a newspaper article, O'Rourke defends the community college system by laying the blame for lack of funding on the Legislature. "I find it somewhat frustrating," O'Rourke said in the interview. "We go forward each year with requests for resources for places like Kotzebue and have the Legislature turn down our requests, and then turn around and offer three or four or five times as much money to a school district to perform a similar service. That is just a political power play in my mind."

Such statements make me wonder just who it is that's playing politics. I feel the finger is pointed at the University of Alaska administration in fighting for survival of Chukchi Community College, as well as other like institutions.

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PRESS RELEASES 1982

Alaska State Legislature

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RICHARD RANDOLPH
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POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

Contact: Joan Mathews
465-3657/3783

FOR IMMEDIATE RELEASE

Radio PSA:

Regulation of contractors will be the subject of a teleconference scheduled by the House Labor & Commerce Committee. The teleconference hearing on HB 832 will be held at 1:00 p.m. PST on Tuesday, March 23.

HB 832 would expand registration requirements and would create a home construction surety account.

Those interested in participating should contact Representative Terry Martin, Chairman of the House Labor & Commerce Committee, or contact the local Legislative Information Office at _____.

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 8
CHAIRMAN—LABOR AND COMMERCE COMMITTEE
PHONE 465-3873

3960 REKA DRIVE—B6
ANCHORAGE, AK 99504
PHONE 333-6990

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE 465-3784

Contact: Joan Mathews
465-3657/3873

FOR IMMEDIATE RELEASE

January 22, 1982

BILL COULD RESULT IN SPECIAL LEGISLATIVE SESSIONS STATEWIDE

Special legislative sessions could be held in Anchorage, Fairbanks, or anywhere else in the state if a bill introduced by State Representative Terry Martin becomes law.

House Bill 184 would authorize a statewide vote to decide whether legislators can conduct special sessions at any location in the state, rather than restricting the meeting place to Juneau.

The bill is scheduled for hearing before the House State Affairs Committee on Thursday, January 28, at 1:15 P.M. ~~EST~~ PST.

"It is extremely costly for legislators to return to Juneau for special sessions," Martin said. "Most legislators have to travel to Anchorage or Fairbanks in order to connect flights to Juneau. The extra expense of traveling to Southeast Alaska is unnecessary. We could meet in Anchorage, conduct our business, and adjourn in a day."

The East Anchorage Republican stressed that special sessions are emergency meetings of the legislature. "Juneau could be the emergency," said Martin. "A major landslide or avalanche in Juneau might be the reason for calling a special session."

--30--

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 6
CHAIRMAN—LABOR AND COMMERCE COMMITTEE
PHONE 465-3873

3960 REKA DRIVE—B6
ANCHORAGE, AK 99504
PHONE 333-6990

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE 465-3784

1/22/82

To: Legislative Information Offices

Fm: Joan Mathews

Sj: Press Release

Will you please release the attached press release to newspapers and broadcast media in your area. I can be contacted at 465-3657, or omnicom printer LJHY for more information.

Thanks for your help.

Release to Southcentral:
Anchorage
Kenai
Matanuska Valley

FOR IMMEDIATE RELEASE

Bill could result in special legislative sessions statewide

Special legislative sessions could be held in Anchorage, Fairbanks, or anywhere else in the state (even Willow,) if a bill introduced by State Representative Terry Martin becomes law.

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The East Anchorage Republican stressed that special sessions are emergency meetings of the legislature. ~~Weather conditions often delay flights~~ to Juneau. Hotels are crowded during the summer tourist season, when most special sessions are held. Martin said special sessions could be handled much more quickly if the meeting place were not limited to Juneau.

"Juneau could be the emergency," said Martin. "There could be a major landslide or avalanche in Juneau could be the reason for calling a special session."

Southcentral Valley rural Areas

FOR IMMEDIATE RELEASE

SPECIAL LEGISLATIVE SESSIONS IN WILLOW?

Special legislative sessions ~~might~~ would be held in Anchorage, Fairbanks, or even Willow, if a bill introduced by State Representative Terry Martin becomes law. House Bill 184 would authorize a statewide vote to decide whether legislators can conduct special sessions at any location in the state, rather than restricting the meeting place to Juneau.

"It is extremely costly for legislators to return to Juneau for special sessions," Martin said. "Most legislators have to travel to Anchorage or Fairbanks ~~anyway~~ in order to connect flights to Juneau. ~~Why go to~~ the extra expense of traveling to Southeast Alaska, ~~when~~ is unnecessary. we could meet in Anchorage, conduct our business, and adjourn in a day?" The East Anchorage Republican stressed that special sessions are emergency meetings of the legislature. ~~"And who knows?" said Martin, "What with mudslide and avalanche dangers, Juneau could be the emergency that calls us together."~~

The bill is scheduled for hearing before the House State Affairs Committee on Thursday, January 28, at 1:15 P.M. PST.

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a bill ~~that~~ sponsored by TM that would allow the Legislature to hold special sessions in Anchorage & other communities ACROSS the State will be considered by the HSAC ~~on~~ 1:15 P.M. Thursday (X) ~~JANUARY~~

HB 184

State Affairs (Metcalfe)

Thurs Mrg 1:15

re allowing special sessions to be held th/out state (put on ballot)

[redacted] might be emergency — mudslide avalanche

don't use [special sessions are for emergencies but normally aren't that crucial]

extremely costly for legis's to come to [redacted] during interim (having to travel to Anc or Fbx before flying [redacted]). Why have to come to [redacted] when cd drive to Anc in one day + be done; cd save money

AGO interprets [redacted] territorial days

Employ-ment Agencies

Alaska State Legislature

House of Representatives

LABOR & COMMERCE COMMITTEE

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business
465-3783

January 12, 1982

Gentlemen:

Recent federal budget cuts are forcing the closure of many of this state's Job Service employment offices. In view of Alaska's high unemployment rate, it is obvious to me that some type of employment referral is necessary to enable the unemployed to find work. I believe the private business sector can fill this need.

I am proposing legislation which would turn this function over, in part, to private employment agencies. This system is being utilized successfully in several other states. I have enclosed a packet of information you may find interesting in that regard.

I am extremely interested in your comments, and would also welcome your testimony when this bill comes to hearing. I look forward to your response.

Sincerely,

Terry Martin

Representative Terry Martin
Chairman

jfm

enclosure

Alaska State Legislature

House of Representatives

LABOR & COMMERCE COMMITTEE

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

To: All Concerned with Unemployment

From: Representative Terry Martin, Chairman
House Labor & Commerce Committee

Subject: Potential Alaska Private Employment Voucher Program

Many of us are concerned about the recent federal cuts in public employment programs and the immediate affect it has upon the State of Alaska's unemployment problem. Most individuals or agencies directly responsible for helping the unemployed usually suggest increasing the staff and appropriations to meet the expected demands. Others suggest legislation and appropriations to "pick up" the federally-funded jobs and carry them under state or municipal agencies. Either solution would seriously hamper the administration's and legislature's efforts to hold the line on the state operating budget and state employment.

It has recently come to my attention that there is an alternative that is currently being used in Pennsylvania, California and Michigan which may well work for Alaska's unemployed. At least it seems worthy of consideration. Thus I have decided to send you the attached for your valued consideration and input.

At this time, I am also asking Mr. Bill Berrier to start a work draft for a bill titled:

> "A bill to require State employment offices to use private employment services to locate jobs for unemployed individuals."

I would be most appreciative of any support and information you can give to this effort in trying to decrease our high rate of unemployed in Alaska.

Yours very truly,

Terry Martin

Representative Terry Martin

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, FIRST SESSION

Vol. 127 WASHINGTON, WEDNESDAY, OCTOBER 14, 1981 No. 145

HELP FOR UNEMPLOYED

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, I am today introducing legislation to amend the Wagner-Peyser Act to require that State employment offices use a portion of their existing budget to utilize the private sector of the employment service profession to locate jobs for unemployed individuals and public assistance recipients.

This legislation is vital to millions of Americans seeking jobs. Now that the Government is engaged in meeting the challenge of budget cutting to bring us to a hoped-for sound economic base, it is of pressing importance that we rely once again on free enterprise and the private sector to assume that which it historically does faster, better, and more cost effectively than government.

It is critically important that we deal promptly with the current annual unemployment rate of over 8 percent, a rate which forecasters predict will not diminish within the foreseeable future.

In proposing this bill, I ask that we consider all the various costs to the Nation when 8 percent of the work force is without jobs. An 8 percent rate of unemployment adds enormously to expenditures by Federal, State, and local governments for unemployment compensation, welfare, and other forms of public assistance. It reduces tax revenues and decreases business and industry productivity.

The greater cost to a nation, however, is what unemployment breeds—discouraged, aimless young people, rising crime and vandalism, and enormous social, economic, psychological, and physiological pressures on the jobless and their families. This suffering, and the loss of individual dignity and self-worth, cannot be measured in monetary terms. It is, in the ultimate, devastating to the entire social fabric of our country.

Unfortunately, the public agencies charged with finding jobs for the unemployed have been less than successful. Even more unfortunately, the private sector of the employment services profession has been virtually shut out of our Nation's efforts to reduce unemployment.

The bill I am introducing today would change that. It would require that States which receive money under the Wagner-Peyser Act set aside a specified portion of their funds for private employment service placement efforts. A private employment service would be paid its customary charge, up to a reasonable amount specified in the bill, if it found a job for an individual referred by a State employment office. The private agency would not retain full payment of its charge unless the individual stayed on the job for at least 100 days. The private agency would have to return 1 percent of its compensation for each day, under 100, that the individual for whom it found a job failed to stay employed by the same employer.

Although it would be up to each State to decide how to implement this program, a minimum of paperwork should be necessary. I would urge that a simple voucher system be used. Under such a system, a State employment service would provide each eligible individual with a voucher to present to a private employment service. If and when that service found a job for the individual, the voucher would be presented for payment to the appropriate State agency.

In order to insure that State and private agencies fully cooperate, the bill requires that: First, a set percentage of the State agencies funds be used for the program and second, the State agencies refer individuals to the private service on a proportionately representative basis. In other words, the State agency must refer a fair sampling of its clientele, not just those whom the public agency cannot place.

The bill also makes clear that States are not limited to using Wagner-Peyser Act funds in making use of private employment services. A State may use any funds properly available to it for obtaining jobs for individuals who receive Government benefits or assistance to secure the aid of private employment services.

Mr. Speaker, the Wagner-Peyser Act was written in 1933, in the depths of the Great Depression, when the widespread unemployment of that era directly affected one-third of the population of the United States. This act created the U.S. Employment Service and a Federal-State partnership to establish what was in effect an emergency network of State-run employment offices to find jobs for the unemployed.

No one could foresee, in the dire straits of the Depression of 1933, that the U.S. Employment Service created by the Wagner-Peyser Act would prolong itself almost 50 years, involve itself in activities far exceeding its original mandate, and render its original purpose—to find jobs for the unemployed—one of its lesser activities.

In the past decade, the number of people actually placed in jobs by the USES has declined drastically. Placements dropped from 6.6 million in 1966 to less than 4 million last year. Of perhaps equal significance is a Government Accounting Office report on USES which observes that the bulk of these placements were not permanent positions, and many were of a temporary nature.

In the mid-1970's, while job service files were filled with the names of millions of unemployed, USES turned to recruiting job candidates at managerial levels, using radio, television, newspapers, and the yellow pages, seeking to place attorneys at $50,000 a year, engineers at $40,000, machinists at $20,000—all people then currently employed.

In the last decade the U.S. Employment Service opened offices in affluent suburbs, close to a skilled work force and managerial-level job candidates. Obviously, such actions fail to serve the jobless of the inner city. The State of Colorado Divison of Employment came under fire in recent years for failing to help the jobless and disadvantaged. A former president of the Colorado Labor Council served as a consultant in an investigation of that State's employment service, and, according to the Rocky Mountain News, said that the Colorado Employment Service has been inefficient in helping minority and first-time applicants in finding jobs and training.

The investigation of the Colorado Job Service stemmed from a suit filed in 1973 by the AFL-CIO and several community organizations, among them the NAACP. The suit charged that the employment service obtained $48.7 million in Federal money over 5 years to run a program for poor and disadvantaged persons but never seriously did so. This suit was settled out of court when the Labor Department promised to investigate, and several top Colorado Employment Service officials resigned.

Failure to place long-term unemployed in satisfactory numbers has led to the severe depletion of several States unemployment trust accounts.

The record just reviewed is not an indictment of the U.S. Employment Service per se, or of its staffs, which contain many earnestly committed and effective people. Rather, it is an example of a Government agency no longer able to perform the task for which it was originally established. Times have changed. Employers today view USES' job placement offices as unemployment offices and too often refuse to use them.

The failure of USES to find jobs for the unemployed led, in 1972, to the in-

volvement of the private sector employment services in California in a pilot program called the California Private Employment Project II. The State of California contracted with private employment services to find jobs for able-to-work welfare recipients—saving, in the process, $300,000 in unemployment and welfare payments. Approximately 54 percent of the individuals placed by private employment services stayed on the job 90 days or more. This success gave the State of California a 3-to-1 return on its investment.

A similar program was successful in Michigan where six Oakland County private employment services were involved in a federally funded project to find jobs for State aid to dependent children clients. The purpose of this experimental project was to reduce the welfare rolls through utilization of private enterprise. Using private employment services to interview in depth, motivate and place these people in gainful employment, Michigan demonstrated that the service charge paid to the private employment offices saved vast sums when compared with montly and yearly State public assistance payments.

Unfortunately, the pilot projects in Michigan and California met a predictable amount of resistence within State governments. State employees were not particularly cooperative with plans to enlist the help of the private sector. A scarcity of referrals to private employment services developed when the pilot projects were finally activated. States were slow in processing possible job candidates. When public assistance recipients were finally referred to private employment offices, the candidates were not well motivated, nor well informed about the project, even though many of them proved willing to have the private employment offices look for jobs for them.

In 1980, the Department of Welfare of the Commonwealth of Pennsylvania studied the results of the Michigan and California pilot programs and started the Pennsylvania employables program to use private employment services to find jobs for able-to-work welfare recipients. The Pennsylvania program has been so successful that it was renewed for the year 1981. A bill in the Pennsylvania legislature now proposes to make the program permanent.

The private employment agencies in Pennsylvania placed, as of June 31, 1981, 20 percent of the candidates referred to them versus 11 percent for the State employment agencies, and were paid on a contingency basis a total sum of under $300,000. The State saved over $1.5 million in cash assistance payments.

Although the State of Pennsylvania had originally authorized over $645,000 to pay the private sector employment services' charges in 1980, less than 10 percent of that sum was used that year due to delays in departmental processing, and the resulting low numbers of job applicants referred by the Department of Welfare. However, in a survey at the end of 1980, over 90 percent of the private employment services participating in the Pennsylvania employables program desired to continue.

The savings in these programs are not just in State and Government funds, but also in human values—in regular wages and restored dignity for the worker, in renewal of hope for individuals and families and alleviation of suffering.

Mr. Speaker, the Wagner-Peyser Act was our Nation's response 50 years ago to a major crisis in our history. We face a crisis again today as we seek to reduce Government in many areas, and to cut spending so that our Nation may not only survive—but grow. We truly should not and cannot continue to provide and pay for Government services where the private sector can do the job more effectively and at less cost. The challenge we face today is different—different in scope, different in quantity, and different in terms of the solution needed. The bill I have introduced today can meet today's employment problems in a realistic and cost-effective manner. I urge my colleagues to study it and I welcome their support.

Text of the bill follows:

H.R. 4738

A bill to amend the Wagner-Peyser Act to require State employment offices to use private employment services to locate jobs for unemployed individuals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS

SECTION 1. The Congress finds and declares that—

(1) the Nation has suffered substantial and unacceptable unemployment and underemployment imposing numerous varied and escalating economic and social costs including—

(A) increased expenditures by Federal, State, and local governments for unemployment compensation, public assistance and other transfer payments as well as reduced tax revenues;

(B) decreased business and industry productivity and increased tax burdens; and

(C) exposure of many families to economic, social, psychological and physiological costs, including disruption of family life and loss of individual dignity;

(2) the private employment service profession has over 10,000 offices, many in locations not served by State employment offices, and over 50,000 professional employment counselors available on a contingency basis to assist the unemployed in quickly finding permanent employment;

(3) government at all levels has failed to use adequately the resources of private employment services in accordance with government policies to increase reliance on the private sector, including Office of Management and Budget Circular A-76, despite the proven cost-effectiveness of such services and the great need to find employment for the Nation's unemployed;

(4) the State programs which have used the resources of private employment services to find jobs for the unemployed have been proven successful; and

(5) government at all levels should make use of private employment services in order to aid unemployed persons and to reduce unemployment in the States.

PURPOSE OF THE ACT

SEC. 2. The purpose of this Act is to require States to use private employment services to aid the unemployed in finding jobs in the most cost-effective manner possible.

AMENDMENT

SEC. 3. Section 8 of the Act of June 3, 1933 (29 U.S.C. 498), popularly known as the Wagner-Peyser Act, is amended—

(1) by inserting "(a)" after "SEC. 8."; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) Any State desiring to receive funds under this Act for any fiscal year beginning on or after October 1, 1982, shall, by the agency designated to cooperate with the United States Employment Service, submit to the Director such amendments to the plan submitted under subsection (a) as may be necessary to insure that not less than 25 percent of the funds made available under this Act during any such year will be used for the purpose of securing the assistance of private employment services to obtain jobs for unemployed individuals in accordance with the requirements of this subsection. The amendments submitted by the State agency shall insure that individuals referred by that agency to private employment services proportionately represent, on the basis of job skills and experience, the individuals served by such agency. If such amendments are reasonably appropriate and adequate to carry out such purposes, they shall be approved by the Director and due notice of such approval shall be given to the State agency. The Director shall, to the extent feasible, take final action on all amendments within 60 days of the date of their submission.

"(2) The amendments submitted by the State agency shall describe the nature of the contracts into which it intends to enter for the purposes of this subsection. Such contracts shall provide for compensation to private employment services on the basis of the success of such service in obtaining employment for unemployed individuals. Such compensation shall not exceed an amount equal to of the lesser of—

"(A) that employment service's normal placement charge, or

"(B) a rate of one percent per thousand dollars of the first year's earnings of the individual so placed in employment, not to exceed 25 percent.

"(3) An employment service shall be entitled to full payment of the compensation computed under paragraph (2) only if the individual for whom such service has secured a job remains in the employ of the employer to whom the individual was referred for at least 100 calendar days. If an eligible individual leaves such employ after less than 100 calendar days, the private employment service shall be entitled to an amount equal to one percent of such compensation for each day the individual remained on the job.

"(4) No payment made in accordance with a contract which complies with the requirements of this section shall be deemed to violate section 211 of title 18, United States Code.

"(5) Such placements as shall be made by private employment service under this subsection may be statistically credited, for employment purposes, to the State agency.

"(6) A State may use funds properly available to it for obtaining jobs for individuals who receive government benefits or assistance to secure the assistance of private employment services for such purpose.

"(7) For the purpose of this subsection—

"(A) the term 'private employment service' means any person or entity regularly undertaking for compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such person or entity; but shall not include any agency or service of the United States, any State, or political subdivision thereof; and

"(B) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

EFFECTIVE DATE

SEC. 4. The provisions of this Act shall take effect 30 days after the date of its enactment.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
HARRISBURG, PENNSYLVANIA 17120

November 19, 1979

Area Code 717
Tel. 783-2874

DEAR PRIVATE EMPLOYMENT AGENCY:

Thank you for expressing interest and agreeing to participate in the Department of Public Welfare's Private Employment Agency Voucher Program.

I am enclosing for your information the instructions we have developed for the use of the voucher as well as the name, address, and telephone number of those County Assistance Offices involved in the initial distribution of the voucher.

Vouchers have been distributed to the counties, and the screening process of clients has begun. The first clients will be receiving vouchers within the week.

We have high hopes that this cooperative venture between the Department of Public Welfare and the Private Employment Industry will prove to be of significant benefit to our Public Assistance clients.

The Voucher Program is an experiment as such, we are interested in any comments which will help it work more efficiently. Please feel free to contact me with any suggestions or questions.

Sincerely,

Craig E. Ford, Staff
Employment Programs Unit
Office for Family Assistance

Enclosures

PENNSYLVANIA EMPLOYABLES PROGRAM (PEP)

(FOR GA CLIENTS ONLY)

The Pennsylvania Employables Program represents two elements as legislated in 1976: (1) it requires the registration of all non-exempt recipients (other than those already provided for under WIN), and (2) mandates the Department of Public Welfare to conduct pilot programs to explore various methods of moving clients into employment and training. It is this second element which is known as the PEP program as currently operated. Following are the 3 major components which may be translatable to other states:

1. Private Employment Agencies

The law creating PEP specified that among the pilot programs to be conducted must be a linkage with private employment agencies, based on the premise that the private market will be more successful in placing hard-core unemployed people into jobs than government agencies have been. We implemented this component by contacting all licensed private employment agencies in PEP counties, offering them participation through the use of a voucher system. Local public assistance offices select appropriate employable clients, present them with a voucher which they, in turn, present to the employment agency of their choice for a maximum of $1,000 per job placement (see attached material for details).

2. Office of Employment Security

The Department has entered into an agreement with the State's Office of Employment Security to employ special staff in three pilot counties to deal exclusively with PEP clients. This is based on the premise that OES does not have the resources to deal with the hard-core unemployed, particularly in times of high unemployment. It is important that an effective information feedback system is in place to allow the two agencies to deal promptly with matters of cooperation and support services.

3. The PEP Direct Component

We regard this as the most interesting and most effective method currently at our disposal. Local assistance office participation is on a voluntary basis at this time since little or no additional staff resources are made available for the operation of this component. The premise is that local staff are frustrated because of what appears a slow movement of their clients through other systems once a referral is made and the lack of feedback and follow-up on action taken. Participating local offices are permitted to waive the standard ES registration of those clients they deem appropriate to work with directly, using whatever community resources are available without having to rely on another agency for accountability of action. Without acting as an employment agency, our local offices use any resources available to them in the community to require selected clients to cooperate in taking advantage of such resources. If there is non-cooperation, the local office has immediate authority to act without having to gather information from other sources.

Because of federal restrictions on AFDC, the PEP program currently serves only the totally state-funded general assistance population. This, in turn, gives the State internal flexibility to gear its own policy towards shifting the burden of responsibility onto the client for cooperation. In other words, to be successful, the program must have a sound and workable sanction and adjudicated policy to draw from. Current Welfare Reform legislation pending in this State provides for revision in our sanction policy which will put further emphasis on client responsibility. It is for this reason that the attached material is still in the draft stage, even though we have been operating with it since November of 1979.

I am also attaching a copy of our Monthly Report, Page 2 of which gives a summary of the first full year's operation, while the other sheets represent the activities of the month of October 1980.

Please be aware that many other elements enter into the development of this program, dealing with political and fiscal realities and, foremost, with a variety of attitudes which can be found throughout a vast system such as ours. To us, PEP represents one initial stepping-stone to reverse the notion that the application and receipt of public assistance is simply another resource to the individual rather than the last resort after all other personal efforts have been exhausted. The frustration of our local workers, which I mentioned earlier, is based on the knowledge that a certain segment of their clients has become accustomed to public dependency as a way of life and that a certain skill and cynicism has been

developed among those clients to "play the system" and its regulatory structure which, to date, puts the burden of proof and effort on society, as represented by the system, rather than on the person who is seeking the system's support.

In addition to the figures shown on our Reports, which indicate maximum return from a small investment, we are clearly learning that if a program such as this keeps itself to a minimum paper operation and a maximum clarity on policy, much of the sense of helplessness which has developed among local staff over the last two decades can be reversed, resulting in greater productivity and reduction of dependency.

Should you have any questions regarding further detail, please feel free to contact Mr. Willy F. Groninger, Director, Division of Employment Programs, Bureau of Employment Programs, Office of Income Maintenance, Department of Public Welfare, P.O. Box 2675, Harrisburg, Pennsylvania 17120, telephone: Area Code 717 - 783-2874.

WFG:bjc
3-19-81

FACT SHEET

Of 9 million unemployment compensation recipients in 1980, over half (5 million) were never placed in jobs. Average length of time collecting unemployment compensation - 17 weeks (approx. 4 months).

Unemployment compensation benefits, total paid nationwide: 15 billion.

Annual rate of unemployment, October, 1981: 7.5 million, and accelerating.

In the last six months (1981) the Pennsylvania Employables Program paid over $300,000 to private sector employment services and saved (for the state) over 1.5 million in benefits. (On a national basis - a projected saving in public assistance payments of over $2 billion per annum.)

An AFL-CIO report states that for every 1% reduction in unemployment, the national treasury could save 25-30 billion dollars.

GAMOT - Gate Applicant Master Order Technique allows USES Job Service to set up desks in employer offices to screen and interview applicants. This service rendered gratis by Federal government. But millions of inner-city unemployed failed to be placed in jobs by USES.

Test programs in Michigan and Pennsylvania showed average placement rates, by private employment services, of 20%, utilizing AFDC recipients and UC recipients.

Plus points for private sector emoloyment services:

House Bill #4738 proposes a voluntary program - you do not have to participate if you do not wish to.

But participation by our profession will give it the national recognition it deserves.

Private sector employment services in California, Michigan and Pennsylvania indicated they were willing to continue participation.

USES/Job Service will need to direct its priorities, staff, etc to the unemployed, and modify or eliminate advertising, management recruitment, etc.

CAN THE PRIVATE SECTOR HANDLE 9 MILLION UNEMPLOYMENT COMPENSATION RECIPIENTS?

If just 25% of the private employment service offices participate in the Private Sector Employment Service Program the number of job offices available to the nation's unemployed will have been doubled. The number of placement counselors will have been tripled, approximately, since in the private sector nearly everyone involved is in a placement capacity.

The private sector has the capacity and the expansion potential to handle an added load, not being subject to procedural delays, authorizations and paperwork as found in government agencies.

Processing of the job applicant in the private sector is more efficient because the private employment service offices do not specialize in counseling sessions, special group studies, evaluations and liasons, organization of community support agencies or employer visitations. All interviewing and consultations are geared for one thing - finding the applicant a job promptly.

IS THE USES/JOB SERVICE PLACEMENT ACTIVITY MORE COST-EFFECTIVE THAN PLACEMENTS BY THE PRIVATE SECTOR?

The private sector would be pleased to provide a comparison of our per capita cost placement figures, which are demonstrably accurate, with that of the USES, if the USES figures can clearly and accurately be determined by anyone.

Until 1979, USES figures for budgetary requirements were based on "transactions," which included counseling, interviews, numbers of job applicants sent on interviews with or without resulting job placement, etc. Budgetary allocations are still based on formulae for these years. Placements are now counted in three ways: Those lasting 3 days, called temporary, equivalent to private sector temporary help services. Two categories are called permanent: those from 3 to 150 days, and those over 150 days. These definitions are based on the Job Service interviewers' assessment of the length of employment.

TO WHAT EXTENT WILL THE PRIVATE SECTOR REQUIRE MANAGEMENT ASSISTANCE, FORMS, PROCEDURES INSTRUCTION, ETC. FROM THE GOVERNMENT?

In pilot programs in California, Michigan and Pennsylvania, paperwork was kept to a minimum. A simple voucher system, issued by the local USES office, is suggested.

Time is of the essence. We face a national emergency with an unemployment rate at 8% and many state unemployment funds bankrupted. House Bill HR 4738 needs to be effected swiftly in order to put the unemployed back to work.

SOME QUESTIONS AND ANSWERS ABOUT HR 4738, THE PRIVATE SECTOR EMPLOYMENT SERVICE BILL

HOW WILL THE OPERATION OF THE USES AND STATE JOB SERVICES BE AFFECTED BY A 25% BUDGET TRANSFER?

Undoubtedly there will be a realignment of USES and Job Service duties and priorities. One outcome could be a reduction, if not elimination, of funds spent on advertising in newspapers, Yellow Pages, radio and television, direct mail, etc. This money could be applied to retaining qualified personnel. Curtailment of management-level recruiting, and interviewing and screening of job applicants for the employer at the employer's place of business, the reduction of paperwork and like procedures, would allow for further savings to be applied to USES operations.

WILL THE HARD-TO-PLACE (LAST HIRED, FIRST FIRED) BE HELPED?

Test cases in California, Michigan and Pennsylvania have shown good-to-excellent results. In the latest Pennsylvania Employables Program, the private sector employment services participating in this program placed 27% of referrals; an average of 20% were placed in July and August. Private employment services were paid $100,000, while savings to the State were $250,000.

WILL THERE BE AN OPPORTUNITY FOR FAVORITISM AMONG PRIVATE SECTOR EMPLOYMENT SERVICES PARTICIPATING IN THE PROGRAM?

Unemployment Compensation recipients and others being referrred to the private sector of the employment service profession will be given a list of private employment service offices in their county, city or local vicinity, and will choose from these.

SHOULD THE PRIVATE SECTOR EMPLOYMENT SERVICES PARTICIPATING IN THE PROGRAM GIVE A SPECIAL RATE OR DISCOUNT TO THE GOVERNMENT?

An upper limit on service charges has been described in House Bill HR 4738 that is both reasonable to the private sector and protective of the government. Placement of unemployment compensation recipients and others is essentially not an easy undertaking; private employment services should not be expected to take less than their usual service charges, especially when finding jobs for these applicants will result in considerable savings to the Government.

(The maximum service charges are: 1% per thousand to a maximum of 25%. For example, an individual placed at $7,000 per year would require a service charge of $495 [7% of $7,000]. If placed at $9,000 a year it would be 9% of $9,000 or $810.)

In Pennsylvania, private employment services participating in the PEP program were offered $75 for each individual they "counseled" whether or not that individual was ever placed in a job. They unanimously rejected this offer, preferring to be paid only when the applicant was found employment.

The livelihood of the private sector employment services depends on referrals from satisfied jobseekers and client companies. They are obligated therefore to work in an ethical and satisfactory manner.

PLEASE WRITE YOUR CONGRESSMAN TO SUPPORT AND SPONSOR HOUSE BILL HR 4738

Employment Opportunities Subcommittee
of
House Committee on Education and Labor

DEMOCRATS

Chairman: Augustus Hawkins (California)
Bill Clay (Missouri)
Ted Weiss (New York)
Baltasar Corrada (Puerto Rico)
Paul Simon (Illinois)
Harold Washington (Illinois)

REPUBLICANS

James Jeffords (Vermont)
Thomas Petri (Wisconsin)
Millicent Fenwick (New Jersey)
Lawrence DeNardis (Connecticut)

Address: House of Representatives
Washington, D. C. 20515

Employment and Productivity Subcommittee
of
Senate Committee on Labor and Human Resources

REPUBLICANS

Chairman: Dan Quayle (Indiana)
Paula Hawkins (Florida)
Don Nickles (Oklahoma)
Orrin Hatch (Utah)

DEMOCRATS

Howard Metzenbaum (Ohio)
Edward Kennedy (Massachusetts)
Cailborne Pell (Rhode Island)

Address: United States Senate
Washington, D. C. 20510

PRIVATE EMPLOYMENT AGENCY VOUCHER PROGRAM

Act 202, Section 405.1, indicates that Private Employment Agencies, along with other resources, shall be experimented with, in order that bona fide full-time employment be secured for non-exempt general assistance recipients. An experimental program, using a voucher to secure the services of a Private Employment Agency, will be instituted in Allegheny County (Southeast District), Blair County, Crawford County, Lehigh County, Luzerne County, Lycoming County, Montgomery County, Philadelphia County (Boulevard District).

Additional counties may be phased in if funds are found to be sufficient to permit expansion.

The use of Private Employment Agencies to locate jobs for general assistance clients is intended to be an augmentation to other efforts of the CAO to obtain employment for their clients. It is not to be the sole resource of the employment unit.

All licensed Private Employment Agencies in the State have been contacted to determine their willingness to participate in the program. These agencies, and only these agencies, may be used by DPW clients. (Attachment #1. The list of participating agencies will be updated as necessary).

Instructions for Use of Voucher

The Pennsylvania Employables Program Services Voucher (PA 279-11-79) will consist of six copies; each copy marked as to distribution, and will be controlled by the voucher number found in the upper right hand corner of the form. (Appendix II)

Initial Preparation:

1. Client is selected by the Employment Coordinator. Determination of appropriate clients should be based on the employability plan, with emphasis given to clients who have employment skills, but who need assistance in selling themselves.

2. Section I of the form is completed by the CAO. Each blank should be completed as indicated, with particular attention given to the correct date of issue and authorized signature (usually the Employment Coordinator).

3. Client is oriented on the use of the form, provided with the list of participating employment agencies, and informed of his responsibilities and possible sanctions for refusing a job or failure to report to a job, and is given a basic understanding of the operation of Private Employment Agencies.

4. The entire voucher (six copies) is presented to the client to be taken to the participating employment agency of his choice.

5. The Employment Coordinator will maintain a log of issued vouchers and follow up at least bi-weekly on the client's progress in securing employment.

Private Employment Agency:

1. Client proceeds to the Private Employment Agency of his choice.

2. Upon securing employment, the recipients will give voucher to agency who will complete Section II and have the recipient complete Section III.

3. The Private Employment Agency sends copies 1 through 4 to the County Assistance Office.

The agency retains the last two copies.

4. Private Employment Agency prepares an invoice on their billhead, sends the original and two copies with one copy of the voucher to:

Comptroller's Office
Pre-Audit Division
Department of Public Welfare
Box 2675
Harrisburg, PA 17120

CAO Verification:

1. County Assistance Office receives four copies of Voucher from Private Employment Agency. Checks with client to confirm starting date of job, employer, and rate of pay.

2. Completes Section IV of Voucher and sends three copies of voucher to:

Employment Programs Unit
Office for Family Assistance
Dept. of Public Welfare
234 Health & Welfare Building
Harrisburg, PA 17120

10-Week Follow-Up

Ten weeks from the agreed to starting date of the job, a Follow-up Employment Verification Form will be distributed to the Private Employment Agency to determine the final result of the placement. Instructions for the completion of this form will be contained in a separate document.

CEF:cas

COMMONWEALTH OF PENNSYLVANIA

February 1, 1980

SUBJECT: Completed Draft PEP Regulations and Reporting Forms for PEP-PEA, PEP-OES, PEP Direct, and CETA Special Grant.

Executive Directors of all PEP Counties Involved

FROM: George A. Shuman, Jr., Staff
Employment Programs Unit
Office for Family Assistance

Please find attached information for your use and implementation for PEP-OES:

1. Copy of overall PEP Plan.
2. Explanation of PEP Voucher Program.
3. List of Private Employment Agencies participating in the program.
4. List of County Boards of Assistance participating in the program.
5. Complete Draft PEP Regulations and Reporting Forms for all Subject PEP Components.

Please see attached Draft PEP Regulations and Reporting Forms for your utilization until final issuance under PAEM.

Please submit all future reports based on attached format, starting February 1, 1980, for the month of January. Duplicate reporting forms in the attached package.

We will be requisitioning printed forms pending integration of regulations in the PAEM.

GAS:cas

cc: Mr. Bernstein
Mr. Ford
Mr. Groninger
Ms. Hershey
Mr. Shuman
file

DRAFT

DEPARTMENT OF PUBLIC WELFARE
OFFICE OF FAMILY ASSISTANCE

A COMPREHENSIVE PLAN FOR PUBLIC ASSISTANCE CLIENT EMPLOYMENT

INTRODUCTION

The purpose of this Plan is to reduce economic dependency among employable public assistance recipients by moving them off the welfare rolls into productive employment.

The Department of Public Welfare has in the past been involved in various aspects of Federal and State funded manpower programs. The Department's interests are focused on two specific issues:

a) Its role as an employer and trainer, with Departmental installations having an ongoing need for auxiliary manpower;

b) Its mandate to promote self-support and self-sufficiency for its Public Assistance clients through coordinated use of community employment and training resources.

To date, effective coordination between the various programs has not taken place. It is the purpose of this Plan to develop such coordination through the implementation of a two-step program:

First Step: Distribute existing programs and their fiscal resources to strategically selected counties based on local criteria (see 3 below).

Second Step: Following a thorough evaluation of Step One, integrate all available resources at the local level into a single CEA employment unit, establishing a model which could then be applied to all 67 counties.

DRAFT

2. THE ISSUE

Both the Labor Market and public and private employment agencies have traditionally been geared towards the labor exchange principle; i.e., matching skilled workers with employment needs.

In order to bring the Public Assistance client to an equal footing with the average job seeker, the following elements are necessary:

a) assessment of the individual client, recognizing social, medical and other problems which may be barriers to training and employment;

b) mobilizing the social service resources to remove barriers;

c) advocacy for the client with public and private employment agencies, employers and trainers;

d) a structural follow-up system, which includes a uniform and fair sanction policy;

e) a realistic minimum administrative process;

f) a central administrative capacity for policy development, planning, evaluation, resource development, and accountability.

In its role as an employer of its own clients, the Department will give preference to those clients in all training and employment opportunities. This principle will be promoted with other public and private agencies with which the Department works.

THE PLAN -- STEP ONE

At present, a variety of mandated and optional programs are either operating or available to the Department. The mandated programs are:

a) WIN, mandated by Title IV-C of the Social Security Act, operating in 27 counties requiring certain ADFC clients to register for training or employment.

DRAFT

4. THE PLAN - STEP TWO

An extensive evaluation by professional non-program researchers of all ongoing programs described in Step One will be undertaken, forming the base for the implementation of Step 2. At this time, we hypothesize that such an evaluation will point towards a total & comprehensive integration of programs and funding streams for a centralized employment unit at each CEA.

In addition to the functions described in Item 2 above, this Unit will:

a) be the single intake point for all new Public Assistance applicants, to provide initial employability and trainability screening. All clients found employable or trainable will be referred immediately to available resources. Client claims of unemployability will be verified through existing procedures, and appropriate referral for IM will be made or denied;

b) be notified by IM of any client status changes, relating to potential employability or trainability, upon re-determination, using the same procedure described in a) above.

5. ADDITIONAL CONSIDERATIONS

The entire employment unit effort will depend largely on the expanded utilization of already available Title XX and WIN Social Service support funds. For many clients, willingness to work or be trained for work is not the problem, but rather the ability to remove barriers such as child care, transportation, physical problems, mental problems, and certain artificial legal barriers. It will be the responsibility of each CEA employment unit to maintain a catalogue of available in-house and community-based social service resources to remove employment barriers.

DRAFT

There will be an ongoing effort to minimize internal and inter-agency paper flow, without jeopardizing total accountability.

Knowledge gathered from the evaluation of the private employment agency contracts will be utilized in developing new contracts of this nature, applying the principles developed in this Plan.

6. RECOMMENDATION FOR THE UTILIZATION OF PEP FUNDS AND INITIAL FUNDING OF A LIMITED "PENNA. CAREERS PROGRAM"

Under the Governor's Special Grant and the prime sponsor arrangements, a total of $366,000 of non-PEP, federal money will be generated covering eight counties. When combined with nine PEP counties to be covered by Private Agencies and BES, a total of 17 counties results receiving new PEP or federal funds. In addition, most of the 10 counties which operated in-house programs under PEP II have gathered so much positive experience and enthusiasm that they are willing to continue to operate PEP without additional resources. This would increase the total to at least 24 counties of full PEP operations. In other words, nine PEP funded counties would be complimented by an additional 15 non-funded counties carrying out the same program.

Our recommendation for the most effective use of the $1,086,000 PEP appropriation is as follows:

8 PEA's and one BES (9 counties)	$645,000
Evaluation	30,000
Headquarters Administration	45,000
Penna. Careers Program	366,000
	$1,086,000

The amount of $366,000 equals that of the federal funds becoming available through the CETA activities outlined above. This amount would generate approximately 36 trainee level positions which would be filled by Public Assistance recipients under the new "Penna. Careers Program". These

DRAFT

positions could be strategically allocated among all counties carrying PEP programs, giving clerical and sub-professional support to the PEP units while preparing encumbents for unsubsidized employment. It is sound policy to have our own offices involved in training of their own clients in addition to using outside public and private resources.

Quest Employment Agency
PO Box 3144
Anchorage, AK 99510

A&J Ltd, dba
Snelling and Snelling Employment Agency
515 D Street Suite 202
Anchorage, AK 99501

Vietnam Veterans Outreach
Vet Center, Room 101
550 W. 8th Avenue
Anchorage, AK 99501

Room 409, Capitol

Edmund Orbeck, Commissioner
Department of Labor
M/S 0700

Representative Bylsma
Room 220, Behrends

Billy G. Berrier, Director
Legal Services
Room 601, Court Building

Art Ruben, Manager/Owner
Snelling and Snelling
515 D Street, Suite 202
Anchorage, AK 99501

Senator Bob Mulcahy
Room 119, Capitol

A.G. Zillig, Director
Div. of Employment Security
PO Box 3-7000
Juneau, AK 99811

Governor Jay Hammond
M/S 0101

Glenn Lundell
Deputy Commissioner
Department of Labor
M/S 0700

Lt. Gov. Terry Miller
M/S 0111

Dennis Osterdock, Chairman
Employment Security Board
SR Box 31201
Fairbanks, AK 99701

Representative Al Adams
Room 507, Capitol

Adams & Associates, Inc.
2435 Bank of Calif. Cntr.
900 4th Avenue
Seattle, WA 98164

Representative Jack Fuller
Room 204, Capitol

City Employment Agency
313 E Street
Anchorage, AK 99501

Speaker Joe Hayes
Room 214, Capitol

North Employment Agency
519 West Fourth Avenue
Anchorage, AK 99501

Representative Gardiner
Room 24, Capitol

Northwest Employment Agency
PO Box 8-9188
1569 S. Bragaw, Suite 200
Anchorage, AK 99508

Representative Rogers
Room 217, Behrends

Shirley Moore
Peninsula Employment Agency
PO Box 2698
Soldotna, AK 99669

Lynn,

While bill work draft is being worked on, please obtain from the Dept. of Revenue or Div. of Occupational license or Dept. a list of all private employment agencies in Alaska.

Prepare letter for them telling of introduction of bill and ask for written testimony or can they make personal appearance on ~~date~~ _____.

contacted
Labor Standards & Safety
1/11 am – they will send list over

Labor Standards & Safety 4870

STATE OF ALASKA

DEPARTMENT OF LABOR

WAGE AND HOUR DIVISION

JAY S. HAMMOND, GOVERNOR

P.O. BOX 630
JUNEAU, ALASKA 99811
PHONE: 465-4870

January 11, 1982

The Honorable Terry Martin
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

ATTN: Joan Matthews

Dear Representative Martin:

Per your request, enclosed are private employment agency permits licensed with the Department of Labor.

Adams & Associates, Inc.
2411 Bank of California Center
900 4th Avenue
Seattle, WA 98164 (206) 624-5022

City Employment Agency
313 E Street
Anchorage, Alaska 99501 272-6501

North Employment Agency
519 West Fourth Avenue
Anchorage, Alaska 99501 277-8682

Northwest Employment Agency
P. O. Box 8-9188
1569 S. Bragaw, Suite 200
Anchorage, Alaska 99508 338-4900

Shirley Moore
dba/Peninsula Employment Agency
P. O. Box 2698
Soldotna, Alaska 99669 262-4934

Quest, Inc.
dba/Quest Employment Agency
P. O. Box 3144
Anchorage, Alaska 99510 276-8838

A. & J., Ltd.
dba/Snelling and Snelling Employment Agency
515 D. Street, Suite 202
Anchorage, Alaska 99501 272-5544

Very truly yours,

Dale Cheek

Dale Cheek
Director
Labor Standards and Safety

Enclosures

State of Alaska

DEPARTMENT OF LABOR

WAGE & HOUR DIVISION

Private Employment Agency Permit

Business License No. 73426 Agency Permit No. 82-A-02

This is to Certify that ADAMS & ASSOCIATES, INC.

Having complied with the laws of the State of Alaska relating to the licensing of persons to have charge of and operate a Private Employment Agency is hereby licensed to have charge of and operate a Private Employment Agency to be known and doing business as

ADAMS & ASSOCIATES, INC.

for one year commencing APRIL 1 *1981*

and expiring MARCH 31 *1982*

Given under our hand and seal this 10th *day of* MARCH *1981*

Commissioner of Labor

By DONALD R. WILSON

His Authorized Representative

AS. 23. 15. 340

POST THIS PERMIT IN A CONSPICUOUS PLACE IN THE AGENCY

State of Alaska

DEPARTMENT OF LABOR

WAGE & HOUR DIVISION

Private Employment Agency Permit

Business License No. 096517 Agency Permit No. 82-A-03

This is to Certify that CARMAN F. and DANNA G. NYSTUEN

Having complied with the laws of the State of Alaska relating to the licensing of persons to have charge of and operate a Private Employment Agency is hereby licensed to have charge of and operate a Private Employment Agency to be known and doing business as

CITY EMPLO'MENT AGENCY

for one year commencing APRIL 1 *19* 81

and expiring MARCH 31 *19* 82

Given under our hand and seal this 25th *day of* MARCH *19* 81

Commissioner of Labor

By Donald R. Wilson

DONALD R. WILSON

His Authorized Representative

AS. 23. 15. 340

State of Alaska

DEPARTMENT OF LABOR

WAGE & HOUR DIVISION

Private Employment Agency Permit

Business License No. 16687 Agency Permit No. 82-A-01

This is to Certify that NORTH EMPLOYMENT AGENCY, INC.

Having complied with the laws of the State of Alaska relating to the licensing of persons to have charge of and operate a Private Employment Agency is hereby licensed to have charge of and operate a Private Employment Agency to be known and doing business as

NORTH EMPLOYMENT AGENCY, INC.

for one year commencing APRIL 1 19 81

and expiring MARCH 31 19 82

Given under our hand and seal this 31st *day of* March 19 81

Commissioner of Labor

By [illegible]

[illegible]

State of Alaska

DEPARTMENT OF LABOR

WAGE & HOUR DIVISION

Private Employment Agency Permit

Business License No._____ Agency Permit No. 82-A-06

This is to Certify that NORTHWEST EMPLOYMENT AGENCY a division of NORTHWEST TECHNICAL SERVICES, INC.

Having complied with the laws of the State of Alaska relating to the licensing of persons to have charge of and operate a Private Employment Agency is hereby licensed to have charge of and operate a Private Employment Agency to be known and doing business as

NORTHWEST EMPLOYMENT AGENCY

for one year commencing APRIL 1 1981

and expiring MARCH 31 1982

Given under our hand and seal this 27th *day of* MARCH 1981

Commissioner of Labor.

By DONALD R. WILSON

His Authorized Representative

AS. 23. 15. 340

State of Alaska

DEPARTMENT OF LABOR

WAGE & HOUR DIVISION

Private Employment Agency

Permit

Business License No. BL 028036 Agency Permit No. 82-A07

This is to Certify that SHIRLEY MOORE

Having complied with the laws of the State of Alaska relating to the licensing of persons to have charge of and operate a Private Employment Agency is hereby licensed to have charge of and operate a Private Employment Agency to be known and doing business as

PENINSULA EMPLOYMENT AGENCY

for one year commencing SEPTEMBER 3 1981

and expiring MARCH 31 1982

Given under our hand and seal this 3rd *day of* SEPT. 1981

Commissioner of Labor

By DON R. WILSON

His Authorized Representative

AS. 23. 15. 340

POST THIS PERMIT IN A CONSPICUOUS PLACE IN THE AGENCY

State of Alaska

DEPARTMENT OF LABOR

WAGE & HOUR DIVISION

Private Employment Agency Permit

Business License No. 008936 Agency Permit No. 81-A-04

This is to Certify that QUEST, INC. dba/QUEST EMPLOYMENT AGENCY

Having complied with the laws of the State of Alaska relating to the licensing of persons to have charge of and operate a Private Employment Agency is hereby licensed to have charge of and operate a Private Employment Agency to be known and doing business as

QUEST EMPLOYMENT AGENCY

for one year commencing APRIL 1 *19* 81

and expiring MARCH 31 *19* 82

Given under our hand and seal this 1st *day of* APRIL *19* 81

Commissioner of Labor

By DONALD R. WILSON

His Authorized Representative

AS. 23. 15. 340

POST THIS PERMIT IN A CONSPICUOUS PLACE IN THE AGENCY

State of Alaska

DEPARTMENT OF LABOR

WAGE & HOUR DIVISION

Private Employment Agency Permit

Business License No. 014578 Agency Permit No. 82-A-05

This is to Certify that A. & J. LTD. dba/SNELLING and SNELLING, INC.

Having complied with the laws of the State of Alaska relating to the licensing of persons to have charge of and operate a Private Employment Agency is hereby licensed to have charge of and operate a Private Employment Agency to be known and doing business as

SNELLING and SNELLING, INC.

for one year commencing April 1 *19* 81

and expiring March 31 *19* 82

Given under our hand and seal this 27th *day of* March *19* 81

Commissioner of Labor

By Donald R. Wilson

His Authorized Representative

AS. 23. 15. 340

delivered
1/7/80 pm
jfm

Mr. Bill Bernier,

Please have legal staff draft a Bill similar to Pennsylvania's "PEP" program.

Title I like -

"A bill ~~to~~ require ~~State~~ employment offices to use private employment services to locate jobs for unemployed individuals,

Lynn,

Please have the attached persp 20 ~~25~~ x's.

Distribution

2 Employment Security Board → chairman & Exec Dir. & Exec Dir.

2 Dept. of Labor * Check spelling of names

Comm.: Ed Orbeck

Deputy Comm. Judy Knight.

1- Mr. Bill Barrier - Legis. Legal Dept

1- Sen. ___ Mulcahy.

1- Gov. Jay Hammond

1- Lt. Gov. Terry Miller

1- Rep Al Adams.

1- Rep Jack Fuller

1 ~~S~~- Speaker - Rep. Joe Hayes.

4- Labor & Commerce Committee Members.

5- For Office - later distribution

On House Labor & Commerce letterhead.

To: All concerned with Unemployment.

From. Rep Terry Martin - Chairman House L_ & C_ Comm.

Subj. Potential Alaska Private Employment Voucher Program.

Many of us have become quite concerned as to the recent Federal cuts in public employment programs and the immediate effects it has upon the State of Alaska's unemployment problem. Most individuals or agencies directly responsible for helping the unemployed usually suggest increasing the staff and appropriations to meet the expected demands. Others suggest legislation and appropriations to "pick up" the ~~so~~ federally funded jobs and carry under State or Municipal agencies. Either solution would seriously hamper the Administration and Legislatures efforts ~~at~~ to hold the line on State operation budget and State employment.

It has recently come to my attention that there is a alternative that is currently being used in Pennsylvania, California and Michigan and may well work for Alaska's unemployed. At least it seems worthy of consideration. Thus I have decided to send you the attached for your valued consideration and input.

At this time I am also asking Mr. Bill Berrier to start a work draft for a bill titled:

"A bill to require State employment offices to use private employment services to locate jobs for unemployed individuals."

I would be most appreciative of any support and information you can give to this effort ~~to~~ trying to decrease our high rate of unemployed in Alaska.

Yours very truly

Terry Martin

Alaska State Legislature

House of Representatives

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

To: All Concerned with Unemployment

From: Representative Terry Martin, Chairman
House Labor & Commerce Committee

Subject: Potential Alaska Private Employment Voucher Program

Many of us have become concerned about the recent federal cuts in public employment programs and the immediate affect it has upon the State of Alaska's unemployment problem. Most individuals or agencies directly responsible for helping the unemployed usually suggest increasing the staff and appropriations to meet the expected demands. Others suggest legislation and appropriations to "pick up" the federally-funded jobs and carry them under state or municipal agencies. Either solution would seriously hamper the administration's and legislature's efforts to hold the line on the state operating budget and state employment.

DISTRIBUTION:

2 Employment Security Board--1 to chairman in Fairbanks, 1 to Executive Director Bill ✓

2 Department of Labor--Commissioner Ed Orbeck ✓ & Deputy Commissioner ~~Judy Wright (Knight?), Special Asst~~ Glenn Lundell

1 Billy Berrier, Legislative Legal Department ✓

1 Senator Bob Mulcahy ✓

1 Governor Jay Hammond ✓

1 Lt. Governor Terry Miller ✓

1 Representative Al Adams ✓

1 Representative Jack Fuller ✓

1 Speaker Joe Hayes ✓

4 Labor & Commerce Committee Members ✓

1 Art Ruben, Manager/Owner, Snelling & Snelling ✓

5 Retain in office for future distribution

call for addresses

ESC chairman:
Dennis Osterdock SR Bx 31201 Juk 99701 ✓
~~ES Division, Dept of Labor~~
ES Div Dep of Labor PO Bx 3-7000
call Dept of Labor - ~~Carolyn Spaulding~~? x 2711

Boards & commissions
Barb

sent to Bill for copying 11 am

Alaska State Legislature

House of Representatives

LABOR & COMMERCE COMMITTEE

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

To: All Concerned with Unemployment

From: Representative Terry Martin, Chairman
House Labor & Commerce Committee

Subject: Potential Alaska Private Employment Voucher Program

Many of us are concerned about the recent federal cuts in public employment programs and the immediate affect it has upon the State of Alaska's unemployment problem. Most individuals or agencies directly responsible for helping the unemployed usually suggest increasing the staff and appropriations to meet the expected demands. Others suggest legislation and appropriations to "pick up" the federally-funded jobs and carry them under state or municipal agencies. Either solution would seriously hamper the administration's and legislature's efforts to hold the line on the state operating budget and state employment.

It has recently come to my attention that there is an alternative that is currently being used in Pennsylvania, California and Michigan which may well work for Alaska's unemployed. At least it seems worthy of consideration. Thus I have decided to send you the attached for your valued consideration and input.

At this time, I am also asking Mr. Bill Berrier to start a work draft for a bill titled:

> "A bill to require State employment offices to use private employment services to locate jobs for unemployed individuals."

I would be most appreciative of any support and information you can give to this effort in trying to decrease our high rate of unemployed in Alaska.

Yours very truly,

Terry Martin

Representative Terry Martin

January 8, 1982

Vet Center
Rm 101
550 W. 8th Ave
Anchorage, AK 99501
Tel: (907) 277-1501

Honorable Terry Martin
Pouch V
Juneau, AK 99811

Dear Representative:

This letter is being written to you to request your assistance to support legislation that would maintain Alaska's Job Service staffing at it's present level.

Even more importantly and as a result of planned staffing cutbacks, eleven or more Vietnam Veterans will be released from the Anchorage Employment Office. Proportionate numbers of Vietnam Veterans will be released from other State employment offices in Juneau, Ketchikan, Kenai, Fairbanks, Kodiak, Wasilla, etc.

When these men are released, the effectiveness of my program in Anchorage, Fairbanks, Wasilla, and Kenai will be drastically affected. My program's responsibility is directed toward the readjustment of Vietnam Veterans who have already been subjected to many inequities. Without the assistance of Job Service employees, who are Vietnam Veterans and who can understand and can assist with readjustment, the Vet Centers (Vietnam Veterans Outreach Program) will have limited referral for jobs. Vietnam Veterans without jobs appear to have more difficulty readjusting than those who have steady jobs.

Therefore, I appeal to you to assist with this problem. I am available to answer any questions you may have. Please feel free to call me.

Sincerely,

Wm Oleson

William C. Oleson, Director
Vietnam Veterans Outreach Program
Vet Centers

Joan-
Call me on this.
Thanks
OO

1/12/82 copied Oleson w/ packet & sent short note requesting his input.
jm.

TELE-COMMUNICATION INTERIM 1981

1st sheet

SIGN-IN SHEET

Telecommunications

COMMITTEE Labor & Commerce

HEARING DATE 9-24-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTE
Robert J. Gould	4792 Business Park Blvd, Anchorage 99503	MultiVisious Ltd	Yes on 9/24	
Rodger C. Davis	601 W. 41st ST	EXECUTONE	Yes on 9/24	
Bill McCaughan	2533 Providence Dr., Anch.	UofA, Learn Alaska	yes 9/24	

Telecommunications

COMMITTEE TAPE LOG

TAPE NUMBER #3 #4

COMMITTEE HOUSE LABOR & COMMERCE HEARING DATE 10/29/81

TIME 1:30

MEMBERS PRESENT Martin, Bylsma, Rogers

LEGISLATION CONSIDERED Telecommunications

METER NO.	PERSON SPEAKING/ACTION
15 (T3S1)	REP. FRED BROWN
694	Jeanne OSTNES, IREM. Council
0 (T3S2)	"
192	BROWN
220	Glenn Stanley, consultant on Telecommunications
309	Jean Blesment, U of A / Jennifer Wilkie, learn about a
0 (T4S1)	" "
245	Brad Brooks
513	OSTNES
~~0~~ (T4S2)	~~Paraphrasing, not a sequence~~
34	DON Upham media Ed, WICCE.

COMMITTEE TAPE LOG

TAPE NUMBER #1 #2

COMMITTEE House L + C committee HEARING DATE 10/28/81

TIME 9 a.m.

MEMBERS PRESENT Rogers, Bylsma, Morton

(Brown)

LEGISLATION CONSIDERED Telecommunications (Telecapsule)

METER NO.	PERSON SPEAKING/ACTION
37 (T151)	Dave Thompson, KMXT (Kodiak)
250	Bill Oberg, KMXT (")
518	Alex Hills, Deputy Commissioner (Juneau)
0 (T152)	"
66	Charles Kirtley, Alaska Independent Modesto Comm. (Juneau)
80	Tom Saxton, Barrow Cable T.V. (Barrow)
332	Alex Hills (Juneau)
565	Saxton (Barrow)
0 (T251)	"
117	Hills (Juneau)
150	Bob Allison, cable operator (Wrangell)
250	Dave Hammock, telecommunications consultant (Anchorage)
513	Larry Blackin, cable operator (Haines)
0 (T252)	"
65	Harvey Gilliland, self (Petersburg)
112	David Molnik (Petersburg)
222	Betty Phillips, Alaska T.V. (")
250	Hills (Juneau)

SIGN-IN SHEET Telecommunications

COMMITTEE House Labor & Commerce HEARING DATE 10-28-81

NAME (PRINTED) PRINT	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MA
JEANNE OSTNES OK	P.O Box 2120 Fbks AK	IREMS Council	YES	
Brad Brooks Robert L. Frey OK	3243 E 4 College Rd. Fbx	TREMS Council	Yes	
Donald B. Upham	Eielson Bldg. UAF Campus	Medical Services, UAF	YES.	
Jennifer Wilke OK	Pouch F DOE, Juneau	Learn/Alaska Network - DOE	YES	
Dennis M. Swiderski	949 E 36th Ave. Pouch 6607 Anchorage, AK	Alascom, Inc.	No	
[illegible] OK	2221 E Northern Lights #135 Anch 99504	UAA/CLA Minority Affairs	YES	
[illegible]	409C		Yes	

SIGN-IN SHEET

COMMITTEE _____ HEARING DATE _____

NAME (PRINTED) PRINT	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MA
Glenn M. Stanley	Box 393 Sterling AK	Self	Observe	

SIGN-IN SHEET

Telecommunications

COMMITTEE Labor & Commerce

HEARING DATE 9-23-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTE
Robert R. Blodgett	Mukluk Tel Co. Teller, AK.	Mukluk Tel Co Inc	Yes	All
Allen S. Blume	P.O. Box 1608, Juneau, Ak.	Telelink Comm.	Yes "2"	
Charles M. Northrip	Pouch CB, Juneau, AK. 99811	A P B C.	Yes "3"	
FRANK D. PRICE	3790 PERENOSA	METEOR DATA, INC	MAYBE ?? "6"	
Bob HERRON	Box 247 BETHEL, AK 99559	BETHEL CABLEVISION	Yes "4"	
B.L. Allison	5525 Lakeview Dr Kirkland, Wa	Alaska Cablevision	yes "5"	

SIGN-IN SHEET

~~Wholesale Competition~~ Telecommunications Telecommunications Tele

COMMITTEE Labor Commerce

HEARING DATE 9-23-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTER
Dennis Swiderski	949 E. 36th Ave. Anch AK	Alascom	No	
Russ Meekins Jr	1540 H St	R Wold Co	Yes	SJ7
Homer J Marshall	611 E. 12th	Comtec Inc	No	
Gene Deck	10880 Wilshire Blvd L.A. CA 90024	Wold Comm.	Yes	
John Lindauer	7547 E. Tudor	Alaska Radio Network	Yes	
Deborah Sedwick	Juneau	LAA/LTW	NO	
Bill Mallott	SRA Box 4021	self	No	
*Mary Weatherly	1100 MacKay Bldg Anch 99501	APUC	YES *	
Glen Williams	2533 Providence Dr.	U.M.I.T.C.	Maybe	
Sam Evans	13511 NE 14 St	Alaska Conservation Fd	Yes "	
Kathleen Bates	10241 W 6th Ave Anch	LAA/LTW	No	

2nd sheet

SIGN-IN SHEET

Telecommunications

COMMITTEE Labor & Commerce

HEARING DATE 9-24-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTE
MICHAEL F PORCARO	308 G Street, Suite 311	ALASKA BROADCAST SERVICES	Yes	
Robert M Walp	2550 Denali St. Suite 505	General Communication	Yes	
MEL HOHENSTEIN	5900 E Tudor	STATE	NO	
VINOD BATRA	540 A ST.	UNITED UTILITIES	YES (1	
IVAN L. WIDOM	P.O. BOX 1540 NOME 99762	CITY OF NOME	?	
Dennis Swiderski	949 E. [illegible] 99504	ARSCOM	No	
Kathi Collins	400 W. 6th 99501	LAA/LTN		
Norma Goodman	405 Mcgrath	Northern Telecom	YES (2	
Bill Morrison	SRA Box 4021	self	No	
Bob Hoffstetter -3:30			Yes. (3	

MEMORANDUM

TO: All Interested Parties December 14, 1981

FROM: Ray Tyson, administrative assistant RT
House Labor and Commerce Committee

Subj: Telecommunications

Attached is a copy of a memorandum sent to Billy Berrier of the state Division of Legal Services requesting a draft of a House Concurrent Resolution spelling out the committee's policy on statewide telecommunications.

Keep in mind that the committee is only requesting a draft, not the final legislation which will be introduced early next session. The draft can be altered or expanded. Hopefully, the draft will be available for public review prior to January 1.

The committee feels the attached memo reflects concerns expressed by the public during hearings held in Anchorage and Fairbanks during the interim.

If you have any additional requests, please put them in writing and send them to the committee office prior to January 1. The address: 921 West 6th Avenue, Suite 250, Anchorage, Ak., 99501.

Alaska State Legislature

House of Representatives

HOUSE LABOR AND COMMERCE COMMITTEE
921 West 6th Avenue.
Suite 250
Anchorage, Ak 99501
272-6922

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

December 14, 1981

TO: Billy Barrier, director
Division of Legal Services

FROM: Representative Terry Martin, chairman
House Labor and Commerce Committee

Subj: Telecommunications

I am requesting that your office draft a House Concurrent Resolution spelling out our policy on statewide telecommunications. The sponsor is the House Labor and Commerce Committee.

Please incorporate the following in the Resolution:

-- Whereas a significant and increasing amount of public funds is being invested in telecommunications systems; and

-- Whereas it should be the role of state government to encourage and not compete with the private sector; and

-- Whereas the private sector which deals in Alaska telecommunications faces a crowding out by government in the wake of increasing state wealth; and

-- Whereas the private sector has been the foundation and vitality of the American Democratic and economic system; and

-- Whereas the Alaska State Legislature lacks a policy regarding the burgeoning telecommunications system;

Be it resolved that the Alaska State Legislature should take the following into account to serve as guidelines when considering telecommunications appropriations:

-- When and where possible, the state Divisions of Telecommunications should procure services from private enterprise or certified and franchised utilities and contract for the construction, management, operation and maintenance of telecommunications systems.

-- When and where possible, the state Divisions of Telecommunications should reduce or eliminate airwave interference of state owned or financed stations with privately owned and operated cable television stations.

-- Artificial regulatory and government barriers for growth and development of new and innovative services by the private sector should be removed.

-- Companies owned and operated by Alaska residents and based in Alaska should be given a competitive edge over Outside interests.

-- Alaska's villages should have the opportunity to own, operate and maintain their own satellite earth stations.

-- In-state programming or Bush programming can be beneficial to sectors of the Alaskan community. However, the Divisions of Telecommunications should not only assure that such programs are cost effective, but production of these programs should be available to the private sector on a contract or bid basis.

-- No commercial advertisements shall be carried in state funded or state subsidized programs or in programs transmitted by state funded or state subsidized satellite channels.

-- The Legislature should encourage commercial radio and television news coverage of the legislative sessions by making equipment, space and satellite time available to the private sector. This would serve as a meaningful and efficient and non-controversial method of communicating legislative affairs to the public.

Billy, the committee would like a draft of the resolution by January 1, so that copies can be available to the various parties interested in this legislation.

Thanks for your help.

need telecommunications ~~for~~ commission because:

- federal govt (FCC) is deregulating many areas & turning authority over to state govt
  - state has shown itself to be less than responsible, as exhibited last summer in approving broadcast authority for public broadcasting stations over existing commercial channels
  - state needs an agency to make policy decisions in other areas ~~currently~~ delegated by FCC

Notes for press release / summary

- state of the art is ~~rapidly~~ becoming more ~~technical~~ technical & encompassing more areas (computer systems, audio/~~video~~ visual, image transmission); legislature ~~staff~~ does not have technical & expertise to knowledgably regulate these areas.

- Supreme Court decision barring monopolistic awards (by local govt agencies) to of telecommunications services providers

- to provide a "check" on administration's telecommunications & data supply systems for protection of the State's people

1-13-82
MINUTES -
LABOR DEPT.
OVERVIEW

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 13, 1982
1:08 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma
Rep. Randolph
Rep. Rogers

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

Overview presentation by State Department of Labor

WITNESS REGISTER

Commissioner Edmund Orbeck
Department of Labor
State of Alaska
Juneau, Alaska 99811
465-2700
Position Statement: Spoke of impact of federal budget cuts and funding needs.

Jacquelyn McClintock, Director
Division of Workers Compensation, Department of Labor
State of Alaska
Juneau, Alaska 99811
465-2790
Position Statement: Discussed budget, vacancies, and workload.

Dale Cheek, Director, Labor Standards & Safety
Department of Labor
State of Alaska
Juneau, Alaska 99811
465-4870
Position Statement: Discussed impact on staff and services if budget not increased.

John Post, Director, Division of Administrative Services
Department of Labor
State of Alaska
Juneau, Alaska 99811
465-2720
Position Statement: Described reports given to legislature last year; gave estimate of budget impact if division funding not increased.

Judy Knight, Special Assistant
Department of Labor

State of Alaska
Juneau, Alaska 99811
465-2700
Position Statement: Explained influx of job seekers from outside state and described department's methods of distributing job information.

Glenn Lundell, Deputy Commissioner
Department of Labor
State of Alaska
Juneau, Alaska 99811
465-2701
Position Statement: Spoke of problems still existing with resident hire.

A.G. Zillig, Director, Division of Employment Security
Department of Labor
State of Alaska
Juneau, Alaska 99811
465-2712
Position Statement: Was available to answer questions.

PREVIOUS ACTION

Not applicable.

ACTION NARRATIVE

Tape #001
Recording
Number 0001

The meeting of the House Labor & Commerce Committee was called to order by Chairman Martin at 1:08 p.m. Committee members present were: Representatives Martin, Bylsma, Randolph, and Rogers. Representative Gardiner was absent.

Number 0090

Edmund Orbeck, Commissioner of the Department of Labor, spoke of the impact of federal budget cuts. He discussed employment security; remedies for budget shortages; Job Service functions; and fish negotiations. Rep. Rogers asked what methods were being used to cut back expenditures. Director Zellig and Commissioner Orbeck explained probable and known federal plans to cut back Job Service, and the need for additional funding. Chairman Martin (meter no. 321) asked about a voucher system making use of private employment agencies as an alternative to Job Service. Considerable discussion ensued.

Number 0567

Commissioner Orbeck gave an introduction to Workers Compensation. Director McClintock came forward to expand on subject. She predicted no impact on agency if budget was not increased, as long as there were no new requirements (meter no. 650). Director McClintock, during a discussion of new and vacant positions, said there is a vacancy factor of six months after resignation of an employee. Comm. Orbeck said it is easier to create a new position than fill an existing position. Rep. Rogers raised the possibility of abolishing the Division of Personnel (meter no. 683); Chairman Martin took that suggestion under advisement. Dir. McClintock discussed computer service and advantages. When questioned by Chairman Martin as to workload, Dir. McClintock gave figures and an explanation. There were questions by the committee. Chairman Martin asked why workers compensation rates were increasing. Comm. Orbeck responded (meter no. 804). Rep. Rogers observed that 1975-76 changes in benefits and action by Division of Insurance to allow price fixing may have caused cost increases up to 50%.

Number 0816

Comm. Orbeck gave overview of Division of Labor Standards & Safety. In response to questions by Rep. Rogers, Comm. Orbeck explained media campaign, and responded to Rep. Rogers that Don Williams was individual handling fraudy ads for job placement. There was discussion between Comm. Orbeck, Chairman Martin, and Rep. Rogers regarding non-Alaska residents looking for work in Alaska.

Number 0928

Dale Cheek, Director of Labor Standards & Safety, told what would be [illegible] impact on his staff and services if his budget is not increased. Cheek told how he could use his staff more efficiently. Comm. Orbeck and Dir. Cheek discussed OSHA budget.

Number 0998

John Post, Director of the Division of Administrative Services, described reports given to the legislature last year and elaborated on that information: population information; unemployment handbook; evaluation of Lower Yukon-Kuskokwim labor market; and gave an estimate of budget impact if division funding was not increased.

Number 1085 — Judy Knight, Special Assistant to the Commissioner, explained the influx of job seekers from Lower 48. She described brochures printed with job information for Alaska, and use of the brochures by various agencies and individuals. She stated that fifty percent of the people applying for services were from outside the state. Copies of the study were requested by the committee. There was some discussion of using the news media as another means of getting information dispersed. Knight explained the impact of employment security without fully-funded Job Service.

Number 1170 — Glenn Lundell, Deputy Commissioner, spoke of problems still existing with resident hire. Lundell addressed public opinion that union leaders give jobs to out-of-state residents. Comm. Orbeck suggested contacting unions.

Number 1230 — As there were no further items to come before the committee at this time, the Chairman adjourned the meeting at 2:48 p.m.

COMMITTEE MINUTES
COMMITTEE House Labor & Commerce
HEARING DATE January 13, 1982
TAPE NO. 1, Side A

The meeting was called to order by Chairman Martin at 1:08 p.m., in the House Labor & Commerce Committee Room, Behrends Building, Juneau, Alaska. Committee members present in addition to the Chairman were Representatives Bylsma, Randolph and Rogers. Committee staff in attendance were Mary Isaacs and Joan Mathews. Representative Gardiner was absent.

The committee schedule called for an overview presentation by the State Department of Labor. Testifying before the committee were: Commissioner Edmund Orbeck; Glenn H. Lundell, Deputy Commissioner; Judy G. Knight, Special Assistant; Dale Cheek, Director, Division of Labor Standards and Safety; A.G. Zillig, Director, Division of Employment Security; Jacquelyn McClintock, Director, Division of Workers Compensation; and John Post, Director, Division of Administrative Services.

Commissioner Orbeck spoke of impact of federal budget cuts. Discussed employment security (meter no. 090); remedies for budget shortages (meter no. 132); Job Service functions (meter no. 170); fish negotiations (meter no. 220). Representative Rogers asked what methods were being used to cut back expenditures. Director Zellig and Commissioner Orbeck explained probable and known federal plans to cut back job service, and need for additional funding. Chairman Martin (meter no. 321) asked about a voucher system making use of private employment agencies as an alternative to Job Service. Considerable discussion ensued (through meter no. 561).

Commissioner Orbeck gave an introduction to Workers Compensation (meter no. 567). Director McClintock came forward to expand on subject. She predicted no impact on agency if budget was not increased, as long as there were no new requirements (meter no. 650). Dir. McClintock,during a discussion of new and vacant positions, said there is a vacancy factor of 6 months after resignation of an employee. Comm. Orbeck said it is easier to create a new position than fill an existing position. Rep. Rogers raised the possibility of abolishing the Division of Personnel (meter no. 683); Chairman Martin took that suggestion under advisement.

McClintock discussed computer service and advantages (meter no. 708). When questioned by Chairman Martin as to workload, Dir. McClintock gave figures and an explanation. There were questions by Rep. Bylsma (meter no. 765), Rep. Rogers (meter no. 773), and Chairman Martin (meter no. 787). Chairman Martin asked why workers compensation rates were increasing. Comm. Orbeck responded (meter no. 804). Rep. Rogers (meter no. 820) observed that 1975/76 changes in benefits and change by Division of Insurance to allow price fixing may have caused cost increases up to 50%.

House Labor & Commerce
Committee Minutes
Meeting of 1/13/82

Comm. Orbeck gave overview of Division of Labor Standards & Safety (meter no. 826). In response to questions by Rep. Rogers, Comm. Orbeck explained media campaign (meter no. 871), and responded to Rep. Rogers that Don Williams was individual handling fraudy ads for job placement. There was discussion between Comm. Orbeck, Chairman Martin, and Rep. Rogers regarding non-Alaska residents looking for work in Alaska.

Dale Cheek, Director of Labor Standards & Safety (meter no. 928), told what would be the impact on his staff and services if his budget is not increased. Cheek (meter no. 965) told how he could use his staff more efficiently. Comm. Orbeck and Dir. Cheek (meter no. 991) discussed OSHA budget.

John Post, Director of the Division of Administrative Services (meter no. 998) described reports given to legislature last year, and elaborated on that information: population information (meter no. 1015); unemployment handbook (meter no. 1024); evaluation of Lower Yukon-Kuskokwim labor market (meter no. 1032); and gave an estimate of budget impact if division funding was not increased.

Judy Knight, Special Assistant (meter no. 1085), explained influx of job seekers from Lower 48. She described brochures printed with job information for Alaska, and use of the brochures by various agencies and individuals. She stated (meter no. 1115) that 50% of the people applying for services were from outside the state. Copies of the study were requested by Reps. Rogers and Martin. There was some discussion of using the news media as another means of getting information dispersed (meter nos. 1135-1164). Knight explained (meter no. 1165) the impact of employment security without fully funded Job Service.

Glenn Lundell, Deputy Commissioner (meter no. 1170) spoke of problems still existing with resident hire. Lundell addressed (meter no. 1196) public opinion that union leaders give jobs to out-of-state residents. Comm. Orbeck suggested (meter no. 1219) contacting unions.

As there were no further items to come before the committee at this time, the Chairman adjourned the meeting at 2:48 p.m.

MINUTES REVIEWED AND APPROVED:

_____

Representative Terry Martin, Chairman
House Labor & Commerce Committee

on computer 2/5/82

ALASKA DEPARTMENT OF LABOR
Organizational Chart

** Executive Order No. 52 will consolidate the Division of Occupational Safety and Health and the Division of Wage & Hour/Mechanical Inspection. The consolidated division will be titled the Division of Labor Standards and Safety.
Dale Cheek, Director

COMMISSIONER
Edmund N. Orbeck

Deputy Commissioner
Glenn H. Lundell

Special Assistant
Judy G. Knight

Information Officer

** Division of Occupational Safety and Health

Safety Compliance

Health Compliance

Voluntary Compliance
- Consultation - Safety and Health
- Training
- First Aid Instructors Certification
- Explosives Handlers Certificate of Fitness

Division of Employment Security
A.G. Zillig, Director

Employment Service
- Alien Immigration Certification
- Counseling/Testing Services
- Disabled Veteran Outreach Program (DVOP)
- Employer Services
- Employment Service Complaint System
- Federal Bonding Program
- Federal Contractor Job Listing Program
- Food Stamp Work Registration
- Interstate Clearance Order Program
- Job Service Improvement Program (JSIP)
- Job Service Offices
- Monitor Advocate/Affirmative Action
- Older Worker Program
- Targeted Jobs Tax Credit (TJTC)
- Trade Readjustment Assistance (TRA)
- Veteran's Employment Program
- Work Incentive Program (WIN)
- Young Adult Conservation Corps (YACC)
- Youth Conservation Corps (YCC)
- Youth Employment Service (YES)

Unemployment Insurance
- Accounts and Contributions
- Appeals
- Benefits

Data Processing

** Division of Wage & Hour/ Mechanical Inspection

Wage and Hour
- Wage Claims
- Child Labor Law
- Public Contracts Employment
- Minimum Wage & Overtime
- Equal Pay for Women
- Private Employment Agencies
- Fish Buyers & Processors Bond
- Return Transportation
- Enforce Contractor's Licensing
- Construction Contractors Licenses
- Electrical Contractors Licenses

Mechanical Inspection
- Boiler & Pressure Vessel Inspections
- Electrical Inspections
- Elevator Inspections
- Plumbing Inspections
- Certificates of Fitness
- Electrical
- Plumbing
- Boiler & Pressure Vessel Licenses

Unemployment Insurance Fraud Investigations

Division of Workers' Compensation
Jacquelyn Q. McClintock Director

Workers Compensation
- Employer Insurance Compliance
- Executive Officer Waiver
- Self Insurance

Workers' Compensation Claims and Hearings

Fishermen's Fund

Second Injury Fund
- Compensation Reimbursement
- Vocational Rehabilitation

Division of Administrative Services
John Past, Director

Research and Analysis
- Reports & Labor Market Information
- Population Information
- Division Research Support
- Unemployment Insurance
- Workers Compensation
- Occupational Safety and Health
- Special Research
- Occupational Information
- Employment Forecasts

Fiscal Services
- Budgets
- Contracts
- Federal Accounting
- State Accounting
- UI Fiscal Accounting

Internal Review

Office Services
- Supply
- Mail Room

Personnel
- Labor Relations
- Position Classification
- Employee Counseling
- Employee Training/Development

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 1/13/82 Place: Committee Room

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:00	2:48
Rep. D. Randolph	✓		1:07	2:48
Rep. B. Rogers	✓		1:07	2:48
Rep. T. Gardiner		✓		
Rep. T. Martin, Chair	✓		12:55	2:48

Subject Matter: Overview - presentation by Department of Labor

House Bill No. _____ _____ _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

1:20 Rep. Randolph left rm; returned 1:30

MEMORANDUM

DEPARTMENT OF LABOR

State of Alaska

EMPLOYMENT SECURITY DIVISION

TO: Jerry Reinwand
Executive Assistant
Office of the Governor

DATE: January 7, 1982

FILE NO: AK (FIM 9-1)

TELEPHONE NO: 465-2712

FROM: A. G. Zilliq, Director
Employment Security Division

SUBJECT: Federal Budget Cuts

John a copy for u - for notes M.L.

In the absence of additional funding, and since the federal funding cuts are retroactive October 1, 1981, the Employment Security Division will be required to significantly reduce staff as shown by the following data:

		ES	UI	AS&T	TOTAL
1)	Average annual PS/PB rate	$ 37,345	$ 37,345	$ 37,345	$ 37,345
2)	Earliest date layoff can be effected	1/31/82	1/31/82	1/31/82	1/31/82
3)	PS/PB cuts	1,299,607	261,415	224,070	1,785,092
4)	PS/PB cuts adjusted to 6/30/82	974,705	196,061	168,053	1,338,819
5)	Adjusted average annual PS/PB rate to five months (2/1/82 to 6/30/82)	15,560	15,560	15,560	15,560
6)	Reduction in staff (line 4 ÷ line 5)	63	13	11	87
7)	Estimated loss of non-personal services (NPS) funds for FFY 82	336,000	69,329	58,663	463,992
8)	Adjusted loss of NPS to 6/30/82	252,000	51,997	43,997	347,994
9)	Reduction in staff to accommodate loss of NPS funds	16	3	3	22
10)	Total cuts adjusted to 6/30/82 (line 4 ÷ line 8)	1,226,705	248,058	212,050	1,686,813
	(line 6 ÷ line 9)	79	16	14	109

Additional funds in the amount of $1,686,813 will allow the Employment Security Division to maintain the level of services as planned in our Federal Plan of Service to June 30, 1982, with all offices remaining operational.

Option #1

Provide additional state funding in the amount of $1,124,500 to maintain staffing at present levels until March 31, 1982; thereby giving the State Legislature and and Congress an opportunity to address the problem. If additional funding is not appropriated, reduce offices to five -- Anchorage, Fairbanks, Juneau, Ketchikan, and Kenai -- as of April 1, 1982.

Option #2

Since the 12% reduction is for the entire federal fiscal year 1982, $754,334 must be absorbed in the five months remaining in the state fiscal year. Even with $754,000 in state aid, it will still require a layoff of 36 positions in order to stay within the federal funds granted, which were just made known as of January 7, 1982.

Option #3

A $250,000 less funding level from Option #2 would require an additional layoff of 16 staff, making a total of 52. The diminution of funding disproportionately reduces the ability to provide direct services to the public because of fixed costs and program requirements.

Option #4

No additional state funding. Lay off staff and cover shortfall with existing funds. This would require closure of all offices except Anchorage, Juneau, Fairbanks, and Ketchikan, which would remain open at considerably reduced levels. Place all claimants except those at above locations on mail claim basis.

cc: Susan Green, Special Assistant
Office of the Governor

REPORT OF PLACEMENT ACTIVITIES & STAFFYEARS USED

		Placement Activity	Federal Base Job Service Staff.
FY 75	July '74 - June '75	24,945	175.6
FY 76	12 months through June '76	25,687	130.06
	15 months through September '76	35,073	
FY 77	October '76 - September '77	29,277	150.0
FY 78		30,802	135.7
FY 79		31,199	144.8
FY 80		31,632	141.9
FY 81		34,024	141.3

1/7/82

Local Office	Job Openings Filled FY 80	FY 81
Juneau	2,776	2,986
Sitka	703	837
Ketchikan	2,087	1,994
Petersburg	947	933
Anchorage	12,750	12,986
Mat-Su	1,346	1,468
Glennallen	530	317
Bethel	921	120
Dillingham	239	209
Homer Outreach	833	1,433
Dutch Harbor	--	153
Valdez *	--	134
Kenai	1,408	1,695
Kodiak	699	782
Seward	1,369	1,408
Fairbanks	4,051	5,531
Barrow	173	222
Nome	440	541
Fairbanks (rural)	45	116
Kotzebue	161	91
Tok **	147	218
TOTAL	31,625	33,725

Can these jobs be divided into public & private?
seasonal jobs.
Part-time jobs
full-time jobs

Total federal budget FY 80 $6,172,293 ÷ placements 31,625 = $195 cost per placement

Total federal budget FY 81 $7,258,120 ÷ placements 33,725 = $215 cost per placement

* Now part of Glennallen

** Was 4501 Fairbanks rural

MEMORANDUM
DEPARTMENT OF LABOR

State of Alaska
EMPLOYMENT SECURITY DIVISION

TO: Jerry Reinwand
Executive Assistant
Office of the Governor

DATE: January 5, 1982

FILE NO: AK (FIM 9-2)

TELEPHONE NO: 465-2712

FROM: A. G. Zillig, Director
Employment Security Division
Department of Labor

SUBJECT: Reduction in Federal Receipts to Fund ES and UI

Attached for your information is a copy of a memorandum dated January 5 to Commissioner Edmund Orbeck that further expands upon the information provided in my memorandum to you dated December 13, 1981.

Although we still have not received notification of the reduction in writing, I have been informed by telephone by Don Balcer, Regional Administrator, Employment & Training Administration, that the cut will be 12% of the total grant, with 80% of the amount to be applied to the Employment Service and 20% to the Unemployment Insurance program.

cc: Susan Green, Special Assistant
Office of the Governor

Attachment

MEMORANDUM State of Alaska

TO: Edmund N. Orbeck
Commissioner of Labor

DATE: January 5, 1982

FILE NO: AK (FIM 9-2)

TELEPHONE NO: 465-2712

FROM: A. G. Zilling
Director

SUBJECT: Proposed Staff Reduction Due to 12% Cut in Federal Funds

In response to your request that I outline the impact of the twelve percent cut to ES and UI grants for operation of the Employment Service and Unemployment Insurance programs, I have prepared the following information.

We still have not received the amount of the reduction to Alaska in writing from the Employment and Training Administration so it was necessary to develop this plan based on the most recent information available by telephone. The information received is that the cut will be twelve percent of the total grant with eighty percent of that amount being applied to the Employment Service programs and twenty percent applied to the Unemployment Insurance program. The twelve percent reduction is for the entire FFY 1982, but must be absorbed in the nine months remaining. Dedicated funds for special programs now conducted by ES such as Monitor Advocate, and LMI will be eliminated.

This plan is also developed on the basis that reductions in fixed non-personal services cannot be achieved in time to significantly impact this years outlays so most if not all the reductions must be absorbed in the personal services category.

The following chart reflects the proposed overall reductions:

Total Budget FP-3 1982 PBP		$15,603,436	
Mandated Cut		12%	
Total dollars to be cut Retroactive to 10/1/81		$1,872,412	
Administrative Services Division			
Indirect Budget for FFY 1982		$1,544,250	
Less 12% Cut	(A)	185,310*	Eq Pos 6.6
Revised Budget FFY 1982		$1,358,940	
LMI Budget for FFY 1982		$244,460	
Eliminate the Program	(A)	183,345*	Eq Pos 5.1
Revised Budget FFY 1982		$61 125	
Direct UI Funding - R&A & Fiscal Budget for FFY 1982		$169,85	
Less Allocated Cut		44,758*	Eq Pos 1.3
Revised Budget FFY 1982		$125,095	
Total Reduction Administrative Services Division		$413,413*	Eq Pos 13.0

Employment Security Division		
Employment Service		
Budget FFY 1982	$6,730,923	
Less 80% of (12% Cut Less (A) $368,655)	1,203,005*	Eq Pos 42.95
Revised Budget FFY 1982	$5,527,918	
Additional Reduction necessary to fund Accrued Leave and delayed layoff	$196,063*	Eq Pos 7.00
Unemployment Insurance		
Budget FFY 1982	$8,872,513	
Less 20% of (12% Cut Less (A) $368,655)	300,752*	Eq Pos 10.41
Revised Budget FFY 1982	$8,571,761	
Additional Reduction necessary to fund Accrued Leave and delayed layoff	$144,340*	Eq Pos 5.0
Total Reduction ESD	$1,844,160*	Eq Pos 65.36
Labor Standards & Safety Division*		
UI Investigations		
Budget FFY 1982	$245,805	
Less Allocated Cut	110,612*	Eq Pos 3.0
Revised Budget FFY 1981	$135,193	
*Inter-Agency Transfer non add		
Grand Total all Cuts	$2,368,185	Eq Pos 78.36

The amount to be cut may vary slightly from program to program when the final allocation from ETA is received. But the adjustment will be minimal when related to the overall cut.

In the absence of additional federal funding we can only maintain the following offices with federal funds beyond July 1, 1982,

Anchorage
Fairbanks
Juneau
Kenai
Ketchikan

making it necessary to close twelve offices at that time and sharply reduce employment services in the above offices.

The attached exhibits reflect where the positions will be cut by section and local office.

Attachment

EMPLOYMENT SERVICE FUNDING SOURCES

	ES Grants FY 81	ES Grants 10/1/81	Reduction 10/1/81	State (9) Funded (mo)	Total FY 82	ES Grants 1/1/82	Reduction 1/1/82	Total Staff State/Fed 1/1/82
ES Mgmt & Tech	14.0	11.0	- 3.0	Ø	11.0	6.0	- 5.0	6.0
Data Processing	4.0	4.0	Ø	Ø	4.0	4.0	Ø	4.0
SE Reg. Mgr.	1.0	1.0	Ø	Ø	1.0	1.0	Ø	1.0
Juneau EC	13.0	10.0	- 3.0	2.0	12.0	5.0	- 5.0	7.0
Sitka EC	2.0	2.0	Ø	Ø	2.0	1.0	- 1.0	1.0
Petersburg EC	1.0	1.0	Ø	1.0	2.0	1.0	Ø	2.0
Ketchikan EC	10.0	8.5	- 1.5	1.0	9.5	4.5	- 4.0	5.5
Total SE Reg.	27.0	22.5	- 4.5	4.0	26.5	12.5	-10.0	16.5
Central Reg. Mgr.	6.0	3.7	- 2.3	Ø	3.7	1.7	- 2.0	1.7
Anchorage EC	52.2 *	45.5	- 6.7	7.0	52.5	30.3	-15.2	37.3
Mat-Su EC	5.5	5.0	- .5	Ø	5.0	1.0	- 4.0	1.0
Kenai EC	3.9	3.9	Ø	Ø	3.9	1.0	- 2.9	1.0
Kodiak EC	2.0	1.8	- .2	Ø	1.8	1.0	- .8	1.0
Seward EC	3.1	2.1	- 1.0	Ø	2.1	1.0	- 1.1	1.0
Bethel EC	.7	Ø	- .7	1.0	1.0	Ø	Ø	1.0
Dillingham EC	.6	Ø	- .6	1.0	1.0	Ø	Ø	1.0
Glennallen EC	.6	Ø	- .6	1.0	1.0	Ø	Ø	1.0
Homer Outreach	.7	Ø	- .7	1.0	1.0	Ø	Ø	1.0
Dutch Harbor	Ø	Ø	Ø	.8	.8	Ø	Ø	.8
ES Seafood	Ø			1.0	1.0	Ø		1.0
Total Cen. Reg.	75.3	62.0	-13.3	12.8	74.8	36.0	-26.0	48.8
Northern Reg. Mgr.	3.9	3.6	- .3	Ø	3.6	3.2	- .4	3.2
Fairbanks EC	18.4 *	17.1	- 1.3	1.8	18.9	8.3	- 8.8	10.1
Barrow EC	.6	Ø	- .6	1.0	1.0	Ø	Ø	1.0
Nome EC	1.0	Ø	1.0	1.0	1.0	Ø	Ø	1.0
Kotzebue EC	.5	Ø	- .5	1.0	1.0	Ø	Ø	1.0
Tok EC	.6	Ø	- .6	1.0	1.0	Ø	Ø	1.0
Total No. Reg.	25.0	20.7	- 4.3	5.8	26.5	11.5	-9.2	17.3
GRAND TOTAL	145.3	120.2	-25.1	22.6	142.8	70.0	-50.2	92.6

* Includes DVOP

UNEMPLOYMENT INSURANCE FUNDING SOURCES

	FY 81	10/1/81	Difference 10/1/81	State Funded	Total 1/1/82	1/1/82	Reduction 1/1/82	Total Staff 1/1/82
Fiscal	1.0	1.3	.3		1.3	1.0	- .3	1.0
LS&S	5.0	5.0		6.0	11.0	2.0	-3.0	8.0
A&C	33.7	36.6	2.9	2.0	38.6	31.6	-5.0	33.6
R&A	2.7	2.4	- .3		2.4	1.4	-1.0	1.4
Mgmt. Support	4.0	3.5	- .5		3.5	2.0	-1.5	2.0
Director's Office	.5	.5			.5	Ø	- .5	Ø
UI Tech Unit	7.4	7.3	- .1		.3	4.1	-3.2	4.1
SE Region	1.1	1.2	.1		1.2	1.1	- .1	1.1
Central Region	2.6	3.1	.5		3.1	2.6	- .5	2.6
Northern Region	1.0	1.3	.3		1.3	1.0	- .3	1.0
GRAND TOTAL	59.0	62.2	3.2	8.0	70.2	46.8	-15.4	54.8

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, GOVERNOR

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

RECEIVED
DEC 22 1981
OFFICE OF THE COMMISSIONER

December 17, 1981

M E M O R A N D U M

To: Honorable Jay S. Hammond
Governor

From: Wilson L. Condon
Attorney General

Re: Attached bill on consolidation of building regulation functions
Our file: J-77-031-82

Attached is a bill which will consolidate the primary building regulation functions, presently scattered among three departments, into the Department of Labor. This project has been a priority of the Regulatory Reform program in the Office of Special Projects and has been the subject of meetings including representatives from the Departments of Labor, Public Safety and Commerce and Economic Development. Such a consolidation is intended to assure that a single agency will be responsible to both public and professionals for plan review, technical assistance and inspections.

A draft transmittal letter to the legislature is also attached.

WLC:bap:KMK

cc w/enc.: Honorable Edmund N. Orbeck
Commissioner
Department of Labor

Honorable William Nix
Commissioner
Department of Public Safety

Honorable Charles Webber
Commissioner
Department of Commerce & Economic Development

DRAFT

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the consolidation of existing building regulation functions.

Various building inspection functions are currently housed in the Department of Public Safety, division of fire prevention (AS 18.70.010 -- 18.70.300 and AS 18.72.010 -- 18.72.060), and in the Department of Commerce and Economic Development (contractor licenses [AS 08.18.011 -- 08.18.171] and the Board of Electrical Examiners [AS 08.40.005 -- 08.40.200]). The bill would move these functions to the Department of Labor, which would also retain its jurisdiction over boiler and pressure vessel inspection; certificates of fitness for electricians and plumbers; refrigerator inspection; elevator inspection; the electrical code; the plumbing code; and safety glazing.

This bill is the result of consultation with the three departments affected. It is intended to assure that a single agency will be responsible to the public, industry, and local governments for existing state services for plan reviews, technical assistance, and inspections.

Sincerely,

Jay S. Hammond,
Governor

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to consolidation of building regulation functions."

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

* Section 1. AS 08.18.011 is amended to read:

Sec. 08.18.011. REGISTRATION REQUIRED. It is unlawful for a person to submit a bid or work as a contractor until he has been issued a certificate of registration by the Department of Labor [COMMERCE]. A partnership or joint venture shall be considered registered if one of the general partners or venturers whose name appears in the name under which the partnership or venture does business is registered.

* Sec. 2. AS 08.18.121(f) is amended to read:

(f) If the commissioner [OF LABOR] determines that a person is acting as a contractor in violation of this chapter, he shall give written notice prohibiting further action by the person as a contractor. The prohibition continues until the person has submitted evidence acceptable to the commissioner [OF LABOR] showing that the violation has been corrected.

* Sec. 3. AS 08.18.121(g) is amended to read:

(g) A person affected by an order issued under this chapter may seek equitable relief preventing the commissioner [OF LABOR] from enforcing the order.

* Sec. 4. AS 08.18.131 is amended to read:

Sec. 08.18.131. INJUNCTION. In an action instituted in the superior court by the commissioner [OF LABOR] or his representative, a

person acting in the capacity of a contractor in violation of this chapter may be enjoined from doing so.

* Sec. 5. AS 08.18.171(1) is amended to read:

(1) "commissioner" ["COMMISSIONER", UNLESS THE TEXT READS OTHERWISE,] means the commissioner of the Department of Labor [COMMERCE AND ECONOMIC DEVELOPMENT];

* Sec. 6. AS 08.18.171 is amended by adding a new paragraph to read:

(4) "department" means the Department of Labor.

* Sec. 7 AS 08.40.010 is amended to read:

Sec. 08.40.010. CREATION AND MEMBERSHIP OF BOARD. There is created in the Department of Labor a Board of Electrical Examiners consisting of three members, two of whom are licensed electrical administrators and one of whom is a public member. The public member of the board may not:

(1) be an electrical administrator;

(2) be associated by legal contract with an electrical administrator except as a consumer of the services provided by an electrical administrator; or

(3) have a direct financial interest in an electrical administration business.

* Sec. 8. AS 08.40.040 is amended to read:

Sec. 08.40.040. BOARD MEETINGS. The board shall hold a regular annual meeting. The board may hold special meetings at the call of the chairman with prior approval of the governor. Two members constitute a quorum. The board shall notify the department of its meeting dates at least 15 days before the meeting.

* Sec. 9. AS 18.40.200 is amended by adding a new paragraph to read:

(6) "department" means the Department of Labor.

* Sec. 10. AS 18.70.010 is amended to read:

Sec. 18.70.010. GENERAL FUNCTION OF DEPARTMENT OF LABOR [PUBLIC SAFETY] WITH RESPECT TO FIRE PROTECTION. The Department of Labor [PUBLIC SAFETY] shall foster, promote, regulate, and develop ways and means of protecting life and property against fire, explosion, and panic.

* Sec. 11. AS 18.70.020 is amended to read:

Sec. 18.70.020. DUTIES OF DEPARTMENT OF LABOR [PUBLIC SAFETY]. The Department of Labor [PUBLIC SAFETY] shall aid in the enforcement of all laws and ordinances and the rules and regulations adopted under AS 18.70.010 -- 18.70.100 and all other laws relating to fires or to fire prevention and protection, and shall encourage the adoption of fire prevention measures by means of education, and shall prepare or have prepared for dissemination information relating to the subject of fire prevention and extinguishment.

* Sec. 12. AS 18.70.030 is amended to read:

Sec. 18.70.030. INVESTIGATION OF FIRES RESULTING FROM CRIME. If there is reason to believe that a fire has resulted from crime or that crime has been committed in connection with a fire, the Department of Labor [PUBLIC SAFETY] shall report that fact in writing to the district attorney of the judicial district in which the fire occurred. If the fire occurred in an incorporated city with a regularly organized fire department, the investigation and report shall be made in conjunction with the fire official of that area.

* Sec. 13. AS 18.70.040 is amended to read:

Sec. 18.70.040. COOPERATION WITH FIRE INSURANCE COMPANIES. The Department of Labor [PUBLIC SAFETY] may assist, receive assistance from, and otherwise cooperate with an investigator or agent employed by a fire insurance company licensed to do business in the state, or with an investigator or agent employed by an association of insurance companies licensed to do business in the state.

* Sec. 14. AS 18.70.050 is amended to read:

Sec. 18.70.050. POWER OF DEPARTMENT TO INSPECT BUILDINGS. The Department of Labor [PUBLIC SAFETY] may enter any building subject to regulation under AS 18.70.080 during reasonable hours for the sole purpose of inspecting the property or abating a fire hazard.

* Sec. 15. AS 18.70.060 is amended to read:

Sec. 18.70.060. REMOVAL OF PROPERTY FROM FIRE. During a fire and in the absence of the owner or claimant, the Department of Labor [PUBLIC SAFETY] may protect personal property affected by removing it. If the owner or claimant does not take charge of the property within 24 hours the Department of Labor [PUBLIC SAFETY] may store it at the owner's or claimant's expense.

* Sec. 16. AS 18.70.070 is amended to read:

Sec. 18.70.070. ABATEMENT OF FIRE HAZARDS. The Department of Labor [PUBLIC SAFETY] may require the owner of a commercial business or public property to abate a fire hazard which exists in violation of law or regulations, and the Department of Labor [PUBLIC SAFETY] may take appropriate action to assure such abatement.

* Sec. 17. AS 18.70.080 is amended to read:

Sec. 18.70.080. REGULATIONS. The Department of Labor [PUBLIC SAFETY] shall adopt [RULES AND] regulations for the purpose of protecting life and property from fire and explosion by establishing minimum standards for

(1) fire detection and suppression equipment;

(2) fire and life safety criteria in commercial, industrial, business, institutional or other public building, and buildings used for residential purposes containing four or more dwelling units;

(3) any activity in which combustible or explosive materials are stored or handled in commercial quantities;

(4) conditions or activities carried on outside a building described in (2) or (3) of this section likely to cause injury to persons or property.

* Sec. 18. AS 18.70.081 is amended to read:

Sec. 18.70.081. APPROVAL OF FIRE PROTECTION SYSTEMS. Before October 30 of each year the Department of Labor [PUBLIC SAFETY] shall prepare and make available a list of approved fire protection systems to the Department of Community and Regional Affairs, the Department of Commerce and Economic Development, and the public.

* Sec. 19. AS 18.70.090 is amended to read:

Sec. 18.70.090. ENFORCEMENT OF REGULATIONS. The Department of Labor [PUBLIC SAFETY] and the chief of each city fire department and their authorized representatives in their respective areas may enforce the regulations adopted by the Department of Labor [PUBLIC SAFETY] for the prevention of fire or for the protection of life and property against fire or panic. All state peace officers may assist the Department of Labor [PUBLIC SAFETY] in the enforcement of AS 18.70.010 -- 18.70.100 and the regulations adopted under it. The authority conferred in AS 18.70.010 -- 18.70.100 extends to the enforcement of the provisions of AS 11.46.400 -- 11.46.430.

* Sec. 20. AS 18.70.100 is amended to read:

Sec. 18.70.100. VIOLATION. (a) A person who violates any provision of AS 18.70.010 -- 18.70.100 or the published [RULES AND] regulations or orders adopted under it from which no appeal has been taken within 30 days after the issuance of a final order is, severally, for each violation, guilty of a class B misdemeanor [, AND IS PUNISHABLE BY A FINE OF NOT MORE THAN $500, OR BY IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY BOTH]. A person aggrieved by a final order of the Department of Labor [PUBLIC SAFETY] may appeal to the superior court within 30

days after the issuance of the order. The imposition of one penalty f
a violation does not excuse the violation and a person guilty of a
violation shall correct the violation within a reasonable time. When
not otherwise specified, each 10 days that a prohibited condition is
maintained is a separate offense.

(b) The application of the penalty prescribed in (a) of this sec-
tion does not prevent the Department of Labor [PUBLIC SAFETY] from
enforcing the removal of the prohibited conditions.

* Sec. 21. AS 18.72.050(2) is amended to read:

(2) "fire safety code" means the fire safety code of the state adopted and administered by the [DIVISION OF FIRE PREVENTION OF THE] Department of Labor [PUBLIC SAFETY];

* Sec. 22. AS 08.01.010(7) is repealed.

Art Zellig

HOUSE LABOR & COMMERCE

Orbeck?

Commissioner, spoke of impact of federal budget cuts. Discussed employment security (090); remedies for budget shortages (132). job service functions (170). fresh negotiations (220). Rogers - question (245) about methods being used to cut back expenditures. (264) Zellig helped explain why add'l funds needed. (273) Orbeck predicted federal plans to cut job svc. (281) Rogers gets further re ESC & job svc; Zellig responded. (296) Martin questions about job placement to Zellig & Commissioner. (321) Martin gets about voucher system as alternative to job ~~system~~ Service.

1:20 Randolph

(337) Rogers & Martin discussed placement agencies. Rogers ~~pang~~ asked if closing Anc ofc & keeping bush ofcs open; (358) Zellig response; (370) Comm explained budget alternatives; (387) Rogers questioned if Kenai ofc wd be closed or not w/o add'l funds; (397) Martin asked how much needed to stay open 4th/April; (403) Rogers / Comm.; (415) Rogers - retro active budget cuts; (434 Zellig - ~~cut~~ dates of budget cuts; (433) Rogers recommended Wkg w/AG to consider file suit re retroactive cuts; (0442) Bylsma - what wd employers do if no JS - Zellig response. (452) Martin; (459) Rogers - fish processors labor probs (going outside) w/o job svc. (472) Comm - ofc expenses of bush offices. (481) Martin - do area residents now have good idea, now what employers to contact for seasonal employment.? (492) Rogers - too many applicants w/o screening svcs. (499) Randolph - ratio of svc cost per capita in smaller communities. (507) Rogers - ~~discussion~~ may be higher in rural comm., but may be otherwise filled by non-residents. (518) Zellig - report by Stanford Research ~~gp~~ found JS reduced unemp time. (532) Randolph - cost of JS & unemp rising. (537) Bylsma - why did placement in Bethel drop; Zellig - CETA cut. (546) ~~Rep~~ Comm. - fishing industry knew employers & bypassed JS. (552) Martin - do outside corps still "import" lge share of ~~Rep~~ emps fm Outside. (561) Comm & Zellig - many (on slope) Alaskans placed by JS

(567) Intro to Wkrs Comp; wkly wag average (589); (602) class action re lwr pymt to those outside state. (617) HB 659 may cover inequity. (621) Martin - bill scheduled for wk 1/25.

1:51 Bylsma left 1:52 ret'd

~~(627) Beall (Applause)~~ (635) Introduced Mr Clentsch. (637) Rogers - ~~if Div ~~can~~ hold to~~ impact if budget held at bottom line. (no growth). (650) Mr Clentsch - no impact if no new reqmts. (659) Comm - their posn is govs posn. (664) Martin - any posns open? (666) McC - most on board. Vacancy factor of 6 months after resignation. (673) Comm - easier to create new posn than fill existing posn. (683) Rogers - finance will cut some agencies - perhaps recommend abolishing Div. of Personnel. (690) Martin will take under advisement. (694) recap of mtgs ~~to~~ (704) Martin - 2/9 ~~(Beall)~~ sit in on mtg. (708) McC continued. discussed computer service & advantages. (745) McC - employer booklet. (750) Martin - what is wk load (753) McC - figures & explanation. (765) Bylsma questions (to clarify). (773) Rogers - will 1981 claims be added (775) McC - active claims wkld. (787) Martin asked total cost of 1981 claims settlements. (789) McC - can get that info from carriers. (791) Comm - comments & impact figures. (800) Martin - why are rates increasing? (804) Comm response & explanation. (810) Rogers - 75/76 changes in benefits & chang by Div of Ins to allow price fixing - may have caused up to 50% increase in costs.

ask her for cy ⇒ of agenda of mtgs coming up.

(826) Comm - overview of Labor Standards & Safety (858) Rogers asked name of person handling foundry ada for job placement (Don Williams). (871) Comm explained media campaign ~~to~~ Martin (876) Rogers - contacted print media? (877) Comm - yes. (890) Martin - noticed more out of state people looking for work (892) Comm - after 1st yr mailing, drop in unemp claims. (898) Rogers - comments (gas line many entries). (901) Comm - services affected.

(928) Labor Standards guy told impact on his staff & svcs if budget is not increased.

unidentified guy - George something?

Judy Knight

(951) unidentified woman told of vacancies; (952) LS & S guy elaborated. (958) Martin - question; (960) Comm response re executive order. Unid. guy (965) told how he'd use his staff more efficiently. Q & A various issues. (991) Comm & guy - OSHA budget.

John Post (996) Comm w/ John Post; (998) Post ~~reviews~~ described on admin svcs. (1009) Post described ~~reports~~ ~~gave status on~~ reports given to legis. last yr. Elaborated on reports - population info (1015); (1024) unemployment handbook; evaluation of Lower Yukon - Kuskokwim labr market (1034); (1045) gave estimate of budget impact if fndg not increased. (1066) Rogers asked zero-growth impact. (1067) Post - slower service, less financial, planning, & other info.

(1080) Rogers requested reports

(1083) Comm. noted ombudsman svc has improved.

(1085) Judy _____ - explained job seekers (fm Lower 48) & brochures printed w/job info for Alaska & use of brochures by various orgns (agencies) & individuals. (1115) 50% of people applying for service fm Lower 48. (1121) Rogers & Martin requested copy of study. (1122) Judy continued describing circulation of brochures & released. (1129) potential problem w/lack of funds; (1135) Rep Martin asked abt making use of news media; (1138) Judy explained what happened w/ PM magazine & other orgns, & probs dealing w/media. (1164) Martin - impact on emplt sec w/ JS cut? (1165) Judy explained impact. (1170) Comm. intd Glenn Lundell. (1175) Rogers asked abt resident hire. (1177) Lundell - problems still exist

(1190) Martin - constituents seem to think ~~&~~ union leaders giving jobs out of state. (1196) Comm. addressed this. (1215) Martin pursued question; (1219) Comm. suggested contacting unions. (1236) closing comments by Commissioner.

1-14-82
NAACP
AIDA
AHFC

ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

February 28, 1982

The Honorable Terry Martin
Chairman
House Labor and Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

RE: House Resolution No. 17

Dear Representative Martin:

Regarding the above-referred resolution, AIDA as a secondary investor has no information in its files concerning race or national origin of the borrowers. We refer you to the Federal Reserve System Equal Credit Opportunity Regulation B, Section 202.5(d)(5) which states:

> "A creditor shall not request the race, color, religion, or national origin of an applicant or any other person in connection with a credit transaction. A creditor may inquire, however, as to an applicant's permanent residence and immigration status."

Additionally, our records would not reflect the applications that are declined at the originating lender level and, therefore, never even come to our office for consideration.

For these reasons, we are making no fiscal note request for appropriation at this time. If we can further assist you in this matter, please advise.

Sincerely,

H.A. Hoffman
Executive Director

HAH:ZJ:ty

ENC: ECOA Reg. B, Section 202.5 (d)

1577 "C" STREET • SUITE 304 • ANCHORAGE, ALASKA 99501-5177 • (907) 274-1651

tising or otherwise, to applicants or prospective applicants that would discourage on a prohibited basis a reasonable person from making or pursuing an application.

(b) General rules concerning requests for information. (1) Except as otherwise provided in this section, a creditor may request any information in connection with an application.[4]

(2) Notwithstanding any other provision of this section, a creditor shall request an applicant's race/national origin, sex, and marital status as required in section 202.13 (information for monitoring purposes). In addition, a creditor may obtain such information as may be required by a regulation, order, or agreement issued by, or entered into with, a court or an enforcement agency (including the Attorney General or a similar State official) to monitor or enforce compliance with the Act, this Part, or other Federal or State statute or regulation.

(3) The provisions of this section limiting permissible information requests are subject to the provisions of section 202.7(e) regarding insurance and sections 202.8(c) and (d) regarding special purpose credit programs.

(c) Information about a spouse or former spouse. (1) Except as permitted in this subsection, a creditor may not request any information concerning the spouse or former spouse of an applicant.

(2) A creditor may request any information concerning an applicant's spouse (or former spouse under (v) below) that may be requested about the applicant if:

(i) the spouse will be permitted to use the account; or

(ii) the spouse will be contractually liable upon the account; or

(iii) the applicant is relying on the spouse's income as a basis for repayment of the credit requested; or

(iv) the applicant resides in a community property State or property upon which the applicant is relying as a basis for repayment of the credit requested is located in such a State; or

(v) the applicant is relying on alimony, child support, or separate maintenance payments from a spouse or former spouse as a basis for repayment of the credit requested.

(3) A creditor may request an applicant to list any account upon which the applicant is liable and to provide the name and address in which such account is carried. A creditor may also ask the names in which an applicant has previously received credit.

(d) Information a creditor may not request. (1) If an applicant applies for an individual, unsecured account, a creditor shall not request the applicant's marital status, unless the applicant resides in a community property State or property upon which the applicant is relying as a basis for repayment of the credit requested is located in such a State.[5] Where an application is for other than individual, unsecured credit, a creditor may request an applicant's marital status. Only the terms "married," "unmarried," and "separated" shall be used, and a creditor may explain that the category "unmarried" includes single, divorced, and widowed persons.

(2) A creditor shall not inquire whether any income stated in an application is derived from alimony, child support or separate maintenance payments, unless the creditor appropriately discloses to the applicant that such income need not be revealed if the applicant does not desire the creditor to consider such income in determining the applicant's creditworthiness. Since a general inquiry about income, without further specification, may lead an applicant to list alimony, child support, or separate maintenance payments, a creditor shall provide an appropriate notice to an applicant before inquiring about the source of an applicant's income, unless the terms of the inquiry (such as an inquiry about salary, wages, investment income, or similarly specified income) tend to preclude the unintentional disclosure of ali-

[4] This subsection is not intended to limit or abrogate any Federal or State law regarding privacy, privileged information, credit reporting limitations, or similar restrictions on obtainable information. Furthermore, permission to request information should not be confused with how it may be utilized, which is governed by section 202.6 (rules concerning evaluation of applications).

[5] This provision does not preclude requesting relevant information that may indirectly disclose marital status, such as asking about liability to pay alimony, child support, or separate maintenance; the source of income to be used as a basis for the repayment of the credit requested, which may disclose that it is a spouse's income; whether any obligation disclosed by the applicant has a co-obligor, which may disclose that the co-obligor is a spouse or former spouse; or the ownership of assets, which may disclose the interest of a spouse, when such assets are relied upon in extending the credit. Such inquiries are allowed by the general rule of subsection (b)(1).

mony, child support, or separate maintenance payments.

(3) A creditor shall not request the sex of an applicant. An applicant may be requested to designate a title on an application form (such as Ms., Miss, Mr., or Mrs.) if the form appropriately discloses that the designation of such a title is optional. An application form shall otherwise use only terms that are neutral as to sex.

(4) A creditor shall not request information about birth control practices, intentions concerning the bearing or rearing of children, or capability to bear children. This does not preclude a creditor from inquiring about the number and ages of an applicant's dependents or about dependent-related financial obligations or expenditures, provided such information is requested without regard to sex, marital status, or any other prohibited basis.

(5) A creditor shall not request the race, color, religion, or national origin of an applicant or any other person in connection with a credit transaction. A creditor may inquire, however, as to an applicant's permanent residence and immigration status.

(c) **Application forms.** A creditor need not use written applications. If a creditor chooses to use written forms, it may design its own,[6] use forms prepared by another person, or use the appropriate model application forms contained in Appendix B. If a creditor chooses to use an Appendix B form, it may change the form:

(1) by asking for additional information not prohibited by this section;

(2) by deleting any information request; or

(3) by rearranging the format without modifying the substance of the inquiries; provided that in each of these three instances the appropriate notices regarding the optional nature of courtesy titles, the option to disclose alimony, child support, or separate maintenance, and the limitation concerning marital status inquiries are included in the appropriate places if the items to which they relate appear on the creditor's form. If a creditor uses an appropriate Appendix B model form or to the extent that it modifies such a form in accordance with the provisions of clauses (2) or (3) of the preceding sentence or the instructions to Appendix B, that creditor shall be deemed to be acting in compliance with the provisions of subsections (c) and (d).

[6] A creditor also may continue to use any application form that complies with the requirements of the October 28, 1975 version of Regulation B until its present stock of those forms is exhausted or until March 23, 1978, whichever occurs first. The provisions of this Part shall not determine and are not evidence of the meaning of the requirements of the previous version of Regulation B.

SECTION 202.6—RULES CONCERNING EVALUATION OF APPLICATIONS

(a) **General rule concerning use of information.** Except as otherwise provided in the Act and this Part, a creditor may consider in evaluating an application any information that the creditor obtains, so long as the information is not used to discriminate against an applicant on a prohibited basis.[7]

(b) **Specific rules concerning use of information.** (1) Except as provided in the Act and this Part, a creditor shall not take a prohibited basis into account in any system of evaluating the creditworthiness of applicants.[8]

(2)(i) Except as permitted in this subsection, a creditor shall not take into account an applicant's age (provided that the applicant has the capacity to enter into a binding contract) or whether an applicant's income derives from any public assistance program.

(ii) In a demonstrably and statistically sound, empirically derived credit system, a creditor may use an applicant's age as a predictive variable, provided that the age of an elderly applicant is not assigned a negative factor or value.

(iii) In a judgmental system of evaluating creditworthiness, a creditor may consider an applicant's age or whether an applicant's income derives from any public assistance program only

[7] The legislative history of the Act indicates that the Congress intended an "effects test" concept, as outlined in the employment field by the Supreme Court in the cases of *Griggs* v. *Duke Power Co.*, 401 U.S. 424 (1971), and *Albemarle Paper Co.* v. *Moody*, 422 U.S. 405 (1975), to be applicable to a creditor's determination of creditworthiness. See Senate Report to accompany H.R. 6516, No. 94-589, pp. 4-5; House Report to accompany H.R. 6516, No. 94-210, p. 5.

[8] This provision does not prevent a creditor from considering the marital status of an applicant or the source of an applicant's income for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit and not to discriminate in a determination of creditworthiness. Furthermore, a prohibited basis may be considered in accordance with section 202.8 (special purpose credit programs).

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 14, 1982
1:10 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma
Rep. Gardiner
Rep. Randolph

Members Absent: Rep. Rogers

COMMITTEE CALENDAR

Teleconference to consider possible minority discrimination in the financial community.

WITNESS REGISTER

Senator Arliss Sturgulewski
Alaska State Senate
Pouch V
Juneau, Alaska 99811
465-3818
Position Statement: Sat in on committee hearing.

Louis Overstreet
Minority Business Assistance Center
street address not given
Anchorage, Alaska
phone not given
Position Statement: Spoke of problems minorities have getting funds.

Tom Stoner
self
4543 Lake Otis Pkwy., #112
Anchorage, Alaska
277-5882
Position Statement: Outlined his grievances with AHFC.

G.A. "Buzz" Hoffman
Alaska Industrial Development Authority
1577 C Street
Anchorage, Alaska
274-1651
Position Statement: Gave background on AIDA programs and minority statistics.

Harry F. Goldbar
Alaska Housing Finance Corporation
235 East 8th

Anchorage, Alaska
276-5599
Position Statement: Spoke about equal credit opportunity act and record-keeping.

Ed Wesley
National Association for the Advancement of Colored People (NAACP)
PO Box 405
Anchorage, Alaska 99510
274-4319
Position Statement: Gave brief history of need for this teleconference meeting.

Willie Ratcliff
Alaska Minority Task Force
835 Nelchina Avenue
Anchorage, Alaska
277-3733
Position Statement: Gave his position about funds being made available to black community.

Mary Afcan
NAACP Economic Development Committee
PO Box 405
Anchorage, Alaska 99510
274-4319
Position Statement: Spoke about AHFC and AIDA lending practices.

Future Rice
small businesswoman
325 West 6th Avenue
Anchorage, Alaska
276-1793
Position Statement: Spoke of her frustration.

Dean DeCloin
no affiliation given
address not given
Anchorage, Alaska
phone not given
Position Statement: Gave his views of use of minority statistics by lending institutions.

Phillip Pleasant
no affiliation given
address not given
Anchorage, Alaska
phone not given
Position Statement: Commented on worsening situation for blacks.

Willis Kirkpatrick, Executive Director
Division of Banking & Securities
Pouch D
Juneau, Alaska 99811

no phone given
Position Statement: Outlined function of division and explained system for bringing complaints.

Samuel Banks
NAACP
1679 23rd Avenue
Fairbanks, Alaska 99701
452-5614
Position Statement: Spoke of wanting a place in the "gap".

Barry Best
no affiliation given
no address given
Fairbanks, Alaska
no phone given
Position Statement: Asked to have legislation introduced to fund study of minorities' problems in financial community.

Pete W. Aiken
small businessman
1085 Steese Highway
Fairbanks, Alaska 99701
456-7523
Position Statement: Gave specifics of problems borrowing money from Alaska State Bank.

Adelheid Herrmann
Bering Sea Fisherman's Association
no address given
Dillingham, Alaska
no phone given
Position Statement: Went over difficulties with the Fisherman's Mortgage Note program.

Phil Moreno
self
General Delivery
Sitka, Alaska 99835
747-6720
Position Statement: Spoke of difficulty of obtaining housing loans.

Bill Morran, President
Alaska Bankers Association
no address given
Ketchikan, Alaska
no phone given
Position Statement: Spoke of recognizing the potential for discrimination and federal efforts to avoid this.

Jeff Senate, Development Coordinator
City of Saxman
no address given
Saxman, Alaska (through Ketchikan LTN)
no phone given
Position Statement: Suggestions for various programs.

Nora DeWitt, Clerk
City of Saxman
no address given
Saxman, Alaska
no phone given
Position Statement: Spoke of housing problems.

Mathilda Kushnik
self
no address given
Ketchikan, Alaska
no phone given
Position Statement: Commented on constitutional rights.

PREVIOUS ACTION

Not applicable.

ACTION NARRATIVE

Tape #001-002 Recording Number 1238	The meeting was called to order by Chairman Martin at 1:10 p.m. The committee schedule called for the consideration of possible minority discrimination in the financial community. No bills were before the committee; the purpose of the hearing was to encourage "clearing the air" between representatives of financial institutions and minorities.
Number 1273	ED WESLEY, of NAACP in Anchorage, gave a brief history of the need for this meeting.
Number 1294	HARRY GOLDBAR, of AHFC in Anchorage, spoke about equal credit opportunity act; notification of adverse action and maintenance of records; and the federal home mortgage disclosure act. Senator Sturgulewski questioned him about the disclosure act and EEO act.
Number 1348	BUZZ HOFFMAN, of AIDA in Anchorage, gave background on AIDA programs and how meetings

are noticed and held. He gave statistics on minority employment within AIDA. He gave an overview of authority and dispersal of funds. Senator Sturgulewski commended public outreach efforts of the program. Hoffman promised a breakdown of last year's loan activity would be provided to the legislature.

Number 1390 — BILL MORRAN, president of the Alaska Bankers Association, Ketchikan, spoke of recognizing the potential for discrimination and federal efforts to avoid this. He outlined compliance with regulations and recourse of individuals who feel they are discriminated against.

Number 1427 — WILLIS KIRKPATRICK, Executive Director of the State Division of Banking and Securities, outlined the function of his division, and explained the system for bringing complaints. He told what is looked for in joint examinations, and went over new FDIC program on discrimination. Chairman Martin asked who to contact with complaints, and Kirkpatrick gave this information, adding that complaints need to be expressed in writing.

Number 1525 — ADELHEID HERMANN, representing the Bering Sea Fisherman's Association, Dillingham, went over difficulties with the Fisherman's Mortgage Note program. She noted that the cost of entry into the market is too high.

Number 1563 — LOUIS OVERSTREET of the Alaska Minority Business Assistance Center in Anchorage spoke of problems minorities have getting funds. Senator Sturgulewski said she had attended an NAACP meeting wherein these problems had been discussed; she said that several agencies she had contacted had pointed out the need for specific information in order to deal with accusations of discrimination.

Number 1598 — ED WESLEY, of NAACP in Anchorage, spoke again to express his concern that lending agencies don't have data to prove they are not discriminating against minorities. He felt these institutions were discriminating, de facto. He said the system doesn't work, and that the State has a poor affirmative action program. Chairman Martin asked if a

voluntary effort by the black community in listing their race on loan forms could help provide data. Wesley said the burden should not have to be put on individual citizens when legislators have been informed of the problem.

Number 1639 — J.P. JONES, President, NAACP, Fairbanks, illustrated minority problems by describing difficulty in finding out from lending institutions precisely what information they needed to determine award of loans. He said the Governor had been requested to investigate whether discrimination existed, and that the Governor had found no cases of discrimination. Jones outlined recourse according to federal regulations.

Number 1665 — PETE AIKENS, a Fairbanks small businessman, claimed that most state loan officers were former bank officers. He gave specifics of his problems borrowing money from Alaska State Bank, saying it took over a year for him to get a loan. Chairman Martin asked, and Aikens responded to, questions about loan procedures and complaint follow-through.

Number 1714 — PHIL MORENO of Sitka said he found it hard to obtain housing loans.

Number 1743 — WILLIE RATCLIFF of the Alaska Minority Business Task Force, as well as candidate for State Senate, Anchorage, felt a portion of banks' loan funds should be allocated to the black community. Chairman Martin asked the possibility of the black community drawing up a plan they feel is fair addressing legislative funds. Ratcliff said the resources were not available for such a task, and that it was not their responsibility.

Number 1823 — MARY AFCAN, Economic Development Committee, NAACP, Anchorage, said that in the first month of AHFC lending, no home loans were made to blacks. She said that when AHFC found out that the bond market was concerned about bonds susceptible to attack, AHFC attitude changed, which change was communicated to the private market. AIDA is staffed by former bankers. She claimed attempts were made to take property away from blacks in order to ruin their economic

stability. Chairman Martin commented on this.

Number 089, Tape 2 — SAMUEL BANKS of NAACP in Fairbanks spoke of wanting a place in the "gap".

Number 0165 — BARRY BEST, Fairbanks, wants legislation introduced funding a study of minorities' problems in the financial community.

Number 0179 — JEFF SENATE, development coordinator for the City of Saxman, suggested a look at national participants' programs to develop citizens participations rights policy for the state. He made suggestions for community development programs, loan programs, and local housing authority.

Number 0310 — NORA DEWITT, Clerk for the City of Saxman, noted their community has a large native population. She said the area is losing a large part of their youth population due to lack of housing. She said the community is being denied funds because of a road to Ketchikan.

Number 0358 — FUTURE RICE, a small businesswoman from Anchorage, said she felt frustrated, and did not think Wesley responded to the problem, but instead addressed procedures.

Number 0396 — TOM STONER, Anchorage, outlined his grievances with AHFC.

Number 0476 — DEAN DECLOIN of Anchorage commented on agencies with the potential to provide information who don't do so. He said agencies should be required to collect and use minority information. He expressed support of lending programs.

Number 0585 — PHILLIP PLEASANT, Anchorage, commented on the worsening situation for blacks.

Number 0610 — MATHILDA KUSHNIK, Ketchikan, commented on constitutional rights.

Number 0655 — BUZZ HOFFMAN, AIDA, Anchorage, once again outlined his agency's outreach programs.

Number 0687 — HARRY GOLDBAR, AHFC, Anchorage, spoke regarding statistics on loan applicants.

Number 0725 — There being no further testimony, and no

further items to come before the committee at this time, Chairman Martin adjourned the meeting at 3:23 p.m.

!mHLC!x
January 14, 1982
1:10 p.m.

!mMP1!xRep. Martin, Chairman
!mMP2!xRep. Bylsma
!mMP2!xRep. Gardiner
!mMP2!xRep. Randolph

!mMA1!xRep. Rogers

!mCAL!x
Teleconference to consider possible minority discrimination in the financial community.

!mREG!x
!mWI!xSenator Arliss Sturgulewski
Alaska State Senate
Pouch V
Juneau, Alaska 99811
465-3818
!mPS!xSat in on committee hearing.

!mWI!xWalt Furnace
Alaska Business Development Center

street address not given
Anchorage, Alaska
phone not given
!mPS!xDid not testify

!mWI!xLouis Overstreet
Minority Business Assistance Center
street address not given
Anchorage, Alaska
phone not given
!mPS!xSpoke of problems minorities have getting funds.

!mWI!xTom Stoner
self
4543 Lake Otis Pkwy., #112
Anchorage, Alaska
277-5882
!mPS!xOutlined his grievances with AHFC.

!mWI!xG.A. "Buzz" Hoffman
Alaska Industrial Development Authority
1577 C Street
Anchorage, Alaska
274-1651
!mPS!xGave background on AIDA programs and minority statistics.

!mWI!xHarry F. Goldbar
Alaska Housing Finance Corporation
235 East 8th
Anchorage, Alaska
276-5599
!mPS!xSpoke about equal credit opportunity act and record-keeping.

!mWI!xLeRoy Roth
Alaska Housing Finance Corporation
235 East 8th
Anchorage, Alaska
276-5599
!mPS!xDid not testify.

!mWI!xEd Wesley
National Association for the Advancement of Colored People (NAACP)
PO Box 405
Anchorage, Alaska 99510
274-4319
!mPS!xGave brief history for need for this teleconference meeting.

!mWI!xWillie Ratcliff
Alaska Minority Task Force
835 Nelchina Avenue
Anchorage, Alaska
277-3733

!mPS!xGave his position about funds being made available to black community.

!mWI!xMary Afcan
NAACP Economic Development Committee
PO Box 405
Anchorage, Alaska 99510
274-4319
!mPS!xSpoke about AHFC and AIDA lending practices.

!mWI!xWayne Williams
Alaska Industrial Development Authority
1577 C Street
Anchorage, Alaska
274-1651
!mPS!xDid not testify.

!mWI!xDon Divens
self
5710 Radcliffe Drive
Anchorage, Alaska
333-0401
!mPS!xDid not testify.

!mWI!xLarry D. Card
self

831 1/2 West 4th
Anchorage, Alaska
276-2777
!mPS!xDid not testify.

!mWI!xLinton L. Hawkins
828 East 13th Street
Anchorage, Alaska 99501
279-2251
!mPS!xDid not testify.

!mWI!xFuture Rice
small businesswoman
325 West 6th Avenue
Anchorage, Alaska
276-1793
!mPS!xSpoke of her frustration.

!mWI!xAlton Malva
self
325 West 6th Avenue
Anchorage, Alaska
276-1793
!mPS!xDid not testify.

!mWI!xDean DeCloin

none given
address not given
Anchorage, Alaska
phone not given
!mPS!xGave his views of use of minority statistics by lending institutions.

!mWI!xPhillip Pleasant
none given
address not given
Anchorage, Alaska
phone not given
!mPS!xCommented on worsening situation for blacks.

!mWI!xJulie Wroe
206 N Franklin ← affiliation
Juneau, Alaska 99801
586-1300
!mPS!xDid not testify

!mWI!xDarral Ezee
no affiliation given
no address given
Anchorage, Alaska
no phone given
!mPS!xDid not testify.

!mWI!xF. Watson
no affiliation given
no address given
Anchorage, Alaska
no phone given
!mPS!xDid not testify

!mWI!xMurray Jones
no affiliation given
no address given
Anchorage, Alaska
no phone given
!mPS!xDid not testify.

!mWI!xDan Golden
no affiliation given
no address given
Anchorage, Alaska
no phone given
!mPS!xDid not testify.

!mWI!xJames Titus
no affiliation given
no address given
Anchorage, Alaska
no phone given

!mPS!xDid not testify.

!mWI!xFrank Austin
no affiliation given
no address given
Anchorage, Alaska
no phone given
!mPS!xDid not testify.

!mWI!xChuck Ferrell
no affiliation given
no address given
Anchorage, Alaska
no phone given
!mPS!xDid not testify.

!mWI!xKenneth Parker
no affiliation given
no address given
Anchorage, Alaska
no phone given
!mPS!xDid not testify.

!mWI!xCharles Hudson
no affiliation given
no address given
Anchorage, Alaska
no phone given
!mPS!xDid not testify.

!mWI!xDennis Kirkpatrick, Executive Director
Division of Banking & Securities
Pouch D
Juneau, Alaska 99811
no phone given
!mPS!xOutlined function of division and explained system for bringing complaints.

!mWI!xTom Lunk
Division of Banking & Securities
Pouch D
Juneau, Alaska 99811
465-2521
!mPS!xDid not testify.

!mWI!xCharlene Ortiz
Senator Stimson
Pouch V
Juneau, Alaska 99811
465-3713
!mPS!xDid not testify.

Representative Gardiner
Pouch V
Juneau, Alaska 99811
465-4944
!mPS!xDid not testify.

!mWI!xCarl Nelson
House Banking Committee
Pouch V
Juneau, Alaska 99811
465-4937
!mPS!xDid not testify.

!mWI!xLee Coffman
AIDA
311 N Franklin Street
Juneau, Alaska 99801
586-1015
!mPS!xDid not testify.

Karen Perdue
Lieutenant Governor
2731 David Street
Juneau, Alaska 99801
465-3520

!mPS!xDid not testify.

!mWI!xLois Cook
Commerce & Economic Development
Pouch D
Juneau, Alaska 99811
465-2505
!mPS!xDid not testify.

!mWI!xEd Ehoch
Commerce & Economic Development
Pouch D
Juneau, Alaska 99811
465-2500
!mPS!xDid not testify.

!mWI!xCarolyn Covington
Matanuska Valley Federal Credit Union
SRD Box 9340
Palmer, Alaska 99645
745-3365
!mPS!xDid not testify.

!mWI!xDona Corey
none given
SRB Box 7364

Palmer, Alaska 99645
745-4614
!mPS!xDid not testify.

!mWI!xLinda Foster
Valley Women's Resource Center
General Delivery
Wasilla, Alaska 99687
376-4080
!mPS!xDid not testify.

!mWI!xSamuel Banks
NAACP
1679 23rd Avenue
Fairbanks, Alaska 99701
452-5614
!mPS!xSpoke of wanting a place in the "gap".

!mWI!xCathi Carr-Lundfelt
State Human Rights Commission
no address given
Fairbanks, Alaska
no phone given
!mPS!xDid not testify.

!mWI!xBarry Best
no affiliation given
no address given
Fairbanks, Alaska
no phone given
!mPS!xAsked to have legislation introduced to fund study of minorities' problems in financial community.

!mWI!xPete W. Aiken
small businessman
1085 Steese Highway
Fairbanks, Alaska 99701
456-7523
!mPS!xGave specifics of problems borrowing money from Alaska State Bank.

!mWI!xJoe Marshall
no affiliation given
Box 2053
Fairbanks, Alaska 99707
452-6110
!mPS!xDid not testify.

!mWI!xClarence Thomas
no affiliation given
833 23rd Street
Fairbanks, Alaska 99701
452-1380

!mPS!xDid not testify.

!mWI!xAdelheid Herrmann
Bering Sea Fisherman's Association
no address given
Dillingham, Alaska
no phone given
!mPS!xWent over difficulties with the Fisherman's Mortgage Note program.

!mWI!xMargaret Curry, Manager
Alaska Federal Savings & Loan
no address given
Sitka, Alaska
no phone given
!mPS!xDid not tetify.

!mWI!xPhil Morenc
self
General Delivery
Sitka, Alaska 99835
747-6720
!mPS!xSpoke of difficulty of obtaining housing loans.

!mWI!xDorcas Maupin
self
Box 161

Barrow, Alaska
no phone given
!mPS!xDid not testify.

!mWI!xDixie Figgins
self
Box 650
Barrow, Alaska
no phone given
!mPS!xDid not testify.

!mWI!xLarry McDowell
United Bank of Alaska
PO Box 884
Bethel, Alaska 99559
no phone given
!mPS!xDid not testify.

!mWI!xPaul Knight
First National Bank of Anchorage
PO Box 286
Bethel, Alaska 99559
no phone given
!mPS!xDid not testify.

!mWI!xBill Morran, President

Alaska Bankers Association
no address given
Ketchikan, Alaska
no phone given
!mPS!xSpoke of recognizing the potential for discrimination and federal efforts to avoid this.

!mWI!xJeff Senate, Development Coordinator
City of Saxman
no address given
Saxman, Alaska (through Ketchikan LTN)
no phone given
!mPS!xSuggestions for various programs.

!mWI!xNora DeWitt, Clerk
City of Saxman
no address given
Saxman, Alaska
no phone given
!mPS!xSpoke of housing problems.

Mathilda Kushnik
self
no address given
Ketchikan, Alaska
no phone given

!mPS!xCommented on constitutional rights.

!mPA!x
Not applicable.

!mAN x
Tape #001-002
Recording
!mPAR1!x
Number 1238 The meeting was called to order by Chairman Martin at 1:10 p.m. The committee schedule called for the consideration of possible minority discrimination in the financial community. No bills were before the committee; the purpose of the hearing was to encourage "clearing the air" between representatives of financial institutions and minorities.

Number 1273 ED WESLEY, of NAACP in Anchorage, gave a brief history of the need for this meeting.

Number 1294 HARRY GOLDBAR, of AHFC in Anchorage, spoke about equal credit opportunity act; notification of adverse action and maintenance of records; and the federal home mortgage disclosure act. Senator Sturgulewski questioned him about the disclosure act and EEO act.

Number 1348 BUZZ HOFFMAN, of AIDA in Anchorage, gave background on AIDA programs and how meetings are noticed and held. He gave statistics on minority employment within AIDA. He gave an overview of authority and

dispersal of funds. Senator Sturgulewski commended public outreach efforts of the program. Hoffman promised a breakdown of last year's loan activity would be provided to the legislature.

Number 1390 BILL MORRAN, president of the Alaska Bankers Association, Ketchikan, spoke of recognizing the potential for discrimination and federal efforts to avoid this. He outlined compliance with regulationsk and recourse of individuals who feel they are discriminated against.

Number 1427 WILLIS KIRKPATRICK, Executive Director of the State Division of Banking and Securities, outlined the function of his division, and explained the system for bringing complaints. He told what is looked for in joint examinations, and went over new FDIC program on discrimination. Chairman Martin asked who to contact with complaints, and Kirkpatrick gave this information, adding that complaints need to be expressed on writing.

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Number 1639 J.P. JONES, President, NAACP, Fairbanks, illustrated minority problems by describing difficulty in finding out from lending institutions precisely what information they needed to determine award of loans. He said the Governor had been requested to investigate whether discrimination existed, and that the Governor had found no cases of discrimination. Jones outlined recourse according to federal regulations.

Number 1665 PETE AIKENS, a Fairbanks small businessman, claimed that most state loan officers were former bank officers. He gave specifics of his problems borrowing money from Alaska State Bank, saying it took over a year for him to get a loan. Chairman Martin asked, and Aikens responded to, questions about loan procedures and complaint follow-through.

Number 1719 PHIL MORENO of Sitka said he found it hard to obtain housing loans.

Number 1743 WILLIE RATCLIFF of the Alaska Minority Business Task Force, as well as candidate for State Senate, anchorage, felt a portion of banks' loan funds should be allocated to the black community. Chairman Martin asked the possibility of the black community drawing up a plan they feel is fair addressing legislative funds. Ratcliff said the resources were not available for such a task, and that it was not their responsibility.

Number 1823 MARY AFCAN, Economic Development Committee, NAACP, Anchorage, said that in the first month of AHFC lending, no home loans were made to blacks. She said that when AHFC found out that the bond market was concerned about bonds susceptible to attack, AHFC attitude changed, which change wa communicated to t' e private market. AIDA is staffed by former bankers. She claimed attempts were made to take property away from blacks in order to ruin their economic stability. Chairman Martin commented on this.

Number 089, Tape 2 SAMUEL BANKS of NAACP in Fairbanks spoke of wanting a place in the "gap".

Number 0165 BARRY BESS, Fairbanks, wants legislation introduced funding a study of minorities' problems in the financial community.

Number 0179 JEFF SENATE, development coordinator for the Citv of Saxman, suggested a look at national participants' programs to develop citizens participations rights policy for the state. He made suggestions for community development programs, loan programs, and local housing authority.

Number 0310 NORA DEWITT, Clerk for the City of Saxman, noted their community has a large native population. She said the area is losing a large part of their youth population due to lack of housing. She said the community is being denied funds because of a road to Ketchikan.

Number 0358 FUTURE RICE, a small businesswoman from Anchroage, said she felt frustrated, and did not think Wesley responded to the problem, but instead addressed procedures.

Number 0396 TOM STONER, Anchorage, outlined his grievances with AHFC.

Number 0476 DEAN DECLOIN of Anchorage commented on agencies with the potential to provide information who don't dc so. He said agencies should be required to collect and use minority information. He expressed support of lending programs.

Number 0585 PHILLIP PLEASANT, Anchorage, commented on the worsening situation for blacks.

Number 0610 MATILDA KOSHNIR, Ketchikan, commented on constitutional rights.

Number 0655 BUZZ HOFFMAN, AIDA, Anchorage, once again outlined his agency's outreach programs.

Number 0687 HARRY GOLDBAR, AHFC, Anchorage, spoke regarding statistics on loan appl_cants.

Number 0725 There being no further testimony, and no further items to come before the committee at this time, Chairman Martin adjourned the meeting at 3:23 p.m.
!mEND!x

COMMITTEE MINUTES
COMMITTEE: House Labor & Commerce
HEARING DATE: January 14, 1982
TAPE NO. 1 and 2, sides A

The meeting was called to order by Chairman Martin at 1:10 pm in the House Labor & Commerce committee room, Behrends Building, Juneau, Alaska. Committee members present in addition to the Chairman were Representatives Bylsma, Randolph, and Gardiner. Representative Rogers was absent. Committee staff in attendance were Jeff Barry, Mary Isaacs, and Joan Mathews. Also attending was Senator Arliss Sturgulewski; both she and Representative Randolph left approximately one-half hour into the teleconferenced meeting. Meeting was teleconferenced statewide.

The committee schedule called for the consideration of possible minority discrimination in the financial community. No bills were before the committee; purpose of the hearing was to encourage "clearing the air" between representatives of financial institutions and minorities.

First to testify was Ed Wesley, of NAACP in Anchorage (meter no. 1273). He gave a brief history of the need for this meeting.

Harry Goldbar of Anchorage (meter no. 1294) spoke about equal credit opportunity act; notification of adverse action (meter no. 1322) and maintenance of records; and the federal home mortgage disclosure act (meter no. 1327). Senator Sturgulewski questioned him (meter no. 1337) about the disclosure act and EEO act.

Buzz Hoffman of AIDA in Anchorage (meter no. 1348) gave background on AIDA programs and how meetings are noticed and held. He gave statistics (meter no. 1359) on minority employment within AIDA. He gave an overview (meter no. 1369) of authority and dispersal of funds. Senator Sturgulewski (meter no. 1374) commended public outreach efforts of the program. Mr. Hoffman (meter no. 1383) promised a breakdown about last year's loan activity would be provided to the legislature.

Bill Morran of Ketchikan, president of the Alaska Bankers Association (meter no. 1390) spoke of recognizing the potential for discrimination and federal efforts to avoid this. He outlined (meter no. 1405) compliance with regulations, and (meter no. 1409) recourse of individuals who feel they are discriminated against.

Willis Kirkpatrick, Executive Director of the State Division of Banking and Securities (meter no. 1427), outlined the function of his division, and explained the system for bringing complaints. He told (meter no. 1486) what is looked for in joint examinations, and went over (meter no. 1492) new FDIC program on discrimination. Chairman Martin (meter no. 1503) asked who to contact with complaints, and Kirkpatrick gave his information, adding (meter no. 1513) the complaints need to be expressed in writing.

Adelheid Herman of Dillingham, representing Bering Sea Fisherman's Association, (meter no. 1525) went over difficulties with the Fisherman's Mortgage Note program. She noted that the cost of entry into the market is too high.

Louis Overstreet of the Alaska Minority Business Assistance Center in Anchorage (meter no. 1563), spoke of problems minorities have getting funds. Senator Sturgulewski (meter no. 1584) said she had attended an NAACP meeting wherein these problems had been discussed; said that several agencies she had contacted had pointed out the need for specific information in order to deal with accusations of discrimination.

Ed Wesley of NAACP in Anchorage (meter no. 1598) spoke again to express his concern that lending agencies don't have data to prove they are not discriminating against minorities. He felt these institutions were discriminating, de facto. He said the system doesn't work, and that the State has a poor affirmative action program. Chairman Martin (meter no. 1621) asked if a voluntary effort by the black community in listing their race on loan forms could help provide data. Wesley (meter no. 1630) said the burden should not have to be put on individual citizens when legislators have been informed of the problem.

J.P. Jones, President of NAACP, Fairbanks (meter no. 1639), illustrated minority problems by describing difficulty in finding out from lending institutions precisely what information they needed to determine award of loans. He said the Governor had been requested to investigate whether discrimination existed, and that the Governor had found no cases of discrimination. Jones outlined recourse according to federal regulations (meter no. 1662).

Pete Aikens, a Fairbanks small businessman (meter no. 1665), claimed that most state loan officers were former bank officers. He gave specifics (meter no. 1680) of his problems borrowing money from Alaska State Bank, saying it took over a year for him to get a loan. Chairman Martin asked (meter no. 1698), and Aikens responded to (meter no. 1707), questions about loan procedures and complaint follow-through.

Phil Moreno of Sitka (meter no. 1714), said he found it hard to obtain housing loans.

Willie Radcliff of the Alaska Minority Business Task Force (meter no. 1743) as well as candidate for State Senate, Anchorage, felt a portion of banks' loan funds should be allocated to the black community. Chairman Martin (meter no. 1808) asked the possibility of the black community drawing up a plan they feel is fair addressing legislative funds. Radcliff (meter no. 1815) said the resources were not available for such a task, and that it was not their responsibility.

Mary Afcan of NAACP Economic Development, Anchorage (meter no. 1823), said that in the first month of AHFC lending, no home loans were made to blacks. She said that when AHFC found out that the bond market was concerned about bonds susceptible to attack, AHFC attitude changed, which change was communicated to the private market. AIDA is staffed by former bankers. She claimed (Tape 2, meter no. 056) attempts were made to take property away from blacks in order to ruin their economic stability. Chairman Martin (meter no. 083) commented on this.

Samuel Banks of NAACP in Fairbanks (meter no. 089) spoke of wanting a place in the "gap".

Barry Bess, Fairbanks (meter no. 165), wants legislation introduced funding study of minorities' problems in financial community.

Jeff Senate, development coordinator for the City of Saxman (meter no. 179), suggested look at national participants' programs to develop citizens participation rights policy for the state. He made suggestions for community development programs, loan programs, and local housing authority.

Nora DeWitt, Clerk for the City of Saxman (meter no. 310), noted their community has a large native population. She said the area is losing a large part of their youth population due to lack of housing. She said the community is being denied funds because of a road to Ketchikan.

Future Rice, a small businesswoman from Anchorage (meter no. 358), said she felt frustrated, and did not think Wesley responded to the problem, but instead addressed procedures.

Tom Stoner, Anchorage (meter no. 396), outlined his grievances with AHFC.

Dean DeCloin of Anchorage (meter no. 476), commented on agencies with the potential to provide information who don't do so. He said (meter no. 524) agencies should be required to collect and use minority information. He expressed support of lending programs.

Phillip Pleasant, Anchorage (meter no. 585), commented on the worsening situation for blacks.

Mathilda Kushmik, Ketchikan, commented on constitutional rights (meter no. 610).

Buzz Hoffman, AIDA, Anchorage (meter no. 687), once again outlined his agency's outreach programs.

Harry Goldbar, Anchorage (meter no. 687), spoke regarding statistics on loan applicants.

There being no further testimony, and no further items to come before the committee at this time, Chairman Martin adjourned the meeting at 3:23 p.m.

MINUTES READ AND APPROVED:

_____
Representative Terry Martin, Chairman

MINORITY Compliance -Re: BUSINESS LOANS JOBS

STATEWIDE Telecommunication

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Julie Wree	206 N Franklin 99801	Juneau Credit Assoc.	NO	586-1300
Willis Kirkpatrick		Div Banking & Securities		
Tom Lusk		Div. Banking & Sec		465-2521
Charline Ortiz		Senator Stinson		465-3713
denise Zachary		Gardiner	do	
Carol Morgan		House Rnking Comm		465-4937
Lee Coffman	311 N. Franklin St, Juno	AIDA	NO	586-1015
Arlene Stanglick				
Karen Rehfeld	2731 David St Juneau	Lt Governor	NO	465-3520
Lon Cook	Pouch D Juneau	Commerce & Ec Dev	No	465-2505
Ed Ebert	Pouch D Juneau	Commerce & Ec Dev	NO	465-2500

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 1/14/82

MINORITY
BUSINESS ASSISTANCE CENTER

BUSINESS OFFICE:
836 E. 15th Ave., Suites 3 & 4
Anchorage, Alaska 99501
Phone: 907-274-3689/3680

MAILING ADDRESS:
P.O. Box 3315
Anchorage, Alaska 99510

January 28, 1982

Representative Terry Martin
Chairperson
Labor and Commerce Committee
Pouch V
Juneau, AK 99811

Senator Arliss Strugulewski
Chairperson
Legislative Budget and
Audit Committee
Pouch V
Juneau, AK 99811

Dear Legislators

In follow up to our teleconference testimony regarding the precieved inequities in Alaska State Loan Programs and Commercial lending practices toward minorities, we have researched and will make available to our clients the "Equal Credit Opportunity" policy of several Anchorage banks.

These policies are taken directly from Federal requirements. Thus far we have not been able to ascertian the various entities levels of effort to address the perceptions that inequities exist. A part of the problem is one of communications, or the lack there of. As a legislator, you may choose to informally bring to the attention of state loan program administrators, bank officals and lending officers the need for increased sensitivity in this area.

While our primary charge is to provide technical (estimating, bidding) assistance our office is willing to provide any support they may be requested from the Alaska Business Development Center, whose primary charge is one of providing financial planning assistance in the preparation of loan request packages. Further we will continue to research the issue and advise our clients to request information on lending policies whenever they apply for loans.

We will keep you advised of further developments or responses as they come to our office. If our office may be of further assistance to you on this issue, please do not hesitate to call.

Sincerely,

E. Louis Overstreet

KTW

cc: Walt Furnace, ABDC

COMMITTEE TAPE LOG 1982

tape no. /

committee: HOUSE LABOR & COMMERCE date 1/14/82 to

bill numbers:

other information: Senator Arliss Sturgelewski attending first portion of meeting
TELECONFERENCE re minority discrimination in financial community
Rep. Rogers Absent

Date/ Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
1/14/82	1038		START
1:10 pm	1040		Call to order by Chairman Martin
	1062 (73)		Ed Wesley, Anc - NAACP - background
	1094		Harry Goldbar, Anc - deferred to
	1300		
	1367		Arliss Sturgelewski - questions re acts
	1348		~~Wayne Kubitzeus~~ Buz Hoffman, Anc - AIDA
	1374		Sen Sturgelewski - commended publicity effort
	1390		Bill Moran, president Ak. Bankers Institution (Ktn) - regulation compliance
	1407		Willis Kirkpatrick, Exec. Dir., State Div. of Banking & Securities - function of division
	1457-1476		problems w/teleconf. system; Kirkpatrick resumed ~~proceeded~~ testimony
	1503		Ch. Martin - who shd one express complaint to?
	1505		Kirkpatrick - response
	1525		Adelheid Hermann, Dillingham - Bering Sea Fisherman's Assoc. - re fisherman's Mortgage Note Program
	1557-1563		dead air
	1563		Louis Overstreet - Ak. Minority Business Assistance Cntr - minority problems
	1584		Sen. Sturgelewski - need for specifics
	1598		Ed Wesley - clarify point that discrimination exists
	1621		Ch. Martin - response & questions
	1630		Wesley - response
	1639		J.P. Jones - Fairbanks ~~Pete A~~ Pres. NAACP - specific probs blacks have getting loans
	1665		Pete Aikens - small businessman - difficulties getting loans
	1698-1707		Martin/Aikens Q & A
	1714		Phil Moreno, Sitka - housing problems
	1734		Mat-Su - no testimony

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 1/14/82 Place: L & C Committee Room

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		10:57	3:23
Rep. D. Randolph	✓		1:30	2:
Rep. B. Rogers		✓		
Rep. T. Gardiner	✓		11:10	3:03
Rep. T. Martin, Chair	✓		10:50	3:23

Subject Matter: minority discrimination in financial community

House Bill No. _____ _____ _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

Good Morning to our Alaskans in the North
and " Afternoon " " " " South AK.

Present at Juneau for hearing are

The purpose for this hearing is to address
the concerns expressed by minority members
of our State in access and opportunity
of participation in the economic ~~[illegible]~~ structure of Alaska.

I would like to begin with Mr.
Edward Westley from Anchorage since he
and the group he represents first
brought to our attention the grievances we are all concerned about.

After Mr. Westley speaks
I feel it best to have Goldbar +
speak

Mr. Williams speaks.

AHFC
LeRoy ?

Loans have negative impact on minority
house of last 5 yrs
Race etc. is a voluntary input of Home
seek. Home mortgage Disclosure Act.
30 day notification of action on receipt
of mortgage request if adverse.

Rapid infa

Hoffman - A.I.D.A.
much public S.B.A.
15% black
20% Native
Fed. law prohibits asking
volunteer infor

[Catal 22]

Pin. Bill Morrow - Ket.

problems go to - Stat 465-2521

Deb Randolph - Feb.
quickest means to express complaints.

Wesley - discrimination by defacto.
not having information available

Mr. J. P. Jones - 30yrs - NAACP -

1) Blacks 4% of adult population,

Mr. Willie Rateliff 30yrs - 10 children?

Mary Afcan

good suggestion + possible solution.

* → No conformity loans in rural areas -
Rights to own a home, business, etc.
Consumer advocate on boards of Banks.

Allocations to minority groups
challenge
↑ Plan to meet this of -

Mary Afcan - White person with N.A.A.C.P.
AHFC no home loans to Blacks
* Statistics - public information.
AIDA - most loan officers are former
walk in another shop.
* empathy for others
Housing loans are easier than business loans
due to competitive factor.

Ketchican

1) over all sistamation discrimination.
Smeltkart loans of S.B.A.
Village Saeman discrimination by community

You really already [illegible] in some concepts.

3) Neighborhood development programs and Corp.
5) Community Stock Corp.

Nora DeWitt

Mrs Finture Rico - 2 days - small
ASHF comments
Admit there is a problem first!?
Meetings after meetings is no good
world

Tom Stoner - AHF

Secondary lenders should have ability to get necessary information from primary lenders to make
Banks should be required to collect necessary information.

Ketchika - Constitutional rights

Did his Brownlee on isolation

Mr Hoffman - AFDA -
CD Regional Affairs - non-conformity laws

Mr. Seldon I do Rep - class

* Condo. project. location problem

Alaska State Legislature

House of Representatives

LABOR & COMMERCE COMMITTEE

Pouch V
State Capitol
Juneau, Alaska 99811
465-3783/3784

Official Business

Contact: Joan Mathews
Committee Secretary

January 8, 1982

FOR IMMEDIATE RELEASE

MINORITIES TO AIR FRUSTRATION WITH LOAN PROGRAMS

Concerned minorities and women who feel they are being denied access to or participation in the economic community are invited to testify before the House Labor & Commerce Committee. A statewide teleconference will be held by the Committee on Thursday, January 14, at 1 PM Juneau time. Representatives of Alaska Housing Finance Corporation (AHFC), Alaska Industrial Development Authority (AIDA), banking institutions, and several minority groups will be present to testify.

Anchorage Republican Terry Martin, state representative for House District 8 will chair the hearing. Representative Martin participated in a meeting of the National Association for the Advancement of Colored People at Anchorage in mid-December, where members expressed concerns and grievances about not having equal access to the economic community in Alaska. Representative Martin stressed, "This hearing is aimed at clearing the air between minorities and financial institutions. No legislation has been introduced at this time. I intend for the Committee to act as a sounding board for those who have grievances to express." Martin's district includes the significant minority population in the Muldoon and Mountain View areas of Anchorage.

More...

Public participation is invited by the Committee. For more information, contact Labor & Commerce Chairman Terry Martin in Juneau at 465-3784, or call your Legislative Information Office at 465-4648.

People attending in Juneau:

Harry F. Goldbar, Executive Director, AHFC

H.A. Hoffman, Exec Dir, AIDA
└ may send Wayne Williams, Deputy of Credit

Edward Wesley, President, NAACP

~~[redacted]~~

Wes Coiner, banking institutions lobbyist

Anc:

William Radcliffe, Coordinator, Alaska Minority Business Task Force

X & C Committee Hearing

1/14/82 1 pm Juneau
11 am Alaska

① Write PSA
② Check w/ Ray re whether to do an actuality for radio stns
③ release to papers, TV & radio statewide

---

① check w/ Sturgelewski & see if she'll attend
② ck LAA to see when teleconf is scheduled; make sure participation is invited statewide
③ request participation of all minority groups who feel they are being denied access to & participation in the economic community.

call Deborah back & tell her names of any people who'll definitely be testifying

contacted ~~Rick~~ Sen. Sturgelewski's ofc (Betty) who said Sen. is out of town, but put the hrg on her calendar. Call back & check Mon afternoon if no word.

The borrower must not own assets exceeding two times their maximum income figure. A borrower (or any one of the borrowers) who is 65 or over must not own assets exceeding three times their maximum income figure.

Owner-occupied single family residences, condominiums, and PUD's constitute eligible property. Mobile Homes and Duplexes are not permitted.

A.) Neither the sales price nor the appraised value of the home shall exceed $80,000.

B.) The minimum down payment requirement is 5%.

C.) The maximum loan amount is $76,000.

The maximum term of the loan is 30 years, with a minimum term of 20 years.

.....

AHFC also offers a special rural housing program and a program for the financing of mobile homes. For further information on all AHFC programs, please contact your lender.

Participating Lenders

Alaska Bank of Commerce
Alaska Federal Savings & Loan Association
Alaska Mutual Bank
Alaska National Bank of the North
Alaska Pacific Bank
Alaska School Employees Federal Credit Union
Alaska Statebank
Alaska Teamsters Federal Credit Union
Alaska USA Federal Credit Union
AMFAC Mortgage Corporation
Arctic First Federal Savings & Loan
First Alaskan Mortgage and Escrow
First Bank
First Federal Savings & Loan
First National Bank of Anchorage
First National Bank of Fairbanks
Home Federal Savings & Loan
Lomas & Nettleton
Mt. McKinley Mutual Savings Bank
National Bank of Alaska
Peninsula Savings & Loan Association
Peoples Bank & Trust
Rainier Mortgage Company
Security National Bank
Security Pacific Mortgage
Spokane Mortgage
The BM Behrends Bank
United Bank Alaska

Alaska Housing Finance Corporation

Information contained in this pamphlet is subject to change — Consult your participating lender.

Alaska Housing Finance Corporation

HOME MORTGAGES

Harry F. Goldbar
Exec. Dir.

235 East 8th Avenue
Anchorage, Alaska

P.O. Box 1020
Anchorage, Alaska 99510

Telephone (907) 276-5599

Alaska Housing Finance Corporation

Considering home ownership?

Having difficulty qualifying for a mortgage?

PERHAPS AHFC CAN HELP!

Alaska Housing Finance Corporation provides residential real estate financing to all areas of Alaska by operating as a secondary mortgage market for loans originated and serviced by private lending institutions. The commitment of AHFC is to provide a stable source of funding for credit-worthy, eligible borrowers at the lowest possible cost.

AHFC Mortgage Interest Rates

AHFC's financing programs make it possible to provide mortgage interest rates at a level far below those generally available from other sources. Mortgage interest rates are based on the interest rate for AHFC bonds and other factors. Therefore, mortgage rates will change from time to time.

How To Find Out About AHFC Home Mortgages

Ask any participating lender listed in this pamphlet for information.

How To Secure An AHFC Mortgage

The lender will determine if you are eligible for home mortgage financing and if your income is sufficient to make the monthly mortgage payment. All mortgages are originated for AHFC by participating lenders; AHFC does not make direct mortgage loans.

Those loan requests that are to be insured or guaranteed by the FHA or VA require the approval of these federal agencies before submission to AHFC. The seller/servicer then submits the loan to AHFC for approval of property and credit.

Housing Eligible For Mortgage Financing

AHFC finances only permanent mortgages on new or existing homes (single family or duplex). All housing financed must be owner-occupied.

Maximum Mortgage Amounts

The maximum mortgage amount that AHFC will consider is the LESSER of the following:

1.) The amount listed below, or

2.) The amount the borrower(s) can afford, based on his/her income.

Single Family Residence (Includes Condominium or Planned Unit Development):

Conventional-Maximum loan of $147,750 with maximum financing of 95%.

*FHA-$101,250 *VA-$110,000

*Down payments required for FHA or VA loans vary. Check with your lender for details.

Two Family Residence (Duplex):

Conventional-Maximum loan of $189,000 with maximum financing of 95%

*FHA-VA down payments vary. Check with your lender for details.

Lenders are permitted to charge an "origination fee" to borrowers for program loans.

Loans To Refinance for Home Improvement

The maximum loan on a single family residence ($147,750) or two family residence (Duplex: $189,000) cannot exceed the amount of the existing indebtedness plus the actual cost of improvement.

A cost budget plus a descriptive narrative of improvements must be submitted to the lender for prior approval by AHFC. The proposed improvements must increase the present value by not less than 10% or $10,000.

The maximum Loan-To-Value Ratio is 80%; with a maximum loan term of thirty years.

Criteria For Graduated Payment Mortgages (Pledged Amount Mortgages)

A "PAM" is a conventionally amortizing (level monthly payment) loan in which all or part of the purchaser's down payment funds are placed in a savings account which is pledged to the lender as additional collateral and as a source of contributions toward the payments.

The maximum Loan-To-Value Ratio is 95%.

The "net mortgage amount" cannot at any time exceed 95% of the original value (the lesser of the purchase price or appraised value).

The total down payment of the borrower(s), including that portion placed in the pledged savings account, will be approximately 10%.

Eligible property includes single family residences, condominiums and PUD's. Duplexes are not permitted. Property must be owner-occupied.

All "PAM" loans will have private mortgage insurance if at anytime the net Loan-To-Value Ratio exceeds 80%.

Maximum Term of 30 years.

Loans With Special Assistance for Low and Moderate Income Buyers

The Home Ownership Fund subsidizes a portion of the borrower's monthly mortgage payment. This subsidy will not be paid direct, but rather through the lender.

Payments may be subsidized by the Home Ownership Fund in an amount not to exceed the lesser of:

1.) The payment reduction which would occur if such loan were made at a rate of 6% interest, or

2.) A subsidy payment that shall reduce the mortgage loan payment of principal and interest to 20% of the mortgagor's adjusted gross income.

Eligibility For Home Ownership Fund

Lower-to-moderate income borrowers are defined to be persons with gross income per family not exceeding the income limits set forth below:

Family Size	Income Limit
1	25,650
2	26,650
3	27,650
4	28,650
5	29,650
6	30,650
7	31,650
8 or more	32,650

Family for these purposes is considered to be those persons residing in a household on a year-round basis.

NAME OF PROGRAM

Alaska Housing Finance Corporation (AHFC)
Rural Housing Mortgage Purchase Program

DEPARTMENT/DIVISION RESPONSIBLE

AHFC is both an independent public corporation and an instrumentality within the Department of Revenue

STATUTE REFERENCE

Developed in 1979

PURPOSE AND/OR CONDITIONS

Increase the housing available to communities with 4,500 or fewer inhabitants located outside areas with road or rail access to Anchorage and Fairbanks.

QUALIFIED USERS

Beneficiary must live in town or village of 4,500 or fewer, without access by road or rail to Anchorate or Fairbanks; dwelling, or one unit of duplex, must be occupied by its owner; no income limit for borrowers.

LOAN TERMS

see back

LENDING MECHANISM

see back

Loan Terms

Single-family Dwelling:

MAXIMUM AMOUNT:	$147,750
DOWN PAYMENT:	5%
MAXIMUM TERM:	30 years
INTEREST:	8.75%
FEES:	.5% commitment fee (refundable)

Owner-occupied Duplex:

MAXIMUM AMOUNT:	$189,000
DOWN PAYMENT:	10%
MAXIMUM TERM:	30 years
INTEREST:	8.75%
FEES:	.5% commitment fee (refundable)

Lending Mechanism

Because there are few banks available in rural areas, Regional Housing Authorities have been designated to act as intermediate lenders, originating and servicing the loans. AHFC buys the mortgages from the Regional Housing Authories, which retain a .5% servicing fee in addition to the 1% origination fee.

NAME OF PROGRAM

Alaska Housing Finance Corporation (AHFC)
Mobile Home Loan Purchase Program

DEPARTMENT/DIVISION RESPONSIBLE

AHFC is an independent public corporation and an instrumentality within the Department of Revenue

STATUTE REFERENCE

AS 18.56.090-098

PURPOSE AND/OR CONDITIONS

Provide low-cost financing for mobile homes in Alaska

QUALIFIED USERS

Eligible mobile homes may contain not less than 600 square feet of gross living area; no refinancing permitted; borrower must live in the mortgaged mobile home; no income limit for borrowers.

LOAN TERMS

MAXIMUM AMOUNT:	$72,500
DOWN PAYMENT:	5%
MAXIMUM TERM:	20 years or remaining economic life of mobile home, whichever is less
INTEREST:	10% for nonveterans; 9% for eligible veterans
FEES:	.75% commitment fee (refundable) 1% servicing fee paid by AHFC

LENDING MECHANISM

secondary

NAME OF PROGRAM

Alaska Housing Finance Corporation (AHFC)
Home Ownership Assistance Program

DEPARTMENT/DIVISION RESPONSIBLE

AHFC is an independent public corporation and an instrumentality within the Department of Revenue.

STATUTE REFERENCE

Funded first in 1980; began purchasing loans in Dec. 1980

PURPOSE AND/OR CONDITIONS

Provide mortgage subsidies to people of low and moderate income.

QUALIFIED USERS

Borrower must meet general eligibility requirements of AHFC Special Mortgage Loan Purchase Program (i.e., the mortgage dwelling, or one unit of a duplex, must be occupied by the borrower); must have a gross income of less than $25,560, if single, and $1,000 more than that for each additional family member, up to a total of seven; borrower may own assets totaling up to no more than two times his/her income limit under the program -- ceiling is raised for those over 65 to three times the income limit; mortgage must be conventional, no FHA-insured or VA guarantee loans are permitted.

LOAN TERMS

MAXIMUM AMOUNT:	$76,000, for $80,000 maximum home purchase price
PAYMENTS:	25% of monthly income, or payments computed at 5% interest rate, whichever is more.
DOWN PAYMENT:	5%
MAXIMUM TERM:	30 years or remaining economic life of the property, whichever is less.
MINIMUM INTEREST:	6%

LENDING MECHANISM

- Secondary. AHFC pays difference between interest rate borrowers would normally pay to AHFC under Special Mortgage Loan Purchase Program and the lower interest rate.

NAME OF PROGRAM

Alaska Housing Finance Corporation (AHFC)
Special Mortgage Loan Purchase Program

DEPARTMENT/DIVISION RESPONSIBLE

Alaska Housing Finance Corporation is both an independent public corporation and an instrumentality within the Department of Revenue

STATUTE REFERENCE

AS 18.56.010-210

PURPOSE AND/OR CONDITIONS

Assist in acquisition and development of land and in construction, rehabilitation, refinancing, management, maintenance, sale and rental of housing for people of lower and moderate income or for those in remote, underdeveloped or blighted areas. The Special Mortgage Loan Purchase Program is AHFC's principal financing program.

QUALIFIED USERS

The mortgage dwelling, or one unit of a duplex, must be occupied by the borrower. No limit on income of the borrower.

LOAN TERMS

See back.

LENDING MECHANISM

Secondary

NAME OF PROGRAM

Alaska Housing Finance Corporation
Non-Owner-Occupied Rural Mortgage Purchase Program

DEPARTMENT/DIVISION RESPONSIBLE

AHFC is an independent public corporation and an instrumentality within the Department of Revenue

STATUTE REFERENCE

AS 18.56.100

PURPOSE AND/OR CONDITIONS

To insure a supply of rental housing in rural areas, through assistance in acquisition and development of land and the construction, rehabilitation, financing, management, maintenance, sale, and rental of dwelling units for people of lower and moderate income or people in remote, underdeveloped or blighted areas.

QUALIFIED USERS

Applicant must intend to use loan to construct or substantially rehabilitate rental housing of no more than eight units; mortgages are for use only in communities of 4,500 or fewer inhabitants, in areas not connected to Anchorage or Fairbanks by road or rail; borrower's debt to AHFC may not exceed $500,000; no income limit for borrowers.

LOAN TERMS

MAXIMUM AMOUNT:	$500,000, depends upon the number of units, at $71,500 per unit (3-8) up to maximum amoun .
DOWN PAYMENT:	5% for loans up to $65,000. 10% for loans over $65,000.
MAXIMUM TERM:	30 years.
INTEREST:	9.5%
FEES:	3/8 of 1% serving fee. .5% commitment fee (refundable) 1% origination fee

LENDING MECHANISM

Secondary

NAME OF PROGRAM

Alaska House Finance Corporation (AHFC)
Pledged Account Mortgage Program

DEPARTMENT/DIVISION RESPONSIBLE

AHFC is an independent public corporation and an instrumentality within the Department of Revenue.

STATUTE REFERENCE

Developed in 1980

PURPOSE AND/OR CONDITIONS

To allow borrowers to make graduated mortgage payments, smaller in the earlier years of the mortgage and larger as time goes on.

QUALIFIED USERS

The mortgage dwelling, or one unit of a duplex, must be occupied by the borrower. No limit on income of borrower.

LOAN TERMS

Same as those offered under AHFC Special Mortgage Loan Purchase Program, except for repayment requirements.

SEE BACK

LENDING MECHANISM

Secondary

Loan Terms:

Single-family dwel[illegible] (conventional loans)

MAXIMUM AMOUNT:	$147,750, or maximum borrower can afford to service, whichever is less.
DOWN PAYMENT:	5%
MAXIMUM TERM:	30 years
INTEREST:	9% for veterans 10% for nonveterans These rates apply only to the first $90,000 of a mortgage; borrowers pay the bond market rate for any amount over $90,000

Single-family dwelling (FHA-insured loans)

MAXIMUM AMOUNT:	$101,250
DOWN PAYMENT:	Set by FHA
MAXIMUM TERM:	30 years
INTEREST:	9% for veterans 10% for nonveterans These rates apply only to the first $90,000 of a mortgage; borrowers pay the bond market rate for any amount over $90,000

Single-family dwelling (VA guarantee loans)

MAXIMUM AMOUNT:	$110,000
DOWN PAYMENT:	The amount of the VA guarantee plus the down payment must be equal to 25% or more of the value
MAXIMUM TERM:	30 years
INTEREST:	9% Rate applies only to the first $90,000 of a mortgage; borrowers pay the bond market rate for any amount over $90,000

Owner-occupied duplex (conventional loans)

MAXIMUM AMOUNT:	$189,000
DOWN PAYMENT:	5%
MAXIMUM TERM:	30 years
INTEREST:	9% for veterans 10% for nonveterans These rates apply only to the first $90,000 of a mortgage; borrowers pay the bond market rate for any amount over $90,000

Owner-occupied duplex (FHA-insured loans)

MAXIMUM AMOUNT:	$114,000
DOWN PAYMENT:	Set by FHA
MAXIMUM TERM:	30 years
INTEREST:	9% for veterans 10% for nonveterans These rates apply only to the first $90,000 of a mortgage; borrowers pay the bond market rate for any amount over $90,000

Loan Terms:

Single-family dwelling (conventional loans)

MAXIMUM AMOUNT:	$147,750, or maximum borrower can afford to service, whichever is less.
DOWN PAYMENT:	5%
MAXIMUM TERM:	30 years
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Owner-occupied duplex (conventional loans)

MAXIMUM AMOUNT:	$189,000
DOWN PAYMENT:	5%
MAXIMUM TERM:	30 years
INTEREST:	9% for veterans 10% for nonveterans These rates apply only to the first $90,000 of a mortgage; borrowers pay the bond market rate for any amount over $90,000

Owner-occupied duplex (FHA-insured loans)

MAXIMUM AMOUNT:	$114,000
DOWN PAYMENT:	Set by FHA
MAXIMUM TERM:	30 years
INTEREST:	9% for veterans 10% for nonveterans These rates apply only to the first $90,000 of a mortgage; borrowers pay the bond market rate for any amount over $90,000

Alaska Industrial Development Authority

1577 C Street
Anchorage, AK 99501

274-1651
H. A. Hoffman - Exec. Dir.
Deputy of Credit
Wayne Williams

DESIGNED AND PRODUCED BY MYSTROM ADVERTISING, INC.

A. through AIDA!

That's great but who or what is AIDA?

The Alaska Industrial Development Authority. We were set up by the State of Alaska to help creditworthy businesspeople secure long-term financing for capital projects. To accomplish this, a lot of thoughtful planning was put in by the Governor, the Lieutenant Governor and the Legislature before AIDA was created.

But we're not a state agency. We're an independent body dedicated to a smooth-running, quick-approval loan program, in cooperation with Alaska's lending institutions.

Here's how the program works, in a nutshell.

AIDA sells bonds on the national money market. With the proceeds from these sales we purchase portions of loans made by lenders to businesspeople. Now, here's the good part. Because the interest paid on AIDA's bonds is exempt from Federal Income Tax, the bonds bear relatively low interest rates. These low interest rates are passed on to you, through your lending institution.

We want to help businesspeople with good credit standing obtain long-term financing. AIDA has programs for loans under a million and for loans from one to ten million dollars.

This is a brief summary of how AIDA works. The following sections answer questions most often asked about AIDA's different programs.

Questions you probably have about loans under a million dollars:

Q. *Who can qualify for this program?*

A. Any small business enterprise with good credit who desires permanent financing up to $1 million. Also two individual commercial fishermen may apply for loans of $500,000 each. There is no minimum loan amount.

Q. *What types of projects qualify?*

A. Loans are made for new construction, new additions or expansions, new equipment, or for acquisition of existing plant or equipment when seller and buyer are unrelated.

Q. *If AIDA commits to purchase part of my loan from a lender, how long does that commitment last?*

A. For up to a year. This allows you time to complete your plans.

Q. *Will AIDA give me a break if there's a bad business or fishing season?*

A. Yes, you can get an extension, if both the lender and AIDA agree.

Q. *And some people say that the fees are pretty steep. True?*

A. No, your non-refundable fees will never exceed $600. In fact, we're working to lower the fees even more.

Q. *If I have a good season and can pay off the loan early, will AIDA penalize me?*

A. No, there is no penalty for an early payoff.

Q. *How long after my lender agrees to make my loan will it take AIDA to commit to participate?*

A. Usually five days seldom over ten.

Q. *How long after AIDA's commitment will I have the money?*

A. Usually within 48 hours, a time acceptable to AIDA and your lender.

Q. *Can I refinance?*

A. No, AIDA's program is only for purchase or acquisition of capital assets or improvements.

Questions about bigger loans (1-10 million dollars):

Q. *What's the major difference between loans under and over 1 million dollars?*

A. While loans over a million dollars are still financed through tax exempt bonds, the cost to the borrower is more and the borrower must have considerable financial strength.

Q. *What is AIDA's role in these loans?*

A. We can help you arrange, through a nationally recognized firm, issuance of tax exempt bonds for your project. If a national firm can't be found, we will try to obtain funds through other financial institutions.

Questions lenders ask us most often:

Q. *Won't dealing with AIDA cause the lender a lot of headaches?*

A. No, AIDA will participate in a loan of up to 75% of the cost of borrower's project. We can purchase up to 90% of the loan if you carry 10%. We make it easier to lend to your customers at lower interest rates.

Q. ***What restrictions apply to the lenders who originate these loans?***

A. AIDA's participation must be serviced within Alaska by a regulated financial institution.

Q. ***But there's a lot of special forms we have to fill out, right?***

A. Not at all. AIDA will accept your loan forms.

Q. ***Do I have to sell 90% of my loan to AIDA?***

A. No, you may sell any portion as long as it doesn't exceed 90%. And you may sell up to 90% of your portion to another regulated financial institution. You could have as little as 1% in the loan.

Q. ***Is AIDA a direct lender?***

A. No, we serve only as a secondary financing market. The use of AIDA is controlled by you, the lender, working with your client.

Directors of AIDA
Lance Anderson, *Chairman*
Thomas K. Williams, *Vice Chairman*
L. C. Coffman
Charles R. Webber
Lee McAnerney
H. A. "Buzz" Hoffman, *Executive Director*

Well you've certainly answered our questions about AIDA!

If you have further questions, please contact your lender, or call us at 274-1651.

NAME OF PROGRAM

ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY (AIDA)

DEPARTMENT/DIVISION RESPONSIBLE

Prior to July 1, 1981, also Small Business Loan program was handled by the Division of Business Loans. AIDA now handles this program. AIDA is a public corporation and an instrumentality of the Department of Commerce and Economic Development, with a legal existence separate from and independent of the State.

STATUTE REFERENCE

AS 44.88.010-220

PURPOSE AND/OR CONDITIONS

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 means of financing industrial, manufacturing, small business, tourism, mining, and commercial fishing enterprises.

QUALIFIED USERS

AIDA may finance any project it approves as long as the project conforms to IRS guidelines for use of proceeds of tax-exempt bond sales. Tax-exempt bonds may be used to finance only new construction or plants; no refinancing is eligible.

LOAN TERMS

see back

LENDING MECHANISM

Public bond sales. State appropriations, fees and charges. Secondary.

LOAN TERMS

Major Industry

Amounts, terms, and interest rates vary and are determined by AIDA.

Umbrella (Small Business, Tourism, Mining, and Commercial Fishing Enterprises)

MAXIMUM AMOUNT:	$ 6 million for Tourism $ 1 million for Mining or Small Business $ 500,000 for commercial fishing May not exceed 75% of cost of project unless excess if insured.
MAXIMUM TERM:	25 years or 75% of estimated life of project, whichever is less
INTEREST:	Variable
FEES:	$100 pre-application fee (non-refundable) $500 application fee (non-refundable) $4,000 or 2% of the amount of loan, whihever is greater, commitment fee (refundable)

copies to Dist 1 House member + Sen Dist A. member rcd 1-27-81

Jan 14, 1982

Anchorage Republican Terry Miller:

Dear Sir.

I listened to the Teleconference for women and minorities in the Alaska economic picture and would like to speak for women.

In 1967 I came to Ketchikan from Yakutat Island south of Sitka, with teenage children, an illness which had escaped diagnosis and almost unlimited financial credit. I was desperate for a plan to leave my children in care & wasn't around to take care of them

My children found a small marina - they thought they could handle and it was for sale. The owner and I drew up an earnest agreement + left it at the bank which held his mortgage

Two months later the bank called for me to sign the papers. They had changed my name and marital status and I could either sign or forfeit the deal. We were living it and running the Marina by that time so I signed in desperation thinking I could clear it up with a Will and court.

I was wrong. The judge refused to hear any thing I said I never got to court. The news finally published that I had asked for divorce but in the meanwhile my "husband" was given free access to everything. The bank even loaned him money on my credit. I was principled by a bank which

had almost nothing to gain except 8% of $6,000 for 7 years. We had no protection. I was beaten insensible + suffered a stroke. My daughter was Calypso We were robbed. It was 18 months before I got to the hospital + my health turned around. The State took the harbor and put us out of business. (a Ketchikan man) Part of the property was taken by a State engineer for a parking lot. No survey or remuneration. My "husband" gave the property to a buddy by quit claim which I have no doubt the court will be glad to honor when I contest it.

When we ask for help we were told A woman has no right to disagree with a family in Alaska

Sorry this is so long but I am the one who knows about Women and the economic detention in Alaska. They are Pinepecked by it.

Marjorie Jackson
Rt-1 Box 38 Ketchikan 99901

1/14/82

House Labor & Commerce

Minutes

1273
~~1062~~ Wesley, Anch, NAACP; (1281) - ~~many~~ of history of need for ntg

1300 - Harry Goldbar deferred to _____; spoke about equal credit opportunity act; 1312 - up to institution to guess race, age, & sex; (1322) notification of adverse action, maintenance of records.; (1327) federal home mortgage disclosure act; (1367) gstn by Sturgelewski re ~~di~~ disclosure act & eco act. (1348) Buzz Hoffman - background on AIDA's programs & how they hold & notice ntgs; (1359) data on minority employment w/in AIDA. (1369) overview of authority & dispersal of funds (1374) Sen. Sturgelewski commended. publicity of programs; (1383) Hoffman - will send breakdown on loans to Legis re last years activity.

KTN - Bill Morin, Pres. AK Bankers Assoc (1390) - recognize potential for discrimination, federal efforts to avoid this. (1405) compliance w/regulations; (1409) recourse if feel discriminated against

(1427) Kirkpatrick - complaints system; most related to account processing problems; (1437) one complaint re mortgage loan rate. (1446) jurisdiction w/ state chartered financial institution - federally chartered bank complaints go to other institutions. (1457) - mikrophone problems to 1476)
1476 - Kirkpatrick resumes testimony re proceedings on complaints (1486) - what is looked for in joint examinations (1502) FDIC new ~~regs~~ program on discrimination. (1503) gstns by Martin re who to contact; (1505) Kirkpatrick response; 1513 - need complaint expressed in writing & before formal action
(1525) Adelheid Hermann, Dillingham - Fisherman's mortgage note program to buy boats; explanation of prob w/prog & need for program; cost of entry into market are too high

Anc - (1563) Louis Overstreet - problems minorities have getting funds. (1584) Sen Sturgelewski - attended NAACP mtg, spoke w/ several people who pointed out need for specifics
(1598) Wesley - comments from agencies re advertising; they're concerned if lending agencies don't have data to prove they aren't discriminating; they are, de facto. System doesn't work.

(1620) state has poor affirmative action program
(1631) Martin - response; ~~was~~ cd voluntary effort of black community listing race help provide data? (1630) Wesley - shdn't have to put burden on citizen when legislators have been informed of problem.
Fbx - Pres NAACP - loan prob in Fbx for blacks.
(1646) ask bank what's needed, ~~have~~ fulfill reqmts, & are told not enough info; banks refuse loans. Governor investigated & cdn't find discrimination. (1662) Recourse according to federal regs - treasury, justice dept

(1665)
Pete Aikens - difficulties (1677) state loan offers were bank ofcrs (in Fairbanks). (1680) specifics of his problems borrowing money fm Ak. Statebank - took over a year to get the loan.
(1678) Martin - questions - (1) once turned down, did he follow through on complaint? (2) did lending inst give list of procedures to follow getting loan; (1707) - Aikens response

Sitka - Phil Moreno (1714) - hard to obtain housing
(1734) Mat-Su, no testimony
(1743) Willy Radcliff, Ak. Minority Business Task Force - problems
(1784) portion of banks money shd be allocated to black community
(1808) Martin questions - what is possibility of black community drawing up plan they feel is fair & addressing legislative funds.
(1815) Radcliff - don't have resources, not their responsibility
(1828) Mary Afghan, Anc - first months AHFC lending, no home loans made to blacks; bond market concerned about bonds susceptible to attack; when AHFC found out, change in attitude, which was communicated fm AHFC to private market. AIDA staffed by former bankers. (Testimony continued on Tape 2)
(056) attempts made to take property away fm blacks in order to ruin economic stability. (083) Martin comments.
(089) Samuel Banks, NAACP, Fbks; (165) Barry Bess - wants funds to conduct study

~~AHFC~~ Ktn (179) Jeff ~~Senate~~, devpt coord, city of Saxman
(200) look at national participation programs to develop citizens participation rights policy for state. Suggestions for community development programs; loan programs; local housing authority. (310) Nora DeWitt, Clerk, City of Saxman, large native popn. Prob getting housing funds, losing youth population. Being denied funds because of road link to Ktn.
(358) Future Res, ~~Exec~~ frustrated, ~~so~~ doesn't think Wesley responded to problem, addressed procedures instead. (396) Tom Stoner, Anc, grievances w/ AHFC.
(449 -471) moderator polled sites
(476) ~~Dean de Clois~~ ~~some guy~~ in Anc - comments on agencies with potential to provide info who don't. (504) shd be required to collect & use minority info. (538) supports lending programs.
(585) Phillip Pleasant, Anc - comments on worsening situation for blacks
(610) Ktn, _____, comment on constitutional rights
(655) Buzz Hoffman, outreach programs
(687) Harry Goldbar

1-18-82

HB612

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 18, 1982
1:20 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph
Rep. Gardiner

Members Absent: Rep. Rogers

COMMITTEE CALENDAR

HB 612 — An act relating to public contracts for architectural and engineering services.

HB 600 — Re/Civil Liability/Architects/Engineers

WITNESS REGISTER

Tom Sofo
LAA Legal Services
Pouch Y
Juneau, Alaska 99811
465-3867
Position Statement: Compared committee substitute workdraft and discussion drafts.

Charles E. Torkko, President
Consulting Engineers Council of Alaska
1351 Virginia Court
Anchorage, Alaska 99501
278-2551
Position Statement: Supports legislation ensuring selection made on the basis of professional qualifications and competence, not price bids.

PREVIOUS ACTION

HB 600 — No previous action to record.

Chairman Martin asked the committee to defer action on HB 600 indefinitely; committee agreed unanimously.

HB 612 — No previous action to record.

Rep. Randolph moved to accept workdraft of committee substitute for HB 612. Rep. Gardiner seconded motion; motion passed

unanimously.

ACTION NARRATIVE

Tape #002
Recording
Number 000

Meeting was called to order by Chairman Martin at 1:20 p.m. Committee members present were Reps. Martin, Bylsma, Randolph, and Gardiner. Rep. Rogers was absent.

Number 0734

Chairman Martin gave a brief history of HB 612 and presented the final workdraft.

Number 0746

TOM SOFO, of Legislative Legal Services, compared the committee substitute workdraft and discussion drafts. He said the drafts share the goal of changing contracts criteria from considering only the lowest bidder. Recent drafts look at "best qualified...on the basis of professional competence." The difference lies in the words used to specify qualifying criteria. He felt there was room for argument over distinguishing criteria, as all applicants may be capable and qualified; agencies may always end up with the same pool of qualified contractors and may be forced to choose one who is "best". Sofo said the legislation may be left to a layman's interpretation of what the legislation means. He said the difference between capable and qualified and best qualified are the differences in the versions of the bill. Sofo said he would need more material if he was to review the bill further.

Number 0817

CHARLES E. TORKKO, president of Consulting Engineers Council of Alaska, said he supports legislation ensuring selection made on the basis of professional qualifications and competence, not price bids. (NOTE: Mr. Torkko left a copy of his prepared testimony with the committee; this is available for review.) He compared selection of an engineer or architect to selecting a doctor or lawyer by who gave the lowest bid. Torkko said that skill and experience must be considered before awarding a bid; then negotiate for a fair and reasonable price. He expanded on quality versus cost; premature bids often result in poorer quality or cost overruns. Torkko said the generally accepted method of bidding is to

select qualified bidders, then negotiate a price; as an example, he said the federal government uses this method. He said the State Board of Architects, Engineers and Land Surveyors prohibits architects and engineers from soliciting or giving fee bids. Torkko said this legislation would apply only to architects, engineers, and land surveyors. It would ensure highest quality of service while retaining flexibility.

Number 0924 — There was committee discussion about how it is determined who is best qualified, questions about price negotiation, cost estimates, and rating firms, with Torkko responding.

Number 1038 — There being no further testimony, Rep. Randolph moved to accept the workdraft of committee substitute for HB 612. Rep. Gardiner seconded the motion. Motion passed unanimously.

Number 1051 — Chairman Martin said groups had requested deferrment of consideration of HB 600; the committee agreed, and HB 600 was deferred indefinitely.

Number 1055 — As there were no further items to come before the committee at this time, the Chairman adjourned the meeting at 1:53 p.m.

COMMITTEE MINUTES
COMMITTEE HOUSE LABOR & COMMERCE
HEARING DATE January 18, 1982
TAPE NO. 2, Side A

The meeting was called to order by Chairman Martin at 1:20 p.m. in the Labor & Commerce Committee Room, Behrends Building, Juneau, Alaska. Committee members present in addition to the Chairman were Representatives Bylsma, Randolph, and Gardiner. Representative Rogers was absent. Committee staff in attendance were Mary Isaacs, Jeff Barry, and Joan Mathews.

The committee schedule called for the consideration of the following items: House Bill 612 and House Bill 600. Testifying before the committee regarding HB 612 were Tom Sofo, counsel from Legislative Legal Services, and Charles E. Torkko, President, Consulting Engineers Council of Alaska.

Chairman Martin (meter no. 0734) gave a brief history of HB 612 and presented the final workdraft.

Tom Sofo of Legislative Legal Services (meter no. 0746) compared the committee substitute workdraft and discussion drafts. He said (meter no. 0759) the drafts share the goal of changing contracts criteria from considering only the lowest bidder. Recent drafts (meter no. 0766) look at "best qualified...on the basis of professional competence." The difference lies (meter no. 0722) in the words used to specify qualifying criteria. He felt there was room for argument (meter no. 0783) over distinguishing criteria, as all applicants may be capable and qualified; agencies may always end up with the same pool of qualified contractors and may be forced to choose one who is "best". Sofo said the legislation (meter no. 0800) may be left to a layman's interpretation of what the legislation means. He said (meter no. 805) the difference between capable and qualified and best qualified are the differences in the versions of the bill. Sofo said (meter no. 811) he would need more material if he was to review the bill further.

Charles E. Torkko, president of Consulting Engineers Council of Alaska (meter no. 0817) said he supports legislation ensuring selection made on the basis of professional qualifications and competence, not price bids. (Note: Mr. Torkko left a copy of his prepared testimony with the committee; this is available for review.) He compared selection of an engineer or architect to selecting a doctor or lawyer by who gave the lowest bid (meter no. 0846). Torkko said (meter no. 0850) that skill and experience must be considered before awarding a bid; then negotiate for a fair and reasonable price. He expanded on quality versus cost; premature bids (usually low) often result in poorer quality or cost overruns. Torkko said (meter no. 0884) the generally accepted method of bidding is to select qualified bidders, then negotiate a price; as an example, he said the federal government uses this method. He said (meter no. 0893) the State Board of Architects, Engineers and Land Surveyors prohibits architects and engineers from soliciting or giving fee bids.

Torkko said (meter no. 0914) this legislation would apply only to architects, engineers, and land surveyors. It would ensure highest quality of service while retaining flexibility.

Rep. Randolph (meter no. 0924) asked how it is determined who is best qualified, and whether this procedure would not create the opportunity for "less than proper determinations". Torkko responded (0929) that price competitions does not eliminate this, and that selection by qualification is traditional, competing with qualifications and skills on a fair basis rather than articifical procedures with sketchy data.

Rep. Bylsma (meter no. 0948) asked, if two or three firms appear equal, how is selection made. Torkko responded (meter no. 0950) that any number might do an adequate job; the process in analyzing "subject specificity" results in a "level of comfortability", and establishes trust and confidence. He said (meter no. 962) it is common to have equally qualified firms ranked differently due to different approaches, personalities, etc.

Rep. Bylsma asked (meter no. 0970), if price is negotiated after selection, would that have a bearing on the fee. Torkko (meter no. 0973) didn't think so. He said the development of a contract is a difficult project; some agencies have a budget, which may or may not be revealed; larger agencies do checks on workscope. The major difference is what is included in the contract. He added (meter no. 0989) that the owner has leverage--if the price is unsuitable, they can terminate the negotiations.

Chairman Martin (meter no. 0995) asked if this procedure could help state and municipal governments better estimate final costs. Torkko said (meter no. 1002) that, by hiring skilled people, estimates should be as skillful as humanly possible. Budgets are often made up with little information. That, and construction cycles beyond control, can distort figures.

Rep. Bylsma (meter no. 1021) asked if it would not help a firm's ratings if they were accurate in their estimates, and vice versa. Torkka said it would.

There being no further testimony, Rep. Randolph (meter no. 1038) moved to accept the workdraft of committee substitute for HB 612. Rep. Gardiner (meter no. 1042) questioned exactly which draft was being referred to, and then seconded the motion. Motion passed unanimously (meter no. 1047).

Chairman Martin (meter no. 1051) said groups had requested deferrment of consideration of HB 600; the committee agreed, and HB 600 was deferred indefinitely.

As there were no further items to come before the committee at this time, the Chairman adjourned the meeting at 1:53 p.m.

MINUTES REVIEWED AND APPROVED:

_____

Representative Terry Martin, Chairman
House Labor & Commerce Committee

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
CHARLES E. TORKKO	1351 VIRGINIA CT ANCHORAGE AK 99501	CONSULTING ENGINEERS COUNCIL OF ALASKA	YES	278-2551
denise zachary		Candidate		7994
JEAN KLINE	134 Franklin Juneau	Assoc. Gen Contractor		586-1740
Nancy Cool		Rep Rogers	NO	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

HB

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Warren Wild	PO Box 2317 Juneau	self	No	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 1-18-82

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 1/18/82 Place: Committee Room

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:10	1:53
Rep. D. Randolph	✓		1:13	1:53
Rep. B. Rogers		✓		
Rep. T. Gardiner	✓			
Rep. T. Martin, Chair	✓		1:33	1:53
			1:05	1:53

Subject Matter:

House Bill No. 612-A 600 _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders

612 - CS accepted unanimously

600 - hearing deferred

Sofo
9/16/81

Original sponsor: Labor and Commerce Committee by request

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 612 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to public contracts for architectural and engineering services."

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

* Section 1. AS 35.15 is amended by adding a new section to read:

Sec. 35.15.055. CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES. (a) The department may award a contract for architectural or engineering services only to a person or firm that the department determines is capable and qualified. Notwithstanding AS 35.15.050, after selecting a capable and qualified contractor for architectural or engineering services the department shall establish a reasonable fee for the services through negotiations with the contractor. The fee shall be based on the scope and complexity of the services required.

(b) A person or firm that provides architectural or engineering services may annually submit to the department a statement of qualifications and performance data. Before awarding a contract under (a) of this section, the department shall review the statements of qualifications and performance data on file with the department together with statements of qualifications and performance data submitted by others in response to an advertisement or request for bids under AS 35.15.030.

COMMITTEE TAPE LOG

TAPE NUMBER 1,2

COMMITTEE LABOR AND COMMERCE HEARING DATE 9/22/81

MEMBERS PRESENT Chairman Terry Martin, Rep Bernie Bylsma

LEGISLATION CONSIDERED House Bills 600 & 612

METER NO.		PERSON SPEAKING/ACTION
012	TP1/1	Don Dent, Engineer, President of Bd. of Dir. AK Prof Design Council
204	TP1/1	Leo McGlothlin, State President, Amer. Institute of Architects
297	TP 1/1	Ken Cannon, President, CCC Architects
669	TP1/1	Ray Shumway, Dep Commissioner, DOT
384	TP1/2	Charles Tryck, Consultant Engineers Commission of AK
679	TP1/2	Ray Shumway (correction to testimony)

16

SIGN-IN SHEET

Civil Liability AND Public Contracts
Architectural & Engineering Services

COMMITTEE Labor & Commerce

HEARING DATE 9-22-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTER
DON DENT	2064 BELAIR DR ANCHORAGE	AK PROF DESIGN COUNCIL BOF IR	YES	HB600 HB612
LEO McLOTHLIN	606 CORDOVA SUITE 6 ANCH 99501	ALASKA CHAPTER AIA	Yes	HB600 HB612
Ken Lannon	431 W 7TH AVE ANCH. 99501	" " "	Yes	"
Dick Armstrong	3700 Bonifacio Anchorage	DOT/PF	NO	HB600 HB612
Ray Shumiwa	Box 1467 Juneau AK	DOT/PF	yes -	
Charles Tryck	1801 13th Ave Anchorage 99501	G.E.C.F.F.	Yes	HB600 HB612

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
CHARLES E. TORKKO	1351 VIRGINIA CT ANCHORAGE AK 99501	CONSULTING ENGINEERS COUNCIL OF ALASKA	YES	278-2551
denise zachary		Gandisin		V9V4
JEAN KLINE	134 Franklin - Juneau	Assoc. Gen Contractors		586-1740
Nancy Cord		Rep Rogers	NO	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

1/15/82

TESTIMONY OF MR. CHARLES E. TORKKO
President, Consulting Engineers Council of Alaska

Mr. Chairman and members of the Committee, my name is Charles E. Torkko. I am the President of the Consulting Engineers Council of Alaska. The Council is an association of active engineering firms dedicated to advancing the quality of engineering in Alaska. I would like to speak today in support of legislation ensuring that the selection of registered professional architects, engineers, and land surveyors for public projects will be made on the basis of professional qualifications and competence and not on premature fee or price bids. To assist the Committee, I have prepared copies of my remarks which I would like to leave with you, Mr. Chairman, at the conclusion of my testimony.

Traditionally, the selection of architects, engineers, and land surveyors--like many other learned professions--has been conducted through an evaluation process based on demonstrated competence and professional qualifications to perform the specific work that is desired. In this regard the selection of an engineer differs form the selection of a vendor for parts or supplies and from selection of construction contractors in that the choice of a vendor or contractor is generally based on detailed specifications and a quoted price, and contracts are generally awarded on a "low-bid" basis. The reason for this difference lies in the fact that the

professional architect or engineer offers a service that calls for applying state-of-the-art techniques to problems which are invariably unique and result in procurement specifications for vendors and construction contractors. I have been a professional engineer for over 20 years, and I can represent to this Committee that in those years I cannot remember solving the same design problem twice. Given these circumstances, the sole consideration in selecting an architect or engineer for a project must be whether the education, skills, and experience represented are best suited to the specific design problems of a proposed project.

No one in this room today--if he or she were ill--would think of asking for bids from physicians and expecting the low bidder to cure a person's illness while restricting the physician's resources. Nor would anyone with a particular complex legal problem--let's say an antitrust matter--ask for bids from the entire legal profession hoping that the most qualified attorney will just happen to submit the cheapest price. Similarly, in the design of a building or other public project, the first and foremost consideration must be the relative skill and experience of persons proposing to do the work. Only after a person or firm has been selected as the best qualified, and after the full requirements of the job have been assessed, should an attempt be made to negotiate a fair and reasonable price for the desired work. I stress the terms "fair" and "reasonable" because I do not mean to suggest that the cost of professional services should be ignored. It must always be the duty of the state or local official responsible for a public project to ensure that fees for professional

architectural or engineering services are amply justified. However, the only time that such a determination can properly be made is after the full scope and complexity of the project are understood, through negotiation. The selected firm must often be given clarifying assistance in the development of the project's objectives.

Many of you might ask what is wrong with requesting preliminary fee bids or estimates of charges for architectural and engineering services. Who loses if a contract is awarded based on, or substantially influenced by, such fee bids?

First and foremost--it is the public who loses--as the ultimate consumer for the proposed project. The public loses in that a few dollars saved at the critical design stage through shortcuts or unimaginative design solutions will result in increased construction costs and--more importantly--in increased operating, maintenance, and other life-cycle costs for the project over the many years of its useful life.

The public loses again in terms of receiving less than maximum value or utility from the project. A "bargain" price is no bargain if the item purchased does not do the job or does it at reduced efficiency.

Second, the professions of architecture and engineering suffer. Human nature being what it is, if fee bids or price estimates are injected prematurely into a competition process, the temptation to "lowball" the bid

will often be irresistible. A job obtained through a "bare bones" bid will produce one of two results. Either the client, and in this case the public, gets a less than optimal project and pays manyfold for the few dollars saved in design costs, or the design costs are later escalated upward through change orders as the client discovers the true cost of quality, professional work. This is, of course, unfair to others in the competitive process who may have refused to sacrifice professional quality for price.

The concept that I have outlined for you today, and which is represented in the legislation before this Committee, is neither new nor radical. As I mentioned at the beginning of my remarks, the generally accepted method for selecting architects and engineers has been to defer negotiation of fee until after a selection has been made based on qualifications. The federal government recognized the need to ensure that this concept is protected by passage of the Brooks Act in 1972. Many other states have followed this precedent and have enacted similar legislation. I have attached a list of these jurisdictions to my written remarks for the information of the Committee. Also, the American Bar Association, after years of effort, has adopted its Model Procurement Code, which calls for competitions to be based on qualifications and for the best qualified person or firm to be selected before fee or price is negotiated. Finally, the Alaska State Board of Registration for Architects, Engineers and Land Surveyors, established under Title 8 of the Alaska Statutes, has adopted, as a regulation with the force of law, 12 AAC 36.230, which prohibits registered professional architects and engineers from soliciting

or submitting proposals for services based on fee or price bids.

Although the substantial majority of public contracts for architectural and engineering services in Alaska are presently being advertised and awarded in accordance with the concept I have described, there have, unfortunately, been cases in which, either intentionally or inadvertently, registered professionals have been requested to submit fee bids. When a registered architect or engineer is faced with such a request, he or she must either decline to submit a proposal for the public job or be placed in a situation which violates the code of professional conduct established by regulation. The legislation which the Consulting Engineer's Council of Alaska supports would specify that for contracts with registered architects or engineers issued by the state or a political subdivision, the initial selection of a person or firm must be made on the basis of professional qualifications and demonstrated competence to perform the desired work. I would, however, like to stress that the state or local official would, under this proposal, be free to establish whatever procedures or criteria they deem best in selecting a qualified person or firm. The only requirement under the proposed bill is that an attempt be made to negotiate a fair and reasonable fee with a person or firm selected as best qualified to perform the needed work. If negotiations with that person or firm are unsuccessful, state or local officials remain free to negotiate with other qualified applicants or to reject all or part of the remaining proposals. The recommended legislation would only apply to contracts with registered professional architects, engineers, and land

surveyors and would not affect bids for construction or other types of services or supplies by the state or its local governments. Also, contracts awarded in response to an emergency condition would be exempt from provisions of the bill.

By adopting the proposed bill, Alaska will join with many other states in ensuring that the public receives the highest possible quality of architectural and engineering services while preserving flexibility for state and local officials. I urge this Committee to act favorably on the proposed bill, and I will be happy to attempt to answer any questions. Thank you for the opportunity of testifying before the Committee today, and I thank you for your consideration of the proposed bill.

H L&C

1/18/82

(0734) Ch. M. explained history of bill; presented final workdraft

(0746) Sojo – compared CS workdraft & discussion drafts.
(759) drafts share goal of taking chng contracts criteria fm only lowest bidder (inc. other criteria).
(766) recent drafts look at "best qualified ... on basis of professional competence." (772) difference is words used to specify qualifying criteria. Most recent drafts look at "best" qualified – distinguishes 2 drafts. (781) went over items Burns had in his draft that we did not include. (783) – room for argument over distinguishing criteria – all applicants may be capable & qualified; may end up with same pool of qualified contractors, & may be forced to choose 1 who is "best." (800) left to layman's interpretation of what bills mean. (805) Diff bet cap & qual & best qual are diffs in bill.
(811) Need more mat'l to row further.

(817) Charles E. Torko Pres Consulting Engrs Council of Ak. Supports legis ensuring selection made on basis of prof'l qualifns & competence, not price bids (left cy of prepared testimony)
(846) Compared to selecting doctor or lawyer by lowest bidder.
(850) skill & experience must be considered; then negotiate fair & reasonable price. Expanded on quality v. cost; prematurely pricing bids (low) w/ resulting poorer quality or higher-than-bid cost. Unfair to qualified bidders.
(884) generally accepted method of bidding is to select qualified bidders, then ~~fix~~ negotiate price. Federal govt does this. (893) State Board of Archs & Engrs prohibits archs & engrs fm soliciting or giving fee bids.

(914) wd only apply to arch's, engrs & LS's. ~~It~~
Wd ensure highest ~~quality~~ of service while retaining flexibility (~~under~~ 0723)

924 Randolph - how do you determine best ~~qualified~~?
Can't this open up "less than proper determinations"?

937 Torko - price competition does not eliminate this; this type of selection (by qualifns) is traditional; competing w/ quals & skills on fair basis rather than artificial procedure w/ sketchy data.

~~944 R~~

948 Bylsma - if 2 or 3 firms equal - what is procedure?

950 Torko - Any # might do adequate job; process in analyzing "subject specificity" results in "level of comfortability" — establishes trust & confidence. 962 - common to have equally ~~qualified~~ firms ranked differently due to different approaches, personalities, etc.

970 B — if firms equal, pick one firm, then negotiate — wd that have bearing on fee?

973 T — ~~no~~ doesn't think so; dropl of contract different project; some agencies have budget, which is or isn't revealed; larger agencies do checks on workscopes. major diff of what is inc. in contract. 987 ~~those~~ owner has leverage — if price is unacceptable, they can terminate negn.

995 Ch. M — ~~can~~ for state & muni govt — can procedure like this help better estimate costs?

1002 T — by hiring skilled people, estimates shd be as skillful as humanly possible. Budgets often made up w/ little info. That a const cycles ~~put out~~ beyond control can distort figures.

rot* ~~Randolph~~

1021 Bylsma – Won't it put firm closer to top if accounts in estimates, & vice versa.

1025 T – yes.

1034 – no further test.

1038 – Randolph moved to ~~pass~~ accept committee ~~draft~~ substitute HB 612

1042 ~~xx~~ q'stn by Gardiner as to which draft; second by Gardiner

1047 passed unanimously

~~2:53~~ HB 600

1051 Ch. M. said gps had requested deferment of consideration

~~2:53~~ 3:53 adjourned

1-19-82

HB 623

HB 640

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 19, 1982
1:[illegible] p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Gardiner
Rep. Randolph

Members Absent: No members absent.

COMMITTEE CALENDAR

TELECONFERENCE HEARING

HB 623 — An act relating to games of chance and contests of skill; and providing for an effective date.

HB 640 — An act relating to games of chance and contests of skill; and providing for an effective date.

WITNESS REGISTER

Representative Grussendorf
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-3824
Position Statement: Sponsor of HB 623. Gave reasons he felt legislation is needed.

Representative Vaska
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-4914
Position Statement: Co-sponsor of HB 623. Said constituents in his district support this legislation.

Joe Donohue, Deputy Commissioner of Taxation
Department of Revenue
Pouch S
Juneau, Alaska 99811
465-2302
Position Statement: Gave governor's position and background of use of pull tabs and punch boards.

Marie Reynolds

VFW Ladies Auxiliary
Bethel, Alaska
Position Statement: Supports legislation.

Kathy Ward
Bristol Bay Native Association
Dillingham, Alaska
Position Statement: Supports legislation.

K.C. Jackson
Volunteer, Senior Citizen Program
Bristol Bay Native Association
Dillingham, Alaska
Position Statement: Supports legislation.

Laura Schroeder, Manager
City of Dillingham
Dillingham, Alaska
Position Statement: Supports legislation.

LeRoy Whittich, President
Elks Club Alaska Association
Kodiak, Alaska
Position Statement: Supports legislation.

Merle Snider
American Legion, Jack Allman Post
Kodiak, Alaska
Position Statement: Supports legislation.

Edward Hoffman, Sr.
Kuskokwim Native Valley Association
Bethel, Alaska
Position Statement: Supports legislation.

Andy Edge
self
Bethel, Alaska
Position Statement: Supports legislation.

Arnold Brower, Jr.
Post Commander, VFW
Barrow, Alaska
Position Statement: Supports legislation.

Phil R. Holdsworth, Chairman
Government & Public Relations Committee
Alaska State Elks Association
Juneau, Alaska 99801
Position Statement: Suggestions.

Mark Beltz
self
Anchorage, Alaska

Position Statement: Wanted to speak about another subject; was asked to address committee at another time.

[illegible]ry Feldmann
[illegible]gles
Fairbanks, Alaska
Position Statement: Supports legislation.

Martha Johnson, Chairman
CSO
Fairbanks, Alaska
Position Statement: Supports legislation.

Norman Bouffioux
Lions Club
Fairbanks, Alaska
Position Statement: Supports legislation.

Charles Busbee
Elks Club
Fairbanks, Alaska
Position Statement: Supports legislation. Problem with wording of bill.

Raymond Perkins
American Legion
Sitka, Alaska
Position Statement: Supports legislation.

Earl Arnold
Moose Lodge #1350
Sitka, Alaska
Position Statement: Supports legislation.

Bob Kedony
Manager and Secretary
Moose Lodge #1350
Sitka, Alaska
Position Statement: Supports legislation.

Del Childress
Secretary
Elks Lodge
Sitka, Alaska
Position Statement: Supports legislation.

Chester Ballot
Lions Club
Kotzebue, Alaska
Position Statement: Supports legislation.

Charlotte Brower, President
Mothers Club
Barrow, Alaska

Position Statement: Supports legislation.

Priscilla Sage, Vice President
Mothers Club
Barrow, Alaska
Position Statement: Supports legislation.

Jim Thompson
Midnight Sun Lions Club
Fairbanks, Alaska
Position Statement: Supports legislation.

Mary Caywood
Alano Club
Fairbanks, Alaska
Position Statement: Supports legislation.

Vern Kugzruk
Arctic Native Brotherhood
Nome, Alaska
Position Statement: Supports legislation.

Howard Farley
Vice President
Nome Kennel Club
Nome, Alaska
Position Statement: Supports legislation. Problem with wording in bill.

John Pullock
King Island Native Community
Nome, Alaska
Position Statement: Supports legislation.

Leo Land
Vice President
Alaska Native Brotherhood
Haines, Alaska
Position Statement: Supports legislation.

PREVIOUS ACTION

HB 623 — No previous action. Statutory Ref: AS 05.15. No action taken on this bill.

HB 640 — No previous action. Statutory Ref: AS 05.15.

Amendments Formally Considered: Rep. Rogers moved amendment to page 1, line 24. Motion passed unanimously.

Rep. Gardiner moved that bill, as amended,

be passed as Labor & Commerce committee substitute with do-pass by unanimous consent. There was objection. Rep. Gardiner reworded motion to pass out of committee with individual recommendations. Motion passed unanimously. CSHB 640 L&C was passed out of committee. Next committee of referral is House Judiciary.

ACTION NARRATIVE

Tape #003
Recording
Number 0000

The meeting was called to order by Chairman Martin at 1:05 p.m. All committee members were present. Other legislators attending the hearing were Reps. Grussendorf and Vaska. Rep. Adams sent written testimony. Committee hearing was teleconferenced statewide.

Number 0022

After an introduction to the teleconference by moderator Jack Sanderson, Chairman Martin gave a summary of the bills and noted the difference in the two bills.

Number 0046

REPRESENTATIVE GRUSSENDORF, sponsor of HB 623, gave background on why he felt legislation was needed. He described pull tabs, or Nevada cards, and the types of organizations who had contacted him concerned over the State banning these games. He said he became concerned that the interpretation of the game ' legality rested with the Department of Revenue. He said that countless organizations rely ' ull tabs and pur hboards for their fu Rep. Grussendorf said he had no objecti o Rep. Randolph's version of the bill (HB 640) which puts a limit on how much can be charged for the games ($1 limit). Rep. Bylsma pointed out that, as HB 640 was worded, the dollar limit would apply to raffles and other games, as well as the punchboards and pulltabs. Chairman Martin said that the Governor, in his state of the state address, felt legalizing these games is a moral issue, and asked whether Rep. Grussendorf would oppose amending the bill to go to a referendum vote. Rep. Grussendorf said there is a general tendency on the part of elected officials to cop out on issues facing them; that the ballot will

already be crowded; and that he did not think this issue should go on the ballot. Rep. Gardiner agreed that the problem should be rectified. He said the only person he knew of opposed to the legislation is the Governor. As no members of the public had requested the question to go to referendum vote, he felt the committee should hear testimony and take action. Rep. Randolph concurred. He said that, as chairman of the Regulation Review Committee, he held hearings in Fairbanks and Anchorage, where testimony was unanimously supportive of corrective legislation maintaining the games. He said he felt limiting the cost of pull tabs to $1 might alleviate the governor's concern about liberalizing gambling laws, and said he plans to amend his bill to be sure this dollar limitation does not apply to bingo, raffles, etc.

Number 0280

REPRESENTATIVE VASKA said constituents in his district supports continuing these activities. He said he co-sponsored HB 623 because of the benefits of this type of fundraising. He supports the bill and supports expediting it.

Number 0311

JOE DONOHUE, Deputy Commissioner of the State Department of Revenue, said the governor is prepared to veto legislation like HBs 623 and 640 unless the legislation contains a provision allowing a vote by the people. He said investigators discovered the use of the pulltabs, which had gone on unknown by the Department for several years, and that the Department had notified permittees that pulltabs were illegal. The Department then received petitions and requests for reconsideration asking the Department to expand regulations to include the use of pulltabs. The governor decided to utilize emergency regulations to allow organization to deplete stocks and to give notice that, as of 1/1/82, pulltabs and punchboards were illegal, and that othe fundraising activities should be found. Rep. Rogers asked, in reference to the governor's philosophical difficulties, if the governor's opinion extended to Permit #81-519, the Hammond for Governor raffle and lottery permit. Rep. Gardiner asked if the Department had assessed how many pulltabs were being used, and the volume of money.

Donohue said they had no data except letters and petitions saying that, in some cases, substantially more than 50% of some organizations' income was from punchboards and pulltabs. Donohue said he would give the committee copies of their annual reports.

Number 0425 — MARIE REYNOLDS, of the VFW Ladies Auxiliary, Bethel, spoke in favor of pulltabs. She said their income had dropped to less than 40% of what they were receiving before the pulltabs were deemed illegal. She said her group uses the money well to help others with scholarships, camp, and in disasters.

Number 0455 — KATHY WARD, director of the Senior Citizens Program in Dillingham, favored pulltabs because they are easy for seniors to play. She felt playing the cards was voluntary, no one was being forced. She opposed a statewide vote, and said much harm would be done by not reinstating the games.

Number 0485 — K.C. JACKSON, of the Bristol Bay Native Association's Sr. Citizens Program, Dillingham, said the games provide the seniors with recreation in a wholesome atmosphere where no alcohol is served; he said the only option is going to bars.

Number 0510 — LAURA SCHROEDER, Manager of the City of Dillingham, said the city council recommends pulltabs be permitted. She pointed out that applicants have to get council recommendation before getting a state permit for games, so the communities maintain authority. She said that, with cuts in federal revenue sharing, programs must find other means of support. She felt getting funds in this manner was healthier than asking the government for money.

Number 0538 — LE ROY WHITTICH, president of the Elk's Club Alaska Association, Kodiak, said the president of the United States had asked lodges to renew voluntary efforts to help those in need. He feels it's their duty to respond to this. He said without pulltabs for obtaining funds, local and state funds will suffer (more government funds will have to be allocated).

Number 0560 — MERLE SNIDER, American Legion Jack Allman

Post, Kodiak, favors the bills. He said his organization raised $29,324 last year for donations to charity through the use of pulltabs and punchboards. He is forwarding a list of donations to charity and community service organizations. He said the Post would be hurt if denied this source of funds. Rep. Martin asked if Snider objected to the money limit on pulltabs; Snider said no, but he felt $5 limit might be better. Rep. Bylsma asked if his organization had other sources of funding; Snider said they held twice-weekly bingo, Fourth of July boosts, and some other revenue. Games of chance comprised about 60% of their money raised.

Number 0605 — EDWARD HOFFMAN, SR., Bethel, said it should be up to the people, who pay Internal Revenue. He said everybody wants donations to buy a coffin and send kids down to Juneau. He felt Internal Revenue should dig out of their pockets.

Number 0628 — ANDY EDGE, Bethel, had no objection to HB 64 as written, but would object to raising the limit beyond $1. He doesn't want to sanction gambling. He felt, however, that the games in question do good in the community and will continue to do so. He does object to making it big business by raising the $1 limit.

Number 0649 — ARNOLD BROWER, JR., Post Commander, VFW, Barrow, said his Post has members from Barter Island to Point Hope. His Post supports HB 640. He felt Governor Hammond should either look at their side of the issue (in using punchboards and pulltabs to raise funds) or subsidize their programs. He felt the regulations banning the games were detrimental to their existence as a community. He wants legislation as soon as possible, and urged legislators to override the governor's anticipated veto. He doesn't care about the dollar amount in the bill; felt it should be up to the community to limit or not limit games.

Number 0707 — PHIL HOLDSWORTH, chairman of the Government and Public Relations Committee of the Alaska State Elks Association, Juneau, suggested, to clarify the interpretation of HB 640, that a comma be placed at the end of line

24. He noted that contributions of working hours should also be taken into consideration when speaking of funds raised.

Number 0731 — MARK BELTZ, Anchorage (testifying in Juneau) wanted to talk about minority discrimination. He was asked to address the committee at another time.

Number 0750 — GARY FELDMANN, Eagles, Fairbanks, said his group has a membership of 600. Last year they raised $36,000, including $10,000 in scholarships. He said they also support sports programs (baseball, basketball and hockey). He said his group lost 70% of their revenue without the pulltabs. With regard to the issue going to statewide vote, he said voter approval is given when a group applies for their license at city hall, and she felt making the games illegal was another infringement on a person's rights.

Number 0772 — MARTHA JOHNSON, USO chairman, Fairbanks, said without the sale of pulltabs, their organization will have to shut down. All their budgets were cut. USO provides overnight lodging and transportation to servicemen. She desperately urged passing the legislation.

Number 0787 — NORMAN BOUFFIOUX of the Lions Club, Fairbanks, said his group gave over $100,000 to a park and over $36,000 to the hospital for a laser eye machine. He said they need the legislation; there is nothing wrong with the games; and the revenue from the games is needed.

Number 0800 — CHARLES BUSBEE, Elks, Fairbanks, takes exception to the wording in the bills about raffles before 1959. He felt a $5 limit would not be objectionable. he said the loss of monies for charities would be substantial if legislation were not passed. Busbee and Rep. Randolph discussed wording of the bill.

Number 0849 — RAYMOND PERKINS, American Legion, Sitka, said their main source of revenue is from pulltabs. He favored Grussendorf's bill, but did not oppose Randolph's bill. He named several programs his group sponsors several community-oriented programs, but noted that they are costly. He felt

pulltabs are vital.

Number 0872 — EARL ARNOLD, Moose Lodge, Sitka, said his group relies on pulltabs. His group puts out scholarships, sponsors little league, provides disaster funds, help needy families and the pioneers home, purchases TVs for hospitals, gives money to schools, drill teams, and special olympics. He favors both bills, and had no qualms about a money limit.

Number 0889 — BOB REDDY, manager and secretary of Moose Lodge, Sitka, favors HB 623 and a $5 limit. He said they need the revenue from pulltabs.

Number 0902 — DEL CHILDRESS, secretary of the Elks Lodge, Sitka, said his group's charitable contributions run into thousands of dollars, much of which is from the sale of pulltabs. He noted that the cost of activities have gone up; with inflation, inorder to continue their activities, they need the gaming situation. He favors both bills, anything to keep going.

Number 0920 — CHESTER BALLOT, of the Lions Club, Kotzebue, supports HB 640. He said his organization supports thirteen different groups, from the senior center to little league, with pulltabs. He said the Kotzebue Dog Mushers also support the legislation.

Number 0930 — CHARLOTTE BROWER, president of the Mothers Club, Barrow, said their primary fundraising is with bingo and pulltabs. Their Club has raised funds for the needy, scholarships, and churches; they sponsor a women's shelter, alcohol programs, youth alternative program, basketball, Jesse Owens, and many other groups and functions. Eliminating pulltabs would take away their primary source of funds. She felt local cities have control and can monitor abuse of games.

Number 0970 — PRISCILLA SAGE, vice president, Mothers Club, Barrow, supports HB 640. She noted that, if this main source of funding is eliminated, they would have to cut back on their charitable functions.

Number 0986 — JIM THOMPSON, Midnight Sun Lions Club, Fairbanks, heartily supports HB 640. Without pulltabs, they cannot go ahead with

their plans. Eliminating the pulltabs caused them to lose 40% of their funding, without which they will have to drastically cut back programs. He recommended the $1 limit.

Number 1015 — MARY CAYWOOD, Alano Club, Fairbanks, said they desperately need pulltabs, and supported HB 640. She said the Moose also support HB 640. She said Alano is paying for a new building for Alcoholics Anonymous.

Number 1030 — VERN KUGZRUK, of the Arctic Native Brotherhood (a non-profit organization), Nome, favored HB 640; he objected to lines 16-20 and did not like 1959 date. He said, without the income from pulltabs, several of their functions (scholarship fund, firefighting equipment) are in jeopardy. He said pulltabs and bingo support these as well as get together and dog mushing (including in Nome, Teller, and other communities). He said the funds are needed to keep dog mushing alive. He said he enjoys bingo and doesn't mind paying for pulltabs because the funds go to a good cause. He said if the state authorizes ice classics, it should authorize pulltabs and punchboards. He felt the alternative was to go to bars or stay home drinking. The functions provide a chance for people to socialize and enjoy an evening of bingo and pulltabs. He favors HB 640 except for the 1959 date.

Number 1075 — HOWARD FARLEY, vice president of the Nome Kennel Club, Nome, which, he pointed out, is the oldest dog mushing club in the world, supported HB 640, except for the 1959 date. Rep. Randolph clarified what the 1959 date in the bill stood for.

Number 1094 — JOHN PULLOCK, King Island Native Community, Nome, supported HB 640. He said attendance has dropped almost 50% since eliminating pulltabs (at their fundraising events).

Number 1104 — LEO LAND, vice president of Alaska Native Brotherhood, Haines, said if pulltabs are taken away, they will have to close their doors and end their charitable work. He saw no problem with a $5 limit, regardless of the governor. He said 50-70% of their funds comes from pulltabs, and that people can

afford a $5 limit.

Number 1131

At this point, public testimony was ended and the bills went before the committee for consideration. Representative Rogers moved an amendment to HB 640 on page 1, line 24; Rep. Randolph seconded the motion and, there being no objection, the amendment passed. Rep. Gardiner moved that HB 640 as amended be moved out of committee as a Labor & Commerce committee substitute, with a do-pass recommendation by unanimous consent. There being objection, he changed his motion to move the bill out of committee with individual recommendations. Motion passed, and CSHB 640 I&C was directed to House Judiciary committee. Rep. Randolph directed further testimony on the bill be given to Rep. Barnes, Judiciary Committee chairman.

Number 1171

As there were no further items to come before the committee at this time, the Chairman adjourned the meeting at 2:49 PM.

COMMITTEE MINUTES
COMMITTEE: House Labor & Commerce
HEARING DATE: January 19, 1982
TAPE NO. 3, Side A

The meeting was called to order by Chairman Martin at 1:05 PM in the Labor & Commerce Committee Room, Behrends Building, Juneau, Alaska. Committee members present in addition to the Chairman were Representatives Bylsma, Randolph, Rogers, and Gardiner. Committee staff in attendance were Jeff Barry, Joan Mathews, and Mary Isaacs. Other legislators attending the hearing were Representatives Grussendorf and Vaska. Representative Adams sent written testimony.

The committee schedule called for the consideration of the following items: House Bills 623 and 640, relating to games of chance and contests of skill. The committee hearing was teleconferenced statewide.

After an introduction to the teleconference by moderator Jack Sanderson (meter no. 022), Chairman Martin (meter no. 028) gave a summary of the bills and noted the difference in the two bills.

REPRESENTATIVE GRUSSENDORF (meter no. 046), sponsor of HB 623, gave background on why the legislation was needed. He described pull tabs, or Nevada cards (meter no. 100), and the types of organizations who had contacted him concerned over the State banning these games. He said he became concerned that the interpretation of the games' legality rested with the Department of Revenue. He said that countless organizations rely of pull tabs and punchboards for their funds. Rep. Grussendorf said he had no objection to Rep. Randolph's version of the bill, which puts a limit on how much can be charged for the games ($1 limit). Rep. Bylsma pointed out that, as HB 640 was worded, the dollar limit would apply to raffles and other games, as well as the punchboard and pull tabs. Chairman Martin said that the Governor, in his state of the state address, felt legalizing these games is a moral issue, and asked whether Rep. Grussendorf would oppose amending the bill to go to a referendum vote. Rep. Grussendorf said there is a general tendency on the part of elected officials to cop out on issues facing them; that the ballot will already be crowded; and that he did not think this issue should go on the ballot. Rep. Gardiner agreed that the problem should be rectified. He said the only person he knew of opposed to the legislation is the Governor. As no members of the public had requested the question to go to referendum vote, he felt the committee should hear testimony and take action (meter no. 191). Rep. Randolph concurred. He said (meter no. 220) that as chairman of the Regulation Review Committee, he held hearings in Fairbanks and Anchorage, where testimony was unanimously supportive of corrective legislation maintaining the games. He said he felt limiting the cost of pull tabs to $1 might alleviate the governor's concern about liberalizing gambling laws, and said he plans to amend his bill to be sure this dollar limitation does not apply to bingo, raffles, etc.

REPRESENTATIVE VASKA (meter no. 280) said constituents in his district supported continuing these activities. He said he co-sponsored HB 623 because of the benefits of this type of fundraising. He supports the bill and supports expediting it.

JOE DONAHUE, Deputy Commission of the state Department of Revenue (meter no. 311) said the governor is prepared to veto legislation like HB 623 and HB 640 unless the legislation contains a provision allowing a vote by the people. He said investigators discovered the use of the pull tabs, which had gone on unknown by the Department for several years, and that the Department had notified permittees that pulltabs were illegal. The Department then received petitions and requests for reconsideration asking the Department to expand regulations to include the use of pulltabs. The Governor decided to utilize emergency regulations to allow organizations to deplete stocks and to give notice that, as of 1/1/82, pull tabs and punchboards were illegal and that other fund raising activities should be found. Rep. Rogers asked, in reference to the governor's philosophical difficulties, if the governor's opinion extended to Permit #81-519, the Hammond for Governor raffle and lottery permit. Rep. Gardiner asked if the Department had assessed how many pull tabs were being used, and the volume of money (meter no. 372). Donahue said they had no data except letters and petitions saying that, in some cases, substantially more than 50% of some organizations income was from punchboards and pulltabs. Donahue said he would give the committee copies of their annual reports.

MARIE REYNOLDS, of the VFW Ladies Auxiliary, Bethel (meter no. 425), spoke in favor of pulltabs. She said their income had dropped to less than 40% of what they were receiving before the pulltabs were deemed illegal. She said her group uses the money well to help others with scholarships, camp, and in disasters.

KATHY WARD, director of the Senior Citizens Program in ~~Bethel~~ Dillingham (meter no. 455), favored pull tabs because they are easy for seniors to play. She felt playing the cards was voluntary, no one was being forced. She opposed a statewide vote, and said much harm would be done by not reinstating the games.

K.C. JACKSON of the Bristol Bay Native Association's Sr. Citizens Program (meter no. 0485), ~~Bethel~~ Dillingham, said the games provide the seniors with recreation in a wholesome atmosphere where no alcohol is served; he said the only other option is going to bars.

LAURA SCHROEDER, Manager for the City of Dillingham (meter no. 510), said the city council recommends pull tabs be permitted. She pointed out that applicants have to get council recommendation before getting a state permit for games, so the communities maintain authority. She said that, with cuts in federal revenue sharing, programs must find other means of support. She felt getting funds in this manner was healthier than asking the government for money.

LE ROY WHITTLE, president of the Elks Club Alaska Association, Kodiak, (meter no. 538) said the president of the United States had asked lodges to renew voluntary efforts to help those in need. He feels it's their duty to respond to this. He said without pull tabs for obtaining funds, local and state funds will suffer (more government funds will have to be allocated).

MERLE SNEIDER, American Legion Jack Allman Post, Kodiak (meter no. 560), favors the bills. He said his organization raised $29,324 last year for donations to charity through the use of pull tabs and punchboards. He is forwarding a list of donations to charity and community service organizations. He said the Post would be hurt if denied this source of funds. Rep. Martin asked if Sneider objected to the money limit on pulltabs; Sneider said no, but he felt $5 limit might be better. Rep. Bylsma asked if his organization had other sources of funding (meter no. 589); Sneider said they held twice-weekly bingo, Fourth of July boosts, and some other revenue. Games of chance comprised about 60% of their money raised.

EDWARD HOFFMAN, SR., Bethel (meter no. 605) said it should be up to the people, who pay Internal Revenue. He said everybody wants donations to buy a coffin and send kids down to Juneau. He felt Internal Revenue should dig out of their pockets.

ANDY HEDGE, Bethel (meter no. 628), had no objection to HB 640 as written, but would object to raising the limit beyond $1. He doesn't want to sanction gambling. He felt, however, that the games in question do good in the community and will continue to do so. He does object to making it big business by raising the $1 limit.

ARNOLD BREWER, JR., Post Commander, VFW, Barrow (meter no. 649), said his Post has members from Barter Island to Point Hope. His Post supports HB 640. He felt Governor Hammond should either look at their side of the issue (in using punchboards and pulltabs to raise funds) or subsidize their programs. He felt the regulations banning the games was detrimental to their existence as a community. He wants legislation as soon as possible, and urged legislators to override the governo'r anticipated veto. He doesn't care about the dollar amount in the bill; felt it should be up to the community to limit or not limit games.

PHIL HOLSWORTH, chairman of the Government and Public Relations Committee of the Alaska State Elks Association (meter no. 707), Juneau, suggested, to clarify the interpretation of HB 640, a comma be placed at the end of line 24. He noted that contributions of working hours should also be taken into consideration when speaking of funds raised.

MARK BELTZ, Anchorage (testifying in Juneau)(meter no. 731) wanted to talk about minority discrimination. He was asked to address the committee at another time.

GARY FELDMAN, Eagles, Fairbanks (meter no. 750), said his group has a membership of 600. Last year they raised $36,000, including $10,000 in scholarships. He said they also support sports programs (baseball, basketball and hockey). He said his group lost 70% of their revenue without the pull tabs. With regard to the issue going to statewide vote, he said voter approval is given when a group applies for their license at city hall, and he felt making the games illegal was another infringement on a person's rights.

MARTHA JOHNSON, USO chairman, Fairbanks (meter no 772), said without the sale of pulltabs, their organization will have to shut down. All their budgets were cut. USO provides overnight lodging and transportation to servicemen. She desperately urged passing the legislation.

NORMAN BOUFFIOUX of the Lions Club, Fairbanks (meter no. 0787), said his group gave over $100,000 to a park and over $36,000 to the hospital for a laser eye machine. He said they need the legislation; there is nothing wrong with the games; and the revenue from the games is needed.

CHARLES BUSBEE, Elks, Fairbanks (meter no. 800), takes exception to the wording in the bills about raffles before 1959. He felt a $5 limit would not be objectionable. He said the loss of monies for charities would be substantial if legislation were not passed. Busbee and Rep. Randolph discussed wording of the bill.

RAYMOND PERKINS, American Legion, Sitka (meter no. 849) said their main source of revenue is from pulltabs. He favored Grussendorf's bill, but did not oppose Randolph's bill. He named several programs his group sponsors several community-oriented programs, but noted that they are costly. He felt pulltabs are vital.

EARL ARNOLD, Moose Lodge, Sitka (872), said his group relies on pull tabs. His group puts out scholarships, sponsors little league, provides disaster funds, help needs families and the pioneers home, purchases TVs for hospitals, gives money to schools, drill teams, and special olympics. He favors both bills, and had no qualms about a money limit.

BOB ~~KEDING~~ Kedony manager and secretary of Moose Lodge, Sitka (meter no. 889), favors HB 623 and a $5 limit. He said they need the revenue from pulltabs.

DEL CHILDRESS, secretary of the Elks Lodge, Sitka (meter no. 902) said his group's charitable contributions run into thousands of dollars, much of which is from the sale of pulltabs. He noted that the cost of activities have gone up; with inflation, in order to continue their activities, they need the gaming situation. He favors both bills, anything to keep going.

CHESTER BALLOT, of the Lions Club, Kotzebue (meter no. 920), supports HB 640. He said his organization supports thirteen different groups, from the senior center to little league, with pulltabs. He said the Kotzebue Dog Mushers also support the legislation.

CHARLOTTE BROWER, president of the Mothers Club, Barrow (meter no. 930), said their primary fundraising is with bingo and pulltabs. Their Club has raised funds for the needy, scholarships, and churches; they sponsor a women's shelter, alcohol programs, youth alternative program, basketball, Jesse Owens, and many other groups and functions. Eliminating pulltabs would take away their primary source of funds. She felt local cities have control and can monitor abuse of games.

PRISCILLA SAGE, vice president, Mothers Club, Barrow (meter no. 970), supports HB 640. She noted that if this main source of funding is eliminated, they would have to cut back on their charitable functions.

JIM THOMPSON, Midnight Sun Lions Club, Fairbanks (meter no. 986), heartily supports HB 640. Without pull tabs, they cannot go ahead with their plans. Eliminating the pulltabs caused them to lose 40% of their funding, without which they will have to drastically cut back programs. He recommended the $1 limit.

MARY CAYWOOD, Alano Club, Fairbanks (meter no. 1015) said they desperately need pulltabs, and supported HB 640. She said the Moose also support HB 640. She said Alano is paying for a new building for Alcoholics Anonymous.

VERN KUGZRUK, of the Arctic Native Brotherhood (non-profit organization), Nome (meter no. 1030), favored HB 640; objected to lines 16-20 and did not like 1959 date. He said without the income from pulltabs, several of their functions (scholarship fund, firefighting equipment) are in jeopardy. He said pulltabs and bingo support these as well as get togethers and dog mushing (including in Nome, Teller, and other communities). He said the funds are needed to keep dog mushing alive. He said he enjoys bingo and doesn't mind paying for pulltabs because the funds go to a good cause. He said if the state authorizes ice classics, it should authorize pulltabs and punchcards. He felt the alternative was to go to bars or stay home drinking. The functions provide a chance for people to socialize and enjoy an evening of bingo and pulltabs. He favors HB 640 except for the 1959 date.

HOWARD FARLEY, vice president of the Nome Kennel Club (meter no. 1075), which, he pointed out, is the oldest dog mushing club in the world, supported HB 640, except for the 1959 date. Rep. Randolph clarified what the 1959 date in the bill stood for.

JOHN PULLOCK, King Island Native Community, Nome (meter no. 1094), supported HB 640. He said attendance has dropped almost 50% since eliminating pulltabs (at their fundraising events).

LEO LAND, vice president of Alaska Native Brotherhood, Hained (meter no. 1104), said if pulltabs are taken away, they will have to close their doors and end their charitable work. He saw no problem with a $5 limit, regardless of the governor. He said 50-70% of their funds comes from pulltabs, and that people can afford a $5 limit.

At this point, public testimony was ended and the bills went before the committee for consideration (meter no. 1131). Representative Rogers moved an amendment to HB 640 on page 1, line 24; Rep. Randolph seconded the motion and, there being no objection, the amendment passed. Rep. Gardiner moved that HB 640 as amended be moved out of committee as a Labor & Commerce committee substitute with a do-pass recommendation by unanimous consent. There being objection, he changed his motion to move the bill out of committee with individual recommendations. Motion passed, and CSHB 640 L&C was directed to House Judiciary committee. Rep. Randolph directed further testimony on the bill be given to Rep. Barnes, Judiciary Committee chairman.

As there were no further items to come before the committee at this time, the Chairman adjourned the meeting at 2:49 PM (meter no. 1171).

Introduced: 1/11/82
Referred: Labor and Commerce
and Judiciary

IN THE HOUSE BY RANDOLPH,MOSS AND O'CONNELL

HOUSE BILL NO. 640

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to games of chance and contests of skill; and providing for an effective date."

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

* Section 1. AS 05.15.100 is amended to read:

Sec. 05.15.100. COMMISSIONER OF REVENUE MAY ISSUE PERMITS. The commissioner of revenue may issue a permit to a qualified organization. The permit gives the organization the privilege of conducting games of chance and contests of skill including bingo, raffles and lotteries, ice classics, rain classics, dog mushers' contests, and fish derbies [AND CONTESTS OF SKILL].

* Sec. 2. AS 05.15.180(b) is amended to read:

(b) With the exception of games of chance [RAFFLES, LOTTERIES AND RAIN CLASSICS], no activity may be licensed under this chapter unless it existed in the state in substantially the same form and was conducted in substantially the same manner before January 1, 1959.

* Sec. 3. AS 05.15.210 is amended by adding a new paragraph to read:

(22) "game of chance" means a game in which the skill and experience of the player is secondary to purely fortuitous or accidental circumstances incidental to the game and includes ~~raffles and lotteries and~~ pull-tab and punchboard games in which the price of each chance is $1 or less, and raffles and lotteries.

* Sec. 4. Sections 1 - 3 of this Act are retroactive to January 1, 1982.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-070(c).

SIGN-IN SHEET HB600 HB623

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Josephic Donohue		Dept of Revenue	✓ Yes	2302
Rep. Grussendorf		District III	✓ Yes	
MR. MARK ALBERTELLI	343 WEST 12TH AVENUE ANCHORAGE ALASKA 99501	PRIVATE CITIZEN	Yes	907-272-5363
Phil R. Holdsworth	326 - 4th St. - Juneau.	State Elks. Assoc.	Yes	586-1383

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 1-19-82

Game of Chance & Skills

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
M. Corg		Rep. Rogers	no	
Karen Pedrue		GGN	no	
Sigrid Fry		Aid of Rep. Ramos, C.	no	
Terry Harris	Juneau	ELKS Lodge	No??!!	
Robin Shelby		Randolph Curb	No!	
Rep ALASKA			Yes (Oppose)	
Clifford Jr. Col.		Rep - Gardiner	No	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 1-19-82

Alaska State Legislature

House of Representatives

Albert P. Adams
Chairman
Committee on Finance

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

ANCHORAGE OFFICE
1024 W. 6th Avenue
Anchorage, Alaska 99501
(907) 274-0615

HOME - DISTRICT 21
P.O. Box 271
Kotzebue, Alaska 99752
(907) 442-3320

Official Business

January 19, 1982

The Honorable Terry Martin
Chairman, House Labor and
Commerce Committee
and
All Committee Members

Dear Colleagues:

I am unable to attend today's teleconference on games of chance and skill. However, I would like to express my concern over a recent Attorney General's opinion which found that pull tabs are illegal under current state law. Pull tabs are commonly used in rural areas at bingo games to raise money for various civic and charitable organizations and functions. These range from the Lions' Club, Veterans of Foriegn War, and the Senior Citizens' Program in Dillingham which provides a ride service and hot meal service to the elderly. In addition, money from pull tabs is used to by food and coffins for poor people in the Bethel area.

I am unfamiliar with the use of pull tabs in urban areas of Alaska but, I can vouch for their importance in rural areas, where there are often few alternatives for raising money for charitable purposes.

Because of the importance of pull tabs in rural communities I urge the committee to legalize their use. Governor Hammond warned us in his state of the state address not to liberalize gambling laws, as this would result in an immigration of riff raff and low life to Alaska. I am sure he did not have pull tabs in mind when he made this statement, as pull tabs are not associated with low life, but with the highest motives of human nature, those of giving and sharing.

I therefore support House Bills 623 and 640, and I am not particularly concerned with the minor difference between them.

Sincerely,

Representative
Albert P. Adams

APA/wlr

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 8
CHAIRMAN—LABOR AND COMMERCE COMMITTEE
PHONE 465-3873

3960 REKA DRIVE—B6
ANCHORAGE, AK 99504
PHONE 333-6990

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE 465-3784

LABOR AND COMMERCE COMMITTEE

February 4, 1982

Leo Nunley, Quartermaster
Wasilla VFW
Box 2000
Wasilla, Alaska 99687

Dear Mr. Nunley:

I received word from the Legislative Information Office in Wasilla that you would like information about the "games of chance" teleconference which was heard before this committee on January 19. I have enclosed minutes of that meeting, as well as a copy of the bill as it was passed out of committee.

There were two near-identical bills before the committee dealing with games of chance: HB 623, sponsored by Rep. Grussendorf of Sitka; and HB 640, sponsored by Rep. Randolph of Fairbanks. Both bills were designed to statutorily legalize games such as pull-tabs (Nevada cards) and punchboards. The only difference between the two bills was that HB 640 put a limit of $1 on the amount which could be charged for these games.

House Bill 640 was amended to clarify that this dollar limit would not apply to raffles, lotteries, and the like. The bill was approved by the Labor & Commerce Committee, and passed to House Judiciary Committee. Rep. Ramona Barnes is chairman of Judiciary, if you are interested in contacting her to give testimony or with any questions.

As you can see from the minutes, public testimony taken from around the state was overwhelmingly in support of this legislation. You should be aware, however, that Governor Hammond has already informed the legislature that he plans to veto any legislation which, in his definition, would broaden Alaska's gambling laws.

If you have any questions or would like more information, don't hesitate to contact me, by phone at 465-3657, by mail at the above address, or through the Legislative Information Office.

Sincerely,

Joan Mathews

Joan Mathews
Committee Secretary

enclosures

cc: Mary Kvalheim
Legislative Information Officer

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 1/19/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		12:58	2:49
Rep. D. Randolph	✓		1:04	2:49
Rep. B. Rogers	✓		1:22	2:49
Rep. T. Gardiner	✓		1:11	2:49
Rep. T. Martin, Chair	✓		12:58	2:49

Subject Matter:

House Bill No. 623 640 _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

Representatives Grussendorf, Vaska present to testify.
Rep. Adams sent written testimony.

HB 640 amended & passed.

COMMITTEE REPORT

HOUSE

(5) FURTHER: JUDICIARY

1/11/82

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 640

"An Act relating to games of chance and contests of skill; and providing for an effective date."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB640 [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

Bruce Rose
Terry Gardner
Ike Randall
Terry Marston

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bill Bryson (No Rec)

Rep Terry Marston
CHAIRMAN

H 60 (Rev. 12/78)

STATE OF ALASKA
DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

January 19, 1982

The Honorable Terry Martin
Chairman
House Labor & Commerce Committee
Room 211 - Behrends Building
Juneau, AK 99811

Dear Mr. Martin:

Re: House Bill No. 640

House Bill No. 640, an Act relating to games of chance and contests of skill, was introduced in the House on January 11, 1982, and was referred to the House Labor & Commerce and Judiciary Committees.

For consideration of the House Labor & Commerce Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Ervin B. Jones, Supervisor, Audit Division, Department of Revenue, concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

RDS:jas

Enclosure

cc: The Honorable Ramona L. Barnes
Chairwoman
House Judiciary Committee

Joseph K. Donohue
Deputy Commissioner, Taxation
Department of Revenue

Ervin B. Jones, Supervisor
Audit Division
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 640
Title "An Act relating to games of chance and contests of skill; and providing for an effective date" Date January 18, 1982
Requested by
Requested by: House Labor and Commerce

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
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) None

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL						

FUNDING (Thousands of Dollars) None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

(Continued - Explanation Section III)

R.D. Stevenson
Legislative Assistant

January 18, 1982

Ervin Jones
Office Audit Manager
Audit Division

HB 640
(Labor and Commerce)

This bill proposes to amend three sections of AS 05.15.

The effect of these proposed changes is to considerably broaden the privileges granted with the issuance of a games of chance and skill permit. The original language of AS 05.15.100 limited the games of chance to only those activities listed (i.e., bingo, raffles, lotteries, ice classics, rain classics, dog mushers' contests and fish derbies). New games of chance would have to then be allowed under one of those listed. The proposed language removes that limitation and taken in context with sections 2 and 3 of the bill, would allow any game of chance which could be contrived where the element of chance and luck is foremost, regardless of whether those games of chance existed in Alaska prior to statehood. Since the original intent of the legislation was to permit continuance of those gaming activities after statehood which existed in territorial days, this change is a considerable divergence.

The only remaining limitation would be the limitation on use of gambling implements found in AS 05.15.180(a). This would presumably prevent the introduction of casino type hardware and coin operated video games as games of chance, but would not prevent the legal introduction of games of chance such as can be contrived by profit-seeking individuals and nonprofit organizations striving to maximize their take in an <u>extremely</u> competitive industry.

If the author's intent is simply to legalize pull-tabs, I would recommend this bill to legal counsel to arrive at a simpler way of accomplishing that goal without opening Pandora's box.

EJ:jg

Alaska State Legislature

House of Representatives

LABOR & COMMERCE COMMITTEE

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

FOR IMMEDIATE RELEASE

Contact Joan Mathews
465-3657/3873

January 13, 1982

"GAMES OF CHANCE" LAWS UNDER FIRE

"Games of chance and contests of skill" will be the topic of discussion at a January 19 hearing of the State House Labor & Commerce Committee. Recent state policy decisions have caused some confusion as to what qualifies as a game of chance.

Last year, the State Department of Revenue suspended regulations allowing the use of pull-tabs and punchboard games. Public outcry caused the reinstatement of those regulations last summer, but on January 1 of this year, the regulations were once again suspended. House bills 623 (Grussendorf) and 640 (Randolph), which would clarify statutes dealing with such games, have been scheduled for a statewide-teleconferenced hearing because so many service organizations have expressed concern that cutting off this means of funds would reduce or eliminate many of their charitable programs.

Committee chairman Representative Terry Martin said that many private charitable groups have expressed to him that games such as raffles, bingo and pull-tabs provide a good, low-overhead method of fundraising. The East Anchorage Republican said, "These games are used to raise a good deal of the money that enables such organiza-

--more--

tions as the Elks Club, American Legion, Kiwanis Clubs, and National Brotherhood & Sisterhood Associations to fund sports programs, special events, and other community-service functions."

A statewide teleconference hearing is scheduled for Tuesday, January 19, at 1:00 pm Juneau time. Those interested in participating should contact the Legislative Information Office or House Labor & Commerce Committee chairman Terry Martin at 465-3873.

--30--

MSG 82-00001450 PRTY 1 01/15/82 16:08:11 ORIG: LJE5 IN= 0002 OUT= 0003
FROM: JOAN MATHEWS, HOUSE LABOR & COM TO: MAXINE, FAIRBANKS
TARGET: LJHY SUBJ: PRESS RELEASE PAGE 0001

MAXINE:
FIRST, I'D LIKE TO THANK YOU FOR THE QUICK TRANSMITTAL OF THE COMMITTEE PRESS RELEASE TO THE NEWS MINER. I WAS CONTACTED TODAY BY DERMOT COLE, WHO REQUESTED FURTHER INFORMATION. UNFORTUNATELY, I HAVE NOT BEEN ABLE TO GET HOLD OF HIM SINCE HE CALLED. WILL YOU PLEASE LEAVE A MESSAGE FOR HIM THAT YOU HAVE THE INFORMATION HE REQUESTED, AND RELAY TO HIM THE FOLLOWING:

TO: DERMOT COLE, FAIRBANKS DAILY NEWS MINER
FM: JOAN MATHEWS, HOUSE LABOR & COMMERCE COMMITTEE

I HAVE NOT BEEN ABLE TO GET BACK IN TOUCH WITH YOU SINCE THIS MORNING, AND WANTED TO BE SURE YOU GOT THE FOLLOWING INFORMATION.

I CONTACTED REP. RANDOLPH'S OFFICE TO GET LIST OF SOME OF THE ORGANIZATIONS IN FAIRBANKS AREA WHO CONTACTED HIM RE PULL TABS QUESTION. THEY INCLUDE:

FAIRBANKS CURLING CLUB

MSG 82-00001450 PRTY 1 01/15/82 16:08:11 ORIG: LJE5 IN= 0002 OUT= 0003
FROM: JOAN MATHEWS, HOUSE LABOR & COM TO: MAXINE, FAIRBANKS
TARGET: LJHY SUBJ: PRESS RELEASE PAGE 0002

TANANA VALLEY AMERICAN RED CROSS
GOLDEN NORTH REBEKKAH LODGE
ST. NICHOLAS CHURCH, NORTH POLE
SOROPTOMISTS CLUB OF FAIRBANKS
NORTH POLE ELEMENTARY SCHOOL PTA
MIDNIGHT SUN LIONS CLUB
FAIRBANKS LIONS CLUB
BEAVER KWITCHIN CORPORATION
VFW
SACRED HEART CATHEDRAL
CHURCH OF GOD AND CHRIST
FAIRBANKS HUMANE SOCIETY
USO
ELKS CLUB

I ASKED ABOUT EXACTLY WHAT PULL TAB GAMES ARE. APPARENTLY THEY ARE SIMILAR IN PLAY TO A SLOT MACHINE--ONE PULLS A TAB OFF A CARD TO SEE WHAT COMBINATIONS OF

MSG 82-00001450 PRTY 1 01/15/82 16:08:11 ORIG: LJE5 IN= 0002 OUT= 0003
FROM: JOAN MATHEWS, HOUSE LABOR & COM TO: MAXINE, FAIRBANKS
TARGET: LJHY SUBJ: PRESS RELEASE PAGE 0003

FRUITS OR OTHER SYMBOLS ARE THERE, AND PRIZES OR MONEY ARE WON IF THE COMBINATION IS FAVORABLE (EG, 3 ORANGES, ETC). PUNCH CARDS OPERATE ON A SIMILAR THEORY. ONE PURCHASES A CARD AND PUNCHES OUT A SLOT OR HOLE TO SEE WHAT NUMBER LIES BENEATH; IF THE NUMBER IS THE SAME AS THE WINNING NUMBER, AGAIN, PRIZES OR MONEY ARE WON. I'M SURE THE LOCAL VFW OR ANY OF THE OTHER GROUPS LISTED ABOVE COULD EITHER SHOW YOU THESE GAMES OR EXPLAIN FURTHER.

THE ADMINISTRATION'S STAND ON THESE GAMES. SHE SAID THAT IN EARLY FALL, L98L, THE DEPARTMENT OF REVENUE BROUGHT TO THE GOVERNOR'S ATTENTION THAT PULL TABS AND PUNCHBOARDS ARE NOT TECHNICALLY COVERED BY STATUTE. THEY DETERMINED IT MIGHT BE POSSIBLE TO LEGALIZE, BY THE DEPARTMENT'S REGULATORY AUTHORITY; HOWEVER, THE GOVERNOR THOUGHT LEGALIZING THESE GAMES MIGHT APPROXIMATE LIBERALIZING GAMBLING LAWS, AS THE PRINCIPLE OF PULL TABS IS SIMILAR TO THAT OF "ONE ARMED BANDITS". THE GOVERNOR THOUGHT THIS INAPPROPRIATE. SINCE CHARITY-TYPE ORGANIZATIONS HAD BEEN USING THE GAMES, HE PERMITTED A L20 DAY EMERGENCY REGULATION EXTENSION TO ALLOW THESE ORGANIZATIONS TIME TO FIND OTHER

MSG 82-00001450 PRTY 1 01/15/82 16:08:11 ORIG: LJE5 IN= 0002 OUT= 0003
FROM: JOAN MATHEWS, HOUSE LABOR & COM TO: MAXINE, FAIRBANKS
TARGET: LJHY SUBJ: PRESS RELEASE PAGE 0004

SOURCES OF FUNDING. THE EMERGENCY REGULATIONS EXPIRED DEC 30 OR 31. THE GOVERNOR INDICATED TO THE LEGISLATURE THAT HE HAS NO INTENTION OF REINSTATING THE REGULATIONS, FOR REASONS CITED ABOVE, AND INFORMED LEGISLATURE THAT, IF THEY PASSED LEGISLATION ALLOWING PULL TABS/PUNCHBOARDS, THEY SHOULD BE SURE THEY HAD THE REQUIRED 2/3 MAJORITY TO OVERRIDE HIS VETO, BECAUSE HE WOULD VETO ANY BILL LEGALIZING THESE GAMES.

SUSAN GREEN CAN BE CONTACTED AT 465-3500; SHE ALSO REFERRED ME TO DEPARTMENT OF REVENUE DEPUTY COMMISSIONER JOE DONAHUE, AT 465-2301, WHO HAS BEEN WORKING CLOSELY WITH HER ON THIS SUBJECT.

HC THIS CLARIFIES; SORRY TO BE SO UNINFORMATIVE THIS MORNING. PROMISE TO HAVE MORE BACKGROUND BEFORE RELEASING ARTICLES IN THE FUTURE.

JOAN MATHEWS

MSG 82-00001450 PRTY 1 01/15/82 16:08:11 ORIG: LJE5 IN= 0002 OUT= 0003
FROM: JOAN MATHEWS, HOUSE LABOR & COM TO: MAXINE, FAIRBANKS
TARGET: LJHY SUBJ: PRESS RELEASE PAGE 0005

MAXINE: THANKS FOR YOUR ASSISTANCE, AND FOR THE GOOD WORK ON YESTERDAY'S TELECONFERENCE. HOPE TO MEET YOU ONE DAY..... JOAN MATHEWS.

PS---PLEASE CONFIRM RECEIPT BY OMNI TO LJHY. THANKS.

1/15/82

465-3500

Susan Green, special asst to the Gov.
1981 Dept of Rev prohibited

early fall, came to Gov ofc abt
what pull tabs + pandaboards not technically
covered by statute. Determined might
be possible to legalize by dept regulatory action
that might approximate ~~approving~~
liberalizing gambling (one armed
bandit). Gov felt this mapping.
Since charity type orgs had been
using, he permitted extension (180 days)
of emergency use regs.** Indicated
to legis that if they wished to
liberalize laws, shd go to vote.
~~Promised to veto, unless 2/3 majority,~~
~~any legis'n legislature passed~~
~~allowing~~ →

* difficult to distinguish bet pull tabs & one armed bandits

** by statute, possible to adopt emergency regs allowing games to continue 180 days to allow them to find other sources of funding; runs out Dec 30 or 31

Dep. Comm. Joe Donahue
X 2301

Told legis. that if they passed legislation allowing these, they should be sure they had 2/3 majority required to override his veto, because he would veto legislation.

Susan Green

secy -- Betty Dalman, Gov's ofc

465-3500

Dermot Cole
456-6661

Dept of Revenue - ask for regs
on games of chance
- 10th or 11th fl, SOB
- get background on recent
policy changes

Randolph for virgin

ask deadlines
give names + let them
do work

pull tabs like slot machines - get
cherries or fruit & win
prize money for good combinations

pinboards - punch a hole
in cardboard game; if numbers
match, win prize

Terry if available for stunt

1-20-82

HB 146

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 20, 1982
1:10 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph
Rep. Gardiner
Rep. Rogers

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 146 — Re payment procedures/public contracts

HB 595 — An act continuing the existence of the Board of Welding Examiners: and providing for an effective date.

WITNESS REGISTER

Representative Brown
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-3744
Position Statement: Gave background on both bills.

Nick Coti, Management Analyst
Division of Occupational Licensing
Department of Commerce & Economic Development
Juneau, Alaska 99811
465-2534
Position Statement: Supported HB 595.

Donald Lockman
Testing Institute of Alaska and
State Board of Welding Examiners
Anchorage, Alaska
276-3440
Position Statement: Supported HB 595.

Ken Lomax
ARCO Oil and Gas Company
Anchorage, Alaska
338-1271
Position Statement: Supported HB 595.

Louie Rousseau
Welding Application-Methods

Anchorage, Alaska
272-3543
Position Statement: Opposed HB 595.

Erwin Long
Arctic Foundations, Inc.
Anchorage, Alaska
276-5575
Position Statement: Opposed HB 595.

PREVIOUS ACTION

HB 146	Referred to committee 3/11/81; no previous action. No action taken by committee this date.
HB 595	Referred to committee 5/26/81; no previous action. No action taken by committee this date.

ACTION NARRATIVE

Tape #003 Recording Number 1190	The meeting was called to order by Chairman Martin at 1:10 p.m. All members were present. The committee schedule called for the consideration of HB 595 and HB 146. Testifying before the committee regarding both bills was Representative Fred Brown, prime sponsor.
Number 1201	Rep. Brown, sponsor of HB 595 and HB 146, gave background on both bills. Chairman Martin limited further testimony and committee consideration to HB 595.
Number 1259	Nick Coti, Division of Occupational Licensing, Department of Commerce and Economic Development, spoke from prepared testimony in favor of continuing the Board of Welding Examiners.
Number 1371	Donald Lockman, of the Testing Institute of Alaska and the State Board of Welding Examiners, testified in favor of HB 595. Rep. Rogers questioned Lockman about his testimony.
Number 1634	Ken Lomax, of ARCO Oil and Gas Company, testified in favor of the bill, and presented written statements and letters to

the committee.

Number 1710	Louie Rousseau, of Weldir , Application-Methods, a technical services business in Anchorage, testified against the bill.
Number 0136, Side B	Erwin Long, of Arctic Foundations, Inc., a manufacturer of pressure vessels and geo-tech equipment, also testified against the bill. He said he does contract work for the Corps of Engineers, and finds the State Board of Welding examinations and certifications to be in conflict with federal requirements that certification must be done according to the American Society of Mechanical Engineers (ASME) code.
Number 0312	Donald Lockman gave rebuttal testimony in favor of the State Board of Welding Examiners.
Number 0348	No action was taken on HB 595, and the Chairman adjourned the meeting at 3:00 p.m. Hearing on HB 595 will be continued in February.

COMMITTEE MINUTES
COMMITTEE House Labor & Commerce
HEARING DATE January 20, 1982
TAPE NO. 3, Sides A and B

The meeting was called to order by Chairman Martin at 1:10 p.m. in the Labor & Commerce Committee Room, Behrends Building, Juneau, Alaska. Committee members present in addition to the Chairman were Representatives Bylsma, Randolph, Rogers and Gardiner. Committee staff in attendance were Jeff Barry and Mary Isaacs.

The committee schedule called for the consideration of the following items: HB 595 and HB 146. Testifying before the committee regarding both bills was Representative Fred Brown, prime sponsor. Testifying before the committee regarding HB 595 were Nick Coti, Don Lockman, Ken Lomax, Louie Rousseau, and Erwin Long.

Rep. Brown, sponsor of HB 595 and HB 146, gave background (meter no. 1201) on both bills. Chairman Martin (meter no. 1248) limited further testimony and committee consideration to HB 595.

Nick Coti, of the Department of Commerce and Economic Development, Division of Occupational Licensing, spoke (meter no. 1259), from prepared testimony in favor of continuing the Board of Welding Examiners.

Donald Lockman of the Testing Institute of Alaska and the State Board of Welding Examiners testified (meter no. 1371) in favor of HB 595. Rep. Rogers (meter no. 1512) questioned Lockman about his testimony.

Ken Lomax of ARCO Oil and Gas Company (meter no. 1634) testified in favor of the bill, and presented written statements and letters to the committee.

Louie Rousseau of Welding Application-Methods, a technical services business in Anchorage (meter no. 1710) testified against the bill.

Erwin Long of Arctic Foundations, Inc., a manufacturer of pressure vessels and geo-tech equipment, (meter no. 0136, side B) also testified against the bill. He said he does contract work for the Corps of Engineers, and finds the State Board of Welding examinations and certifications to be in conflict with federal requirements that certification must be done according to the American Society of Mechanical Engineers (ASME) code.

Don Lockman (meter no. 0312) gave rebuttal testimony in favor of the State Board of Welding Examiners.

No action was taken on HB 595, and the Chairman adjourned the meeting at 3:00 p.m. Hearing on HB 595 will be continued in February.

MINUTES REVIEWED AND APPROVED:

_____
Representative Terry Martin, Chairman
House Labor & Commerce Committee

TESTIMONY BEFORE THE HOUSE LABOR & COMMERCE COMMITTEE

ON HB 595

January 20, 1982

By Nicholas Coti, Management Analyst
Division of Occupational Licensing

Thank you for the opportunity to comment on HB 595. The department would like to take this opportunity to indicate what it sees to be key issues with respect to the sunsetting of the Board of Welding Examiners and to provide this committee with relevant information that may assist it in determining whether it is in the public interest to continue the board and the licensing process.

The first issue I would like to address is: Is the welding inspector system set up under the present statutes and regulations necessary to protect the public from the effects of unsafe weldments.

The answer to this question appears to be yes. Under the present system, the board licenses welding inspectors who certify welders. This certification is a prerequesite for a welder to work on a job where weldment failure might pose a public hazard to life or property. This procedure seems reasonable and is the preferred approach by industry as evidenced by the operations of the American Welding Society and by comments of nonboard member professionals. While this approach seems to be necessary, it is not clear whether it is adequate to properly protect the public. The department would urge the committee to encourage comments from knowledgeable professionals on whether this system is indeed adequate.

The second issue that we feel is key is: Given the fact that the system of certifying welders by welding inspectors is accepted as necessary by the industry and that an independent certification process is available through American Welding Society's welding inspector program, is it necessary to make the certification of welders a legal requirement or can we rely on industry (specifically the purchasers of welding services) to regulate themselves?

The Division of Legislative Audit has indicated that it feels that industry can adequately regulate itself in this area, while the board has indicated the present level of regulation is appropriate and desirable.

With respect to this issue, the department would like to make the following points for the committee's consideration:

- Contractors, not welding inspectors, are generally held liable for the consequences of weldment failure. Contractors are already licensed by the State. The welding inspectors who are presently licensed by the State are at least twice removed from responsibility for the consequences of weldment failure (the welder and the contractor). In other words, there are no sanctions relating the welding inspector's performance to actual events of damage to the public.

- Similarly, the present statutes do not provide a system in which there are any realistic ways of identifying abuses by welding inspectors. For example, there is really no way of determining whether a welder who has been certified by a welding inspector has actually taken and/or passed the test.

Both of the above points underline enforcement weaknesses in the present system that should be evaluated during the sunset process. This also explains in part why there haven't been complaints of a public protection nature brought before the board...a point made by the Division of Legislative Audit in arguing that there is no need for a board.

The following comments address problems with the present statutes and regulations and address the performance of the board. These comments assume that the welding inspector system should be a legal requirement.

The first issue I would like to raise here is: Is the present set of procedures for licensing welding inspectors adequate?

The present regulations and statutes define two basic procedures whereby someone can become licensed as a welding inspector in Alaska. These can be identified as the AWS route to licensure and the board testing route to licensure (cf. AAC 72.065).

I would like to briefly discuss both these routes to licensure, noting first that only the AWS route to licensure has been actually operationalized.

The AWS Route to Licensure: Under the present set of regulations, a person will receive a license if he/she has a current welding inspector certificate from the American Welding Society and submits proof of having previously passed an all position welding qualification test in at least one welding process. One problem with the AWS route to licensure is that it places Alaskan applicants at the mercy of an outside organization over which the State, the board and the applicant have no control. Applicants dissatisfied with a determination made by the AWS have no means of appeal.

Two applicants actually encountered this problem this year when their applications for AWS certification were unjustly obstructed and temporarily denied by AWS. The Division of Occupational Licensing interceded in this case, contacted the AWS and after a series of interactions, was able to assist in getting the AWS decisions reversed. The actual problem was determined to be an obstinate AWS employee who was acting counter to instructions from the AWS Qualifications Committee. While this particular incident is by no means typical of our past interaction with AWS (which has been good), it does highlight the fact that under a system which relies soley on AWS certification, there is no appeal guaranteed to the applicant. Therefore, if you determine that licensing is in the public interest, the above is an argument against the position recommended by the Division of Legislative Audit that we rely on AWS certification for licensure.

Some benefits of the AWS system should also be noted: It is a generally workable system that represents standards recognized by the industry as valid; its independence from the board reduces the potential for conflicts of interest between board members and applicants who may be potential competitors; and it is a readily available method.

The board testing route to licensure: Under this route to licensure, the applicant should be tested directly by the board according to criteria specified in the existing regulations. In fact, the regulations describe this as the normal route to licensure and the AWS route is an alternative. As noted above, procedures for implementing these regulations have not been developed and the board has relied exclusively on the AWS route.

For the reasons discussed above, if the present statutes, regulations and board are retained, the Legislature would urge the board to establish the necessary procedures so that applicants could be tested directly by the board if necessary.

It should be noted that while the board has been remiss in developing these procedures, there is no record of the board being urged to do so by the department or the Division of Legislative Audit which has done two performance audits on this board in the last three years. The board has a good record of positively responding to constructive criticism and recommendations from the Division of Legislative Audit. If the present licensing system is continued, the department will make every effort to assist the board in developing these regulations.

In closing, I would like to note that the board has an excellent record of licensing qualified applicants who follow the existing procedures. There are presently 219 welding inspectors licensed by the board, 136 of which are currently in active status. This is substantially more than is reported in either of the Division of Legislative Audit's reports and reflects the board's efforts to licerse qualified people.

It is also worthy to note that in the past the board has delegated routine licensing functions to the licensing examiner in an effort to expedite the licensing process. The board instructed the licensing examiner how to evaluate the AWS certification documents and routine all position welding documentation. The licensing examiner was then allowed to issue licenses under these strict guidelines. The system worked well and allowed for expeditious licensing, a major goal of the Division of Occupational Licensing. This practice came under criticism in one audit report and was discontinued in deference to the criticism. The department would urge the committee to encourage this type of expeditious licensing if it decides that licensing of welding inspectors is in the best interest of the public.

HB 595

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
✓ DONALD M. LOCKMAN	ANCHORAGE, AK.	T.I.A. & STATE BOARD WELDING EXAMINERS	HB 595 YES	276-3440
✓ KEN LOMAX	" "	ARCO Oil & Gas Co.	YES	338-1272
Louie J. Rousseau	" "	WAM-WELDING APPLICATION METHODS	YES	272-3543
ERWIN L. LONG	" "	ARCTIC FOUNDATIONS INC.	YES	276-5575
* NICK COTI	JUNEAU, AK.	DIV. OF O.C.C. LIC. D. C. + E. D	YES	465-2534

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 1-20-82

HB 595

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
HARRY D. TREAGER	DIVISION of Occ. Lic COMMERCE		No	2534
MR. MARK ALBERT BELTZ	342 WEST 12 TH AVENUE ANCHORAGE ALASKA 99501		NONE	272-5363

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 1/20/82

HB 146

SIGN-IN SHEET

Did not testify no time

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
DALE CHEEK	BOX 635 JUNEAU 99811	Dept of Labor	Yes	465 4471
Judy Knight	Box 11149 Juneau 99811	" "	No	465-2700
JEAN KLINE	134 Franklin - Juneau	Assoc. Gen Contractors	???	586-1740
MR. MARK ALBERT BELTZ	343 WEST 32ND AVENUE ANCHORAGE, ALASKA 99502		NONE No	272-5363

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 1-20-82

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 1/20/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	X		1:00	
Rep. D. Randolph	X		1:02	2:32
Rep. B. Rogers	X		1:03	
Rep. T. Gardiner	X		1:02	2:16
Rep. T. Martin, Chair	X		1:00	

Subject Matter:

House Bill No. HB 595 ~~HB 1116~~ _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

MEMORANDUM State of Alaska

TO: Board of Welding Examiners

DATE: May 28, 1981

FILE NO:

TELEPHONE NO: 465-2535

FROM: Nick Coti, Management Analyst
Division of Occupational Licensing

SUBJECT: HB 595

Attached for your review is a copy of HB 595, relating to the continuation of the Board of Welding Examiners. I would appreciate receiving your comments on this bill. Please respond on this memorandum, or on an attached sheet, and mail it to me as soon as possible, Thank you.

COMMENTS:

3 Jun 81

Yes, I do support passage of HB 595. I feel that the Board has has been effective in increasing the quality of welding within the State of Alaska.
I do not feel however, that the Board has not been as effective as it could have been in the last couple of years since so much effort has been spent in replying to Sunset requirements. If HB 595 was passed the Board could devotedfull time to serving the public in requards to the welding industry.
The Board has managed to effectively operate on what I feel is a very minimal budget. A great service has been provided to the taxpayers of this State at a very low cost. I see no reason that this low level of funding would not be sufficient to addequately meet the publics needs in the future.
I am adamantly opposed to the creation of a bureaucracy, such as a Welding Bureau to over see the welding industry in the State. The cost would be enormous and would probably be no more effective than the present Board.
Please forgive the typos, I had to do this myself.

Don H. Delk

Don H. Delk
Secretary,
Board of Welding Examiners

MEMORANDUM State of Alaska

TO: Board of Welding Examiners

DATE: May 28, 1981

FILE NO:

TELEPHONE NO: 465-2535

FROM: Nick Coti, Management Analyst
Division of Occupational Licensing

SUBJECT: HB 595

Attached for your review is a copy of HB 595, relating to the continuation of the Board of Welding Examiners. I would appreciate receiving your comments on this bill. Please respond on this memorandum, or on an attached sheet, and mail it to me as soon as possible, Thank you.

COMMENTS:

Dear Mr. Coti:

I feel the continuation of the Board of Welding Examiners is essential to the construction and Petro-Chemical Industry in Alaska.

As a supervisor for a major oil company I have had an opportunity to see positive results from the licensing of welding inspectors. Of course, as with any licensing requirement, there are some rough edges to smooth over but that is what the board is for. I think the board should have the opportunity to finish what it started several years ago when the laws were still in the draft form.

Thank you for the opportunity to speak out.

Sincerely,

Kenneth C. Lomax

KENNETH C. LOMAX
Quality Assurance Supervisor
ARCO Oil and Gas Co.

MEMORANDUM State of Alaska

TO: Board of Welding Examiners

DATE: May 28, 1981

FILE NO:

TELEPHONE NO: 465-2535

FROM: Nick Coti, Management Analyst
Division of Occupational Licensing

SUBJECT: HB 595

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COMMENTS:

I am in favor of HB 595 to continue the Board of Welding Examiners. Our state is in its infancy of an oil and mineral revolution in which welding will play a dramatic roll for both public and environmental safety. Our state can not afford to relax the requirements of quality at the expense of safety. The Welding Board has made tremendous strides compared to other states where legislation has not been enacted to insure the public's protection, and if continued, will be improving on the existing regulations to be more meaningfull to both public and industry.

Donald M. Lockman, Chairman
Board of Welding Examiners

MEMORANDUM State of Alaska

TO: Board of Welding Examiners

DATE: May 28, 1981

FILE NO:

TELEPHONE NO: 465-2535

FROM: Nick Coti, Management Analyst
Division of Occupational Licensing

SUBJECT: HB 595

Attached for your review is a copy of HB 595, relating to the continuation of the Board of Welding Examiners. I would appreciate receiving your comments on this bill. Please respond on this memorandum, or on an attached sheet, and mail it to me as soon as possible, Thank you.

COMMENTS: I believe the Board of Welding Examiners is worth continuing. The cost has been very, very minimal to the state especially when compared to the accomplishment of the Board. Alaska by far leads the nation for the number of certified welding inspectors per capita as a result of regulations adopted by the Board. There is no doubt in my mind that liscensig welding inspectors whom moniter welders has upgraded welding throughout the state all of which has been accomplished with very little cost to the state.

Peter Millar

PETER MILLAR
Member- Board of Weldig Examiner.

02-001A(Rev.10/79)

1/20/82

HB 595

1201 Fred Brown — Sponsor

1259 Nick Cody - Prepared Testimony

1371 Don Lockman Testing Institute of Alaska & Board of Welding Examiners — for

1512 Rogers question

1514 Response

1634 Ken Lomax - ARCO — For

1710 Louis Rosseau - Tech, Services - Against (quality control)

0136 Ervin Long — Manufactuor, Geo-Tech, Pressure Vessels, does wk Corps of Engineers (under contract)
ASME Code - Against (in conflict) (Engineers safety mechanical)

0312 Don Lockman - Rebuttal

0348

1-21-82

HB 634

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 21, 1982
1:14 p.m.

Members Present: Rep. Bylsma, Vice-Chairman
Rep. Rogers
Rep. Gardiner
Rep. Randolph

Members Absent: Rep. Martin, Chairman

COMMITTEE CALENDAR

TELECONFERENCE HEARING

HB 634 — An Act limiting the amount of damages which may be awarded for personal injury or death in an action brought against an ATC-registered air carrier.

WITNESS REGISTER

Representative Jack Fuller
Prime Sponsor of HB 634
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-3764
Position Statement: Reasons for introducing bill.

Representative Rick Halford
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-4924
Position Statement: Took part in discussion.

Kent Woodman
AOPA and Alaska Airmen's Association
Box 2386 SRA
Anchorage, Alaska 99507
345-1356
Position Statement: Supported bill.

Bill De Creeft
Katchemak Air Service
Homer, Alaska
Position Statement: Wanted air taxis included in bill.

Wade Cothran
Air Center

PO Box 4340
Mt. Edgecumbe, Alaska 99835
Position Statement: Supported bill with reservations.

Pand Dawson
Attorney
Anchorage, Alaska
Position Statement: Opposed legislation.

Chuck Weir
Alexander & Alexander Insurance Brokers
Anchorage, Alaska
Position Statement: Felt legislation would increase awards for damages and raise insurance costs.

Cindy Andrecheck
Executive Air Taxi and Charter
Bethel, Alaska
Position Statement: Supported legislation.

Paul Karkeck
commercial pilot and flight instructor
Box 60355
Fairbanks, Alaska 99706
456-6787
Position Statement: Didn't believe bill addressed real cause of high insurance rates.

Lee Daniels
Delta Aviation
Box 81633
Fairbanks, Alaska 99706
479-2588
Position Statement: Supported bill.

Ken Ward
Ward Air
2331 Meadow Lane
Juneau, Alaska 99801
789-9150
Position Statement: Went over insurance cost increases in past few years.

Dc · Koch, Chief
Market Surveillance
State Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2577
Position Statement: Division has taken neutral position.

Jon Larson
Nome Bar Association
Box 61

Nome, Alaska
Position Statement: Opposed bill.

PREVIOUS ACTION

HB 634 — No previous action. Statutory reference: AS 09.65. No amendments formally considered during this hearing.

ACTION NARRATIVE

Tape #004
Recording
Number 0075

The meeting of the House Labor & Commerce Committee was called to order by Vice-Chairman Bylsma at 1:14 p.m. Committee members present were Representatives Bylsma, Gardiner, Rogers, and Randolph. Chairman Martin was absent. Also attending for various portions of the hearing were Representatives Fuller, Vaska, Halford, and Malone. This committee hearing was teleconferenced statewide. The committee schedule called for the consideration of HB 634.

Number 0083

REPRESENTATIVE JACK FULLER, as prime sponsor of HB 634, gave an introduction to the bill and why it is needed. He introduced this legislation to relieve commercial air carriers from the high cost of insurance, which is forcing many air carriers out of business.

Number 0127

KENT WOODMAN, executive vice president of Alaska Airmens Association, Inc., and regional representative of Aircraft Owners and Pilots Organization (AOPA), supported the bill. He explained that most aviation insurance is placed in London (Lloyd's), and gave a synopsis of how policies are sold. Woodman felt that individuals wanting excessive insurance should take out their own policies and not put the burden on the flight service. He warned against legislating different damage limits for commercial and private operators. Rep. Rogers asked if carriers should be required to notify passengers of liability limits; Woodman felt this would not change the situation drastically. Rep. Rogers also expressed concern that "vending machine" and other easily obtainable insurance was not

available at many air carrier locations; he asked if the Association would consider selling flight insurance or providing names of agents, in order to protect consumers. Woodman said this could be easily accommodated. Rep. Rogers felt some type of protection should be provided for passengers.

Number 0335 — BILL DE CREEFT of Katchemak Air Service in Homer (testifying via LTN from Hawaii), wanted to be sure air taxis were included in legislation.

Number 0351 — WADE COTHRAN of Air Center, Mt. Edgecumbe, representing Southeast Alaska Aviation Association, favors HB 634 with reservations that the private sector and flight schools are not addressed.

Number 0385 — RAND DAWSON, an Anchorage attorney, pilot, and member of AOPA and Alaska Airmens Association, testified as an individual and as an attorney who has had the opportunity to see the impact of litigation. He explained the costs (often very high) incurred by the victim of an aircraft accident. He said the impact of this bill is an attack on the jury system of Alaska; the effect will be to deny victims the right to seek compensation for injuries they did not cause. He felt the bill tries to establish a limit without factual data. He said the impact of this legislation would be felt by victims with catastrophic injuries. Dawson said he failed to see the correlation between insurance premiums and personal injury settlements. He feels the Committee has an obligation to potential victims to provide more information before reaching a decision on this legislation. Rep. Rogers asked if Dawson felt the limitation on payments in Workers Compensation statutes also has catastrophic impact. Dawson said the premise behind Workers Compensation is different and is designed to protect the victim. He said many victims receive additional compensation through third party actions. Rep. Bylsma requested a copy of Dawson's testimony.

Number 0525 — CHUCK WEIR, Alexander & Alexander Insurance Brokers, Anchorage, addressing Rep. Halford, asked if research indicated it would be

unconstitutional to limit legislation to air carriers; he felt it ought to extend to all operators and carriers, as well as to all personal injury actions statewide. He went on to say the $250,000 limitation would increase awards, as most air taxis now insure for only $100,000 per seat. He said HB 634 would more than double insurance costs for most carriers. He noted that the international award limitation is $50,000. Rep. Halford responded that initial research indicated there could be constitutional problems if legislation is limited to air carriers. Weir said that, in reference to Workers Compensation, if an employee felt there was gross negligence on the part of the, the employee could refuse the Workers Compensation and sue the employer. Weir felt this could be written into HB 634. Rep. Randolph said premiums are high because awards are high; Weir disputed this. Rep. Randolph and Weir agreed that, in cases of gross negligence, the air carrier should not be protected. Rep. Gardiner asked if juries generally award to the limit of insurance; Weir said they generally do. Discussion continued between Reps. Randolph and Gardiner, and Weir.

Number 0727

CINDY ANDRECHECK, of Executive Air Taxi and Charter, Bethel, gave a specific breakdown on increases in insurance rates for the past five years. She said the air taxi businesses would not be able to stand these increases if they continued, and reiterated that nothing is preventing individuals from providing themselves extra coverage.

Number 0950

PAUL KARKECK, commercial pilot and flight instructor in Fairbanks, said he doesn't believe the bill will solve their problems as it doesn't address the real causes of outlandish insurance rates; it doesn't affect other aspects of air travel in the state; and the rights of the public and victims would be impaired. He felt the high accident rate is the major culprit of high insurance rates in Alaska. Karkeck stated that 75-80% of all air carrier accidents in the U.S. occur in Alaska. He felt the cost could also be traced to state law, and said laws need to be changed to encourage competition among insurance agencies to bring costs down. He was also concerned

that the bill doesn't address the needs of other aircraft owners; eg, private pilots, flight schools, instructors. He urged the committee to vote against the bill and to create a panel of aviators to study needs. Rep. Randolph requested a letter giving specifics of how Karkeck felt the problem should be approached.

Number 0940 — LEE DANIELS, Delta Aviation air taxi operator, Fairbanks, supported the bill. He would like to see the committee follow IATC guidelines, and said carriers should notify passengers of liability limitations and give them the option to purchase additional insurance or find alternate means of transportation.

Number 0979 — KEN WARD, Ward Air, Juneau, went over increases in costs over the past few years.

Number 1029 — DON KOCH, Chief, Market Surveillance, State Division of Insurance, said the Division has taken a neutral position with regard to HB 634. He was unsure whether or not the legislation would affect insurance rates. He said it might be possible to use the Workers Compensation approach outlined by statute, which might attract workers compensation carriers to the aviation insurance market. Rep. Rogers asked if group insurance would be possible; Koch said it would be statutorily possible. Rep. Gardiner asked what kind of information the Division has on the aviation industry; Koch replied they had very little. Rep. Gardiner felt more information was needed on whether HB 634 would actually reduce insurance rates. Rep. Halford said that an insurance broker in Alaska has no incentive not to write a policy for a bad risk client, because losses are spread evenly and everyone's rates are affected. He asked Koch if it would be possible to institute procedures that would require premiums and losses to be made public through the Division of Insurance, in order to encourage a more fair allocation of costs. Koch said the Division has a reporting system, but accurate loss figures have not been available. He said there are not that many syndicates participating.

Number 1235 — JON LARSON, an attorney speaking for the

local Bar Association in Nome, opposed the bill. He said it doesn't address the real cause (lack of safety), and protects carriers at the expense of the public. He felt the burden of this legislation would be borne by victims of accidents.

Number 1282

No action was taken on HB 634, and the teleconferenced meeting was adjourned by Vice-Chairman Bylsma at 3:02 p.m.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 1/21/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		10:58	3:02
Rep. D. Randolph	✓		1:17	3:02
Rep. B. Rogers	✓		1:04	3:02
Rep. T. Gardiner	✓		1:06	3:02
Rep. T. Martin, Chair		✓		

Subject Matter:

House Bill No. HB 634 _____ _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

MSG 82-00002772 PRTY 1 01/21/82 15:04:36 ORIG: LI00 IN= 0006 OUT= 0013
FROM: ANNA MAY IN DILLINGHAM TO: JUNEAU T/C
TARGET: LJE1 SUBJ: AIR TAXI INSURANCE T/C PAGE 0001

JUNEAU
WOULD YOU PLEASE BE ABLE TO LET US KNOW THE NAMES OF THE
LAST SPEAKERS FROM FAIRBANKS AND NOME????
THANK YOU VERY MUCH.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002766 PRTY 1 01/21/82 15:02:19 ORIG: LF00 IN= 0008 OUT= 0014
FROM: DEBBIE/FBX TO: JUNO LTN
TARGET: LJE1 SUBJ: LABOR AND COMMERCE T/C - AIR TAX PAGE 0001

OTHER OBSERVERS FOR TODAY'S T/C:
GAYLEN HILKE, BOX 30300, FBX, 99701 479-4036
BOB BURSIEL, WRIGHT'S AIR SERVICE, BOX 60142, FBX, 99701 456-5502
L. CHENAILLE, LARRYS FLYING SERVICE, BOX 2348, FBX, 99707 452-5169
DENNIS MILLER, BOX 2648, FAIRBANKS, AK 99707 479-2189

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002762 PRTY 1 01/21/82 14:55:58 ORIG: LA04 IN= 0006 OUT= 0015
FROM: BARBARA TO: JUNEAU, JELLO, LJHY
TARGET: LJE1 SUBJ: HOUSE LABOR AND COMMERCE TELECONFERENCE PAGE 0001

ANCHORAGE HAS MORE WITNESSES. IF THEY CAN NOT TESTIFY TODAY, PLEASE INDICATE
WHEN YOUR NEXT TELECONFERENCE ON THIS SUBJECT WILL BE.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002759 PRTY 1 01/21/82 14:51:05 ORIG: LN00 IN= 0010 OUT= 0016
FROM: BOB IN NOME TO: T/C
TARGET: LJE1 SUBJ: TAXI PAGE 0001

WE ARE GETTING CLOSE TO TIME LIMIT FOR WITNESS IN NOME
THEY WERE WONDERING IF JUNEAU COULD BE TAKEN LATER.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002754 PRTY 1 01/21/82 14:41:16 ORIG: LO00 IN= 0005 OUT= 0017
FROM: KODIAK TO: JELLO & LJHY
TARGET: LJE1 SUBJ: T/C PAGE 0001

MARILYN BUKER FROM FLIRITE WOULD LIKE TO TESTIFY.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002744 PRTY 1 01/21/82 14:16:44 ORIG: LS00 IN= 0014 OUT= 0018
FROM: SITKA TO: MODERATOR
TARGET: LJE1 SUBJ: ANOTHER WITNESS PAGE 0001

WITNESS, WISHING TO TESTIFY:
KENNETH A. BELLOWS, BELAIR AVIATION, BOX 204, SITKA, AK. 99835.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002693 PRTY 1 01/21/82 13:21:27 ORIG: LI00 IN= 0003 OUT= 0011
FROM: DILLINGHAM LIO TO: JELLO
TARGET: LJE1 SUBJ: TELECONFERENCE PAGE 0001

JOANNE ARMSTRONG IS AN OBSERVER AND MAY POSSIBLY TESTIFY ON THE
TELECONFERENCE ON ATC. PRESENTLY GOING ON. ADDRESS: BOX 204,
DILLINGHAM, ALASKA 99576, OF ARMSTRONG AIR SERVICE.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002690 PRTY 1 01/2./82 13:15:45 ORIG: LN00 IN= 0006 OUT= 0012
FROM: BOB IN NOME TO: TC
TARGET: LJE1 SUBJ: TAXI PAGE 0001

WE DID NOT GET WHO WAS CHAIRING THE COMMITTEE?

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002688 PRTY 1 01/21/82 13:13:41 ORIG: LA04 IN= 0003 OUT= 0019
FROM: BARBARA TO: JUNEAU: JELLO AND LJHY
TARGET: LJE1 SUBJ: HOUSE LABOR AND COMMERCE TELECONFERENCE PAGE 0001

ADDITIONAL WITNESS IN ANCHORAGE:
10. GEORGE PAPPAS

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002683 PRTY 1 01/21/82 13:12:01 ORIG: LR00 IN= 0007 OUT= 0020
FROM: FLORENCE IN BARROW TO: JUNEAU T/C
TARGET: LJE1 SUBJ: PARTICIPANT PAGE 0001

GRANT THOMPSON FROM CAPE SMYTHE AIR SERVICE INC., BOX 549, BARROW 99723
IS HERE TO PARTICIPATE.
I COULD NOT ACCESS LJHY

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002680 PRTY 1 01/21/82 13:10:00 ORIG: LN00 IN= 0005 OUT= 0021
FROM: BOB IN NOME TO: TC
TARGET: LJE1 SUBJ: TAXI PAGE 0001

ADDITIONAL WITNESS IN NOME
JOHN VAN WINKLE ATTORNEY BOX 61, NOME, AK
OBSERVORS:
TIM COCHRAN RADIO KNOM
KATHY MCCOY NOME NUGGET PAPER

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002678 PRTY 1 01/21/82 13:09:34 ORIG: LS00 IN= 0012 OUT= 0022
FROM: SITKA TO: MODERATOR
TARGET LJE1 SUBJ: TELECONF. PAGE 0001

OBSERVORS:
WILLIAM BOYCE AND RICHARD WOLLENBERG, BOX C, SITKA AK. (BOTH ATTORNEYS).

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002677 PRTY 1 01/21/82 13:06:06 ORIG: LN00 IN= 0004 OUT= 0009
FROM: BOB IN NOME TO: T/C
TARGET: LJE1 SUBJ: AIR TAXI PAGE 0001

ONE WITNESS
JON LARSON NOME BAR ASSN. BOX 61 NOME, ALASKA

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002676 PRTY 1 01/21/82 13:07:00 ORIG: LO00 IN= 0004 OUT= 0010
FROM: KODIAK TO: JELLO & LJHY
TARGET: LJE1 SUBJ: HB 634 T/C PAGE 0001

RALPH WRIGHT WITH FLIRITE MAY WANT TO TESTIFY
MARILYN BUKER " " " " " "

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002675 PRTY 1 01/21/82 13:04:52 ORIG: LS00 IN= 0011 OUT= 0023
FROM: SITKA TO: MODERATOR
TARGET: LJE1 SUBJ: PARTICIPANT PAGE 0001

TO TESTIFY **IF** HE CAN BE CALLED BEFORE 1:45, WHEN HE MUST LEAVE:
WADE R. COTHRAN, AIR CENTER, PO 4340, MT. EDGECUMBE, AK. 99835.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002672 PRTY 1 01/21/82 13:05:47 ORIG: LA04 IN= 0002 OUT= 0024
FROM: BARBARA Anchorage TO: JELLO LJHY
TARGET: LJE1 SUBJ: HOUSE LABOR AND COMMERCE TELECONFERENCE PAGE 0001

TODAY PARTICIPATE ARE:
1. RAND DAWSON, ATTORNEY AND PILOT
2. R.D. REEVE, REEVE ALEUTIAN
3. CHUCK WEIR
4. AMES LUCE
5. REX BISHOPP
6. BOB CURTIS
7. GEORGE ROGERS
8. STEVE WILBUR
9. WALLY KUBLEY

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002671 PRTY 1 01/21/82 13:04:15 ORIG: LK00 IN= 0004 OUT= 0025
FROM: BONNIE/KETCHIKAN TO: JUNEAU T/C
TARGET: LJE1 SUBJ: PART. LIST FOR HB 634 T/C PAGE 0001

PARTICIPATES ARE
MICHAEL SALZAR, KETCHIKAN AIR SERVICE, BOX 6900, KETCHIKAN, 225-6608
OBSERVERS ARE:
KIRK THOMAS, TYEE AIRLINES, BOX 8331, KETCHIKAN, 225-6118
ALVIN MITCHELL, TYEE AIRLINES, BOX 8331, KETCHIKAN, 225-6118
TIMOTHY BUSH, TEMSCO HELICOPTERS, BOX 5057, KETCHIKAN, 225-5141
MR. THOMAS AND MR. MITCHELL MAY WISH TO TESTIFY LATER ON.
THATS IT FOR KETCHIKAN. I AM EXPECTING MORE. EOM.#CP

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002669 PRTY 1 01/21/82 13:01:43 ORIG: LS00 IN= 0010 OUT= 0001
FROM: ELAINE TO: JUNEAU
TARGET: LJE1 SUBJ: TELECONFERENCE PAGE 0001

I HAVE ONE OBSERVER IN SITKA AT THIS TIME:
RICHARD SUNDE, CORROON, BLACK/DAWSON INSURANCE, BOX B, SITKA, AK.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002668 PRTY 1 01/21/82 13:11:55 ORIG: LF00 IN= 0005 OUT= 0026
FROM: DEBBIE/FBX TO: JUNO LTN
TARGET: LJE1 SUBJ: HOUSE LABOR AND COMMERCE T/C PAGE 0001

PARTICIPANTS FOR TODAY'S TELECONFERENCE ON AIR TAX INSURANCE:
PAUL KAPKECK,BOX 60355, FAIRBANKS, 99706 456-6787
LEE DANIELS, DELTA AVIATION, BOX 81633, FBX, 479- 2588
BOB BURSIEL, WRIGHT AIR SERVICE, BOX 60142, FBX 456-5502
WE ARE EXPECTING MORE PARTICIPANTS. WILL NOTIFY.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002666 PRTY 1 01/21/82 13:03:57 ORIG: L000 IN= 0003 OUT= 0002
FROM: KODIAK TO: JELLO
TARGET: LJE1 SUBJ: HB 634 T/C PAGE 0001

RALPH WRIGHT REPRESENTING FLIRITE MAY WANT TO TESTIFY
MARILYN BUKER WITH FLIRITE ALSO

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002662 PRTY 1 01/21/82 12:59:07 ORIG: LB00 IN= 0004 OUT= 0003
FROM: WALLY IN BETHEL TO: JELLO AND LJHY
TARGET: LJE1 SUBJ T/C PARTICIPANT PAGE 0001

CINDY ANDRECHECK, REPRESENTING EXECUTIVE CHARTER SERVICE, BETHEL

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002656 PRTY 1 01/21/82 12:51:38 ORIG: LI00 IN= 0002 OUT= 0004
FROM: ANNA MAY IN DILLINGHAM TO: JUNEAU T/C
TARGET: LJE1 SUBJ: HB 634 AIR TAXI INSURANCE T/C PAGE 0001

WE HAVE JOANN ARMSTRONG OF ARMSTRONG AIR SERVICE INC BOX 204 OF
DILLINGHAM, AK 99576 TO OBSERVE AND POSSIBLY TESTIFY.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002655 PRTY 1 01/21/82 12:51:49 ORIG: LZ00 IN= 0003 OUT= 0005
FROM: MARY/OTZ TO: DEBRA
TARGET: LJE1 SUBJ: T/C PARTICIPANTS PAGE 0001

DUE TO THE BLIZZARD WE HAD YESTERDAY, I DON'T EXPECT TO HAVE
ANY PARTICIPANTS FOR THE AIR TAXI INSURANCE T/C THIS MORNING.
EVERYONE IS TOO BUSY DIGGING THEIR AIRPLANES OUT OF THE SNOW.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002637 PRTY 1 01/21/82 12:22:21 ORIG: LA02 IN= 0001 OUT= 0006
FROM: NICKI IN ANCHORAGE TO: JELLO/JUNEAU T/C
TARGET: LJE1 SUBJ: PARTICIPANTS FOR TODAYS T/C PAGE 0001

**********HOUSE LABOR & COMMERCE. HB634 "ATC-REGISTERED AIR CARRIERS"
THE FOLLOWING PEOPLE HAVE CALLED TO REGISTER TO TESTIFY TODAY:
1. RAND DAWSON, ATTORNEY & PILOT ,
2. STEVE WILBUR, WILBUR FLIGHT OPERATIONS, EXEC. VICE-PRES. WILBUR INC.
3. AMES LUCE, SELF
ANCHORAGE IS EXPECTING A VERY LARGE TURNOUT TODAY

NXT MS

COMMITTEE MINUTES
COMMITTEE House Labor & Commerce
HEARING DATE January 21, 1982
TAPE NO. 4, Side A

The meeting was called to order by Vice-Chairman Bylsma at 1:14 pm in the Labor & Commerce Committee Room, Behrends Building, Juneau, Alaska. Committee members present in addition to Vice-Chairman Bylsma were Representatives Randolph, Rogers, and Gardiner. Chairman Martin was absent. Committee staff in attendance were Joan Mathews, Jeff Barry, and Mary Isaacs. Also attending for various portions of the hearing were Representatives Fuller, Vaska, Halford, and Malone. This committee hearing was teleconferenced statewide.

The committee schedule called for the consideration of HB 634 regarding Air Taxi Insurance. Prime sponsor of this legislation was Rep. Fuller. Legislators testifying before the committee were Rep. Fuller and Rep. Halford.

REP. FULLER (meter no. 0083), as sponsor of HB 634, gave an introduction to the bill and why it is needed. He introduced this legislation to relieve commercial air carriers from the high cost of insurance, which is forcing many air carriers out of business.

KENT WOODMAN (meter no. 0127), executive vice president of Alaska Airmens Association, Inc., and regional representative of Aircraft Owners and Pilots Organization (AOPA), supported the bill. He explained that most aviation insurance is placed in London (Lloyd's), and gave a synopsis of how policies are sold. Woodman felt that individuals wanting excessive insurance should take out their own policies and not put the burden on the flight service. He warned against legislating different damage limits for commercial and private operators. Rep. Rogers (meter no. 0284) asked if carriers should be required to notify passengers of liability limits; Woodman felt this would not change the situation drastically. Rep. Rogers also expressed concern that "vending machine" and other easily obtainable insurance was not available at many air carrier locations; he asked if the Association would consider selling flight insurance or providing names of agents, in order to protect consumers. Woodman said this could be easily accommodated. Rep. Rogers felt some type of protection should be provided for passengers.

BILL DE CREEFT of Katchemak Air Service in Homer(testifying via LTN from Hawaii, meter no. 0335), wanted to be sure air taxis were included in legislation.

WADE COTHRAN of Air Center, Mt. Edgecumbe (meter no. 0351), representing Southeast Alaska Aviation Association, favors HB 634 with reservations that the private sector and flight schools are not addressed.

RAND DAWSON, an Anchorage attorney, pilot, and member of AOPA and Alaska Airmens Association (meter no. 0385), testified as an individual and as an attorney who has had the opportunity to see the impact of litigation. He explained the costs (often very high) incurred by the victim of an aircraft accident. He said the impact of this bill is an attack on the jury system of Alaska; the effect will be to deny victims the right to seek compensation for injuries they did not cause. He felt the bill tries to establish a limit without factual data. He said the impact of this legislation would be felt by victims with catastrophic injuries.

(Dawson testimony, continued.) Dawson said he failed to see the correlation between insurance premiums and personal injury settlements. He feels the Committee has an obligation to potential victims to provide more information before reaching a decision on this legislation. Rep. Rogers asked if Woodman felt the limitation on payments in Workers Compensation statutes also has catastrophic impact (meter no. 0477). Dawson (meter no. 0490) said the premise behind Workers Compensation is different and is designed to protect the victim. He said many victims receive additional compensation through third party actions. Rep. Bylsma requested a copy of Woodman's testimony.

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CINDY ANDRECHECK of Executive Air Taxi and Charter, Bethel (meter no. 0727), gave a specific breakdown on increases in insurance rates for the past five years. She said the air taxi businesses would not be able to stand these increases if they continued, and reiterated that nothing is preventing individuals from providing themselves extra coverage.

PAUL KARKECK, commercial pilot and flight instructor in Fairbanks (meter no. 0850), said he doesn't believe the bill will solve their problems: it doesn't address the real causes of outlandish insurance rates; doesn't affect other aspects of air travel in the state; and the rights of the public and victims would be impaired. He felt the high accident rate is the major culprit of high insurance rates in Alaska. Karkeck stated that 75-80% of all air carrier accidents in the U.S. occur in Alaska. He felt the cost could also be traced to state law, and said laws needed to be changed to encourage competition (among insurance agencies) to bring costs down. He was also concerned that the bill doesn't address the needs of other aircraft owners; eg, private pilots, flight schools, instructors. He urged committee to vote against bill and create a panel of aviators to study needs. Rep. Randolph requested a letter giving specifics of how Karkeck felt problem should be approached.

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DON KOCH, Chief, Market Surveillance, State Division of Insurance (meter no. 1029) said the Division has taken a neutral position with regard to HB 634. He was unsure whether or not the legislation would affect insurance rates. He said it might be possible to use the Workers Compensation approach outlined by statute, which might attract workers compensation carriers to aviation insurance market. Rep. Rogers asked if group insurance would be possible; Koch said it would be statutorily possible. Rep. Gardiner asked what kind of information the Division has on the aviation industry; Koch replied they had very little. Rep. Gardiner felt more information was needed on whether HB 634 would actually reduce insurance rates. Rep. Halford said that an insurance broker in Alaska has no incentive not to write a policy for a bad risk client, because losses are spread evenly and everyone's rates are affected. He asked Koch if it would be possible to institute procedures that would require premiums and losses to be made public through the Division of Insurance, in order to encourage a fairer allocation of costs. Koch said the Division has a reporting system, but accurate loss figures have not been available. He said there are not that many syndicates participating.

JON LARSON, an attorney speaking for the local Bar Association in Nome (meter no. 1235), opposed the bill. He said it doesn't address the real cause (lack of safety), and protects carriers at the expense of the public. He felt the burden of this legislation would be borne by victims.

No action was taken on HB 634, and the teleconferenced meeting was adjourned by Vice-Chairman Bylsma at 3:02 p.m.

AIR TAXI

SIGN-IN SHEET

√ = notified these people; Mary said she will notify the rest.

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
GORDON EVANS	326 4th, Suite A Juneau	Various insurance cos.	No	586-3210
Rick Union	Box 868 Juneau	Wien Air Alaska	No	364-2315
Rep Vasler			No	
Rep. Jack Fuller			Yes	
Rep. Rich Mulford			?	
√ Jackie McClintock	P.O. Box 1149 JNO	Workers Compensation Board / Division	[redacted] ?	465-2790 -2790
√ David L Gregg	325 Seward St JNO		no	586-3539
Rep. Malone			no	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 1-21-94

"AIR TAXI"

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Wanda Deegan	4790 Bus. Pk Blvd Juneau AK 99803	Alaska Air Carriers Assoc.	Written	272-4933
KENT LEE WOODMAN	Box 23865RA, ANCH, AK 99502	AOPA AND ALASKA AMN's ASSOC	Yes	345-1356
KEN WARD	2331 MEADOW LANE JUNEAU	WARD AIR	YES	789-9150
DON KOCH	POUCH D JUNEAU 99811	DNISION OF INSURANCE	YES	465 2577
L A BENNETT	BOX 272 HAINES 99827	LAB FLYING SVC	YES	789 9160
Lynn N. Bennett	Box 2315 Juneau Ak. 99803	LAB Flying Serv.		789-9945

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 1-21-87

WITNESS / SPEAKER SIGN IN. / PLEASE SIGN.

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
KENT LEE WOODMAN	Box 230656 RPT, ANCH AK. 99523	AOPA-AK AIRPORTS ASSOC	Yes	345-1356

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

MEMO

From: Rep. Terry Martin, Chairman
House Labor & Commerce Committee

To: Interested Parties

Date: February 19, 1982

Subject: Teleconference regarding Air Taxi Insurance

The House Labor & Commerce Committee has scheduled a teleconference hearing on HB 634, which deals with air taxi insurance. The teleconference will be held on February 26, 1982, at 1:00 PM PST (Juneau time). This will be the second time this bill has been heard by this committee. We have scheduled this second teleconference because of the great interest expressed by people throughout the state. This hearing will allow additional public input before the committee acts on the bill.

The intention of HB 634 is to lower the insurance rates of commercial air carriers by limiting the amount of damages which may be awarded for personal injury or death in an action brought against an ATC-registered air carrier. Previous public testimony dealt with the impact of liability limits on litigation, whether to include private operators and flight schools, and actual impact on insurance rates and carriers.

If you are interested in testifying or listening in on this teleconference, please contact your local Legislative Information Office, or contact the House Labor & Commerce Committee at 465-3657. Copies of the bill and minutes of the previous teleconference meeting are available.

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

February 22, 1982

Contact: Joan Mathews
465-3657/3783

FOR IMMEDIATE RELEASE

AIR TAXI INSURANCE SUBJECT OF TELECONFERENCE

Air taxi insurance will be the subject of a teleconference hearing of the House Labor & Commerce Committee on Friday, February 26, at 1:00 p.m. PST (Juneau time).

This is the second time House Bill 634 has been heard by the committee. Testimony was taken on the legislation in late January, but not all those who wished to testify were able to because of time limitations. This hearing will allow additional public input before the committee acts on the bill.

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TERM ID=LJB0 DATE=82.027 TIME=10:46:06 HELP DESK=(907) 465-3883

A L A S K A L E G I S L A T I V E C O M P U T E R S Y S T E M S

The following services are available:

1. Text Management (ATMS)
2. Systems Development (ROSCOE)
3. Information Retrieval (STAIRS)
4. Computer Availability (NEWS)
5. Bill Status (BASIS)
6. Teleconference Schedule (TELE)
7. Electronic mail (OMNICOM)
8. OMBUDSMAN Caseload System (OMBD)
9. Statute Inquiry Ref. Sys. (SIRS)
10. Juneau Data Center (ADMIN)
11. How to sign-off these systems.

For more detailed information regarding an individual service enter the number in the input area below and press the ENTER key. To proceed directly to the desired application enter the service name (shown in parentheses next to the service above) in the input area below and press the ENTER key.

INPUT LINE ====>

MSG 82-00003995 PRTY 1 01/27/82 10:52:11 ORIG: LM00 IN= 0003 OUT= 0001
FROM: MARY/MATSU TO: JOAN/H. L & C
TARGET: LJHY SUBJ: ADDRESSES REQUESTED PAGE 0001

AS I PROMISED, FINALLY:

BIG LAKE AIR SERVICE, P O BOX 17379, B', LAKE 99687

AKLAND HELICOPTER, INC., TALKEETNA 99676

ROCKY MOUNTAIN, HELICOPTERS, INC., P O BOX 1896, PALMER 99645

TALKEETNA AIR TAXI, TALKEETNA 99676

VALLEY AIR TRANSPORT, INC., DRAWER 2170, WASILLA 99687

MATANUSKA AIR SERVICES, SR BOX 3137, WASILLA 99687

EYAK AIRCRAFT, WILLOW, 99688

NANCY LAKE MARINA, WILLOW 99645

MSG 82-00003995 PRTY 1 01/27/82 10:52:11 ORIG: LM00 IN= 0003 OUT= 0001
FROM: MARY/MATSU TO: JOAN/H. L & C
TARGET: LJHY SUBJ: ADDRESSES REQUESTED PAGE 0002

WOODS AIR SERVICE, BOX 840, PALMER 99645

WILLOW AIR SERVICE, BOX 42, WILLOW 99688

NORTH STAR AVIATION, WILLOW 99688

WILLIAMS AIR SERVICE, ATTN: RICHARD WILLIAMS, P O BOX 390, WASILLA 99687

IT MIGHT BE WORTH CHECKING WITH THE AGENCY THAT LICENSES THESE PEOPLE
TO SEE IF THEY HAVE THEM LISTED BY ZIP CODE OR ELECTION DISTRICT. WE
ARE ONLY SENDING THE ONES THAT WERE IN THE YELLOW PAGES OF THE TELEPHONE
BOOK SO I KNOW WE ARE NOT CATCHING THEM ALL.

STEVE IS HERE AND WANTS TO KNOW IF YOU HAVE FOUND HIM A JOB. THINK HE
IS READY TO 'COME ON DOWN' TO SOME INSPIRING EMPLOYMENT.

DID YOU CHECK WITH DEB IN TELECONFERENCING ABOUT APPLYING FOR POSITION?

MSG 82-00003995 PRTY 1 01/27/82 10:52:11 ORIG: LM00 IN= 0003 OUT= 0001
FROM: MARY/MATSU TO: JOAN/H. L & C
TARGET: LJHY SUBJ: ADDRESSES REQUESTED PAGE 0003

SEE A MESSAGE FROM JACK ON A H. ST. AFFAIRS COMMITTEE TELECONFERENCE
WITH OFF-NET CALL TO ANIAK FOR A MR. JOHN HALL. HOPE HE WAS GIVEN THE
WRONG NAME AND IT IS OUR MR. HALE. WOULD LOVE TO HEAR HIM ON THE LTN.

LET ME KNOW IF YOU RECEIVE THISAS OUR COMPUTER IS STILL NOT DOING ALL
THE WONDEROUS THINGS IT SHOULD BE.

GOOD DAY TO YOU!

COMMITTEE MINUTES
COMMITTEE House Labor & Commerce
HEARING DATE January 21, 1982
TAPE NO. 4, Side A

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MINUTES REVIEWED AND APPROVED:

_____

Representative Terry Martin, Chairman
House Labor & Commerce Committee

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 8
CHAIRMAN—LABOR AND COMMERCE COMMITTEE
PHONE 465-3873

3960 REKA DRIVE—B6
ANCHORAGE, AK 99504
PHONE 333-6990

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE 465-3784

Contact: Joan Mathews
465-3657/3783

FOR IMMEDIATE RELEASE

AIR TAXI INSURANCE SUBJECT OF TELECONFERENCE

Air taxi insurance will be the subject of a teleconference hearing of the House Labor & Commerce Committee on Friday, February 26, at 1:00 PM AST.

Testimony was taken on the legislation, HB 634, in late January. Many people were not able to testify because of committee scheduling conflicts. As there was so much interest expressed in the bill, both for and against, Labor & Commerce Chairman Terry Martin scheduled another teleconference hearing to allow additional public input before the committee acts on the bill.

House Bill 634 is designed to relieve commercial air carriers from the high cost of insurance, which is forcing many air carriers out of business. Previous public testimony dealt with the impact of liability limits on litigation, whether to include private operators and flight schools, and actual impact on insurance rates and insurance carriers.

Chairman Martin invites anyone interested in testifying to contact the nearest Legislative Information Office or the House Labor & Commerce Committee at 465-3657 for details and a copy of the legislation or minutes of the previous meeting.

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

February 8, 1982

Kent Woodman
Box 2386 SRA
Anchorage, Alaska 99507

Dear Mr. Woodman:

I wanted to let you know that our committee will again be taking testimony on HB 634, the air taxi insurance bill introduced by Rep. Fuller. The hearing will be teleconferenced statewide to allow input by those who didn't have a chance to testify last time.

This second hearing will be on Friday, February 26, at 1:00 PM AST. If you would like more information, please contact our office. I have enclosed a copy of the press release we sent out, for your information.

Sincerely,

Joan Mathews

Joan Mathews
Committee Secretary

enc.

BETHEL

MSG 82-00002662 PRTY 1 01/21/82 12:59:07 ORIG: LB00 IN= 0004 OUT= 0004
FROM: WALLY IN BETHEL TO: JELLO AND LJHY
TARGET: LJHY SUBJ: T/C PARTICIPANT PAGE 0001

CINDY ANDRECHECK, REPRESENTING EXECUTIVE CHARTER SERVICE, BETHEL

SITKA

MSG 82-00002669 PRTY 1 01/21/82 13:01:43 ORIG: LS00 IN= 0010 OUT= 0005
FROM: ELAINE TO: JUNEAU
TARGET: LJHY SUBJ: TELECONFERENCE PAGE 0001

I HAVE ONE OBSERVER IN SITKA AT THIS TIME:

RICHARD SUNDE, CORROON, BLACK/DAWSON INSURANCE, BOX B, SITKA, AK.

KODIAK

MSG 82-00002666 PRTY 1 01/21/82 13:03:57 ORIG: LO00 IN= 0003 OUT= 0002
FROM: KODIAK TO: JELLO
TARGET: LJE1 SUBJ: HB 634 T/C PAGE 0001

RALPH WRIGHT REPRESENTING FLIRITE MAY WANT TO TESTIFY
MARILYN BUKER WITH FLIRITE ALSO

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002675 PRTY 1 01/21/82 13:04:52 ORIG: LS00 IN= 0011 OUT= 0006
FROM: SITKA TO: MODERATOR
TARGET: LJHY SUBJ: PARTICIPANT PAGE 0001

SITKA

TO TESTIFY **IF** HE CAN BE CALLED BEFORE 1:45, WHEN HE MUST LEAVE:

WADE R. COTHRAN, AIR CENTER, PO 4340, MT. EDGECUMBE, AK. 99835.

2 to DILL.

MSG 82-00002656 PRTY 1 01/21/82 12:51:38 ORIG: LI00 IN= 0002 OUT= 0004
FROM: ANNA MAY IN DILLINGHAM TO: JUNEAU T/C
TARGET: LJE1 SUBJ: HB 634 AIR TAXI INSURANCE T/C PAGE 0001

WE HAVE JOANN ARMSTRONG OF ARMSTRONG AIR SERVICE INC BOX 204 OF DILLINGHAM, AK 99576 TO OBSERVE AND POSSIBLY TESTIFY.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002672 PRTY 1 01/21/82 13:05:47 ORIG: LA04 IN= 0002 OUT= 0007
FROM: BARBARA TO: JELLO LJHY
TARGET: LJHY SUBJ: HOUSE LABOR AND COMMERCE TELECONFERENCE PAGE 0001

TODAY PARTICIPATE ARE:

ANCH

1. RAND DAWSON, ATTORNEY AND PILOT
2. ~~R.D. REEVE, REEVE ALEUTIAN~~
3. CHUCK WEIR
4. AMES LUCE
5. REX BISHOFF
6. BOB CURTIS
7. GEORGE ROGERS
8. STEVE WILBUR
9. WALLY KUBLEY

Dio pappas

KOTZ

MSG 82-00002655 PRTY 1 01/21/82 12:51:49 ORIG: LZ00 IN= 0003 OUT= 0005
FROM: MARY/OTZ TO: DEBRA
TARGET: LJE1 SUBJ: T/C PARTICIPANTS PAGE 0001

DUE TO THE BLIZZARD WE HAD YESTERDAY, I DON'T EXPECT TO HAVE ANY PARTICIPANTS FOR THE AIR TAXI INSURANCE T/C THIS MORNING. EVERYONE IS TOO BUSY DIGGING THEIR AIRPLANES OUT OF THE SNOW.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002637 PRTY 1 01/21/82 12:22:21 ORIG: LA02 IN= 0001 OUT= 0006
FROM: MICKI IN ANCHORAGE TO: JELLO/JUNEAU T/C
TARGET: LJE1 SUBJ: PARTICIPANTS FOR TODAYS T/C PAGE 0001

**********HOUSE LABOR & COMMERCE, HB634 "ATC--REGISTERED AIR CARRIERS"
THE FOLLOWING PEOPLE HAVE CALLED TO REGISTER TO TESTIFY TODAY:
1. RAND DAWSON, ATTORNEY & PILOT ,
2. STEVE WILBUR, WILBUR FLIGHT OPERATIONS, EXEC. VICE-PRES. WILBUR INC.
3. AMES LUCE, SELF
ANCHORAGE IS EXPECTING A VERY LARGE TURNOUT TODAY

ANCH

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002677 PRTY 1 01/21/82 13:06:06 ORIG: LN00 IN= 0004 OUT= 0008
FROM: BOB IN NOME TO: T/C
TARGET: LJHY SUBJ: AIR TAXI PAGE 0001

ONE WITNESS

JON LARSON NOME BAR ASSN. BOX 61 NOME, ALASKA

NOME

one below

MSG 82-00002544 PRTY 1 01/21/82 09:58:25 ORIG: LK00 IN= 0002 OUT= 0007
FROM: BONNIE/KETCHIKAN TO: ANCHORAGE T/C AND JUNEAU T/C
TARGET: LJE1 SUBJ: DHSS T/C PART. LIST PAGE 0001

I HAVE ONE PARTICIPANT FOR THIS MORNINGS T/C. SHE IS SISTER BARBARA HASSE, ADMINISTRATOR, KETCHIKAN GENERAL HOSPITAL, 3100 TONGASS AVE., 225-5171. THATS ALL. EOM/BCP

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00002654 PRTY 1 01/21/82 13:07:00 ORIG: L000 IN= 0004 OUT= 0009
FROM: KODIAK TO: JELLO & LJHY
TARGET: LJHY SUBJ: HB 634 T/C PAGE 0001

RALPH WRIGHT WITH FLIRITE MAY WANT TO TESTIFY
MARILYN BUKER " " " "

REPEAT

MSG 82-00002678 PRTY 1 01/21/82 13:09:34 ORIG: LS00 IN= 0012 OUT= 0010
FROM: SITKA TO: MODERATOR
TARGET: LJHY SUBJ: TELECONF. PAGE 0001

SITKA

OBSERVORS:

WILLIAM ROYCE AND RICHARD WOLLENBERG, BOX C, SITKA AK. (BOTH ATTORNEYS).

MSG 82-00002680 PRTY 1 01/21/82 13:10:00 ORIG: LN00 IN= 0005 OUT= 0011
FROM: BOB IN NOME TO: TC
TARGET: LJHY SUBJ: TAXI PAGE 0001

ADDITIONAL WITNESS IN NOME

JOHN VAN WINKLE ATTORNEY BOX 61, NOME, AK

OBSERVORS:
TIM COCHRAN RADIO KNOM
KATHY MCCOY NOME NUGGET PAPER

NOME

LEGISLATIVE TELECONFERENCE NETWORK
POUCH Y
JUNEAU, ALASKA 99811

For info, contact Joan Mathews
House Labor & Commerce Comm.
465-3657 or printer LJHY

MODERATOR INFORMATION

MEDIA CHECKLIST

Anchorage

___ Alaska Journal of Commerce
___ Alaska Review
X Anchorage Daily News
X Anchorage Times
___ Associated Press
___ Chugiak-Eagle River Star
___ Great Lander Shopping News
___ Tundra Times
___ KAKM - TV
___ KIMO - TV
___ KTUU - TV
___ KTVA - TV
___ KANC Radio
___ KBYR/KNIK Radio
___ KENI Radio
___ KFQD Radio
___ KHAR/KKLV Radio
___ KRKN Radio
___ KSKA Radio
___ KYAK/KGOT Radio

Barrow

___ Barrow Cable TV
___ KBRW Radio

Bethel

___ Tundra Drums
___ KYUK - TV/Radio

Delta Junction

___ Delta Paper

Dillingham

___ Bay Advertiser
___ Bristol Bay Times
___ KDLG Radio

Fairbanks

___ All Alaska Weekly
___ College Polar Star
X Daily News Miner
___ KTTU - TV
___ KTVF - TV
___ KUAC - TV
___ KCBF Radio
___ KFAR Radio
___ KIAK Radio

Haines

___ Lynn Canal News
___ KHNS Radio
___ Haines Cable TV

Homer

___ Homer News
___ KBBI Radio
___ KGTL Radio

Juneau

___ Alaska Fisherman
X Juneau Empire
___ KINY Radio/TV
___ KJNO Radio/TV
___ KTOO Radio/TV

Ketchikan

___ Ketchikan Daily News
___ KATV - TV
___ KRBD FM Radio
___ KTKN Radio

Kodiak

___ Kadiak Times
___ Kodiak Daily Mirror
___ KMXT FM Radio
___ KVOK Radio

Kotzebue

___ Manueluk Media
___ KOTZ Radio

Mat-Su

___ Frontiersman (The)
___ Valley Sun
___ KABN Radio

Nome

___ Bering Straights
___ Nome Nugget
___ KICY Radio
___ KNOM Radio

Petersburg

___ Petersburg Pilot
___ Petersburg Cablevision
___ KFSK Radio

Sand Point
(no media)

Seward

___ Phoenix Log News
___ KRXA Radio

Sitka

___ Daily Sitka Sentinel
___ SATV Cable TV
___ KCAW Radio (Raven Radio)
___ KIFW Radio/TV

Soldotna

___ Cheechako News
___ Peninsula Clarion
___ KSRM Radio

Valdez

___ Valdez Vanguard
___ KEEI Radio

Wrangell

___ Wrangell Sentinel
___ KSTK Radio

[X] Committee staff ~~has sent~~ will send attached publicity to those media checked. *

or

[ ] Please have LTN staff send attached publicity to those media checked.

* pls send to all media except those checked; I will send announcements to the daily papers in Anc, Fbx, & Jnu next week, but would like all other media to receive release ASAP. Tx - Joan Mathews

~~Due to~~

The House Labor & Commerce Committee will hold another teleconferenced hearing on HB 634 regarding air taxi insurance on Friday, Feb 26, at 1 pm PST. Response to the first ~~teleconference~~ hearing on HB634 was over-whelming

COMMITTEE MINUTES
COMMITTEE House Labor & Commerce
HEARING DATE January 21, 1982
TAPE NO. 4, Side A

The meeting was called to order by Vice-Chairman Bylsma at 1:14 pm in the Labor & Commerce Committee Room, Behrends Building, Juneau, Alaska. Committee members present in addition to Vice-Chairman Bylsma were Representatives Randolph, Rogers, and Gardiner. Chairman Martin was absent. Committee staff in attendance were Joan Mathews, Jeff Barry, and Mary Isaacs. Also attending for various portions of the hearing were Representatives Fuller, Vaska, Halford, and Malone. This committee hearing was teleconferenced statewide.

The committee schedule called for the consideration of HB 634 regarding Air Taxi Insurance. Prime sponsor of this legislation was Rep. Fuller. Legislators testifying before the committee were Rep. Fuller and Rep. Halford.

REP. FULLER (meter no. 0083), as sponsor of HB 634, gave an introduction to the bill and why it is needed. He introduced this legislation to relieve commercial air carriers from the high cost of insurance, which is forcing many air carriers out of business.

KENT WOODMAN (meter no. 0127), executive vice president of Alaska Airmens Association, Inc., and regional representative of Aircraft Owners and Pilots Organization (AOPA), supported the bill. He explained that most aviation insurance is placed in London (Lloyd's), and gave a synopsis of how policies are sold. Woodman felt that individuals wanting excessive insurance should take out their own policies and not put the burden on the flight service. He warned against legislating different damage limits for commercial and private operators. Rep. Rogers (meter no. 0284) asked if carriers should be required to notify passengers of liability limits; Woodman felt this would not change the situation drastically. Rep. Rogers also expressed concern that "vending machine" and other easily obtainable insurance was not available at many air carrier locations; he asked if the Association would consider selling flight insurance or providing names of agents, in order to protect consumers. Woodman said this could be easily accommodated. Rep. Rogers felt some type of protection should be provided for passengers.

BILL DE CREEFT of Katchemak Air Service in Home (testifying via LTN from Hawaii, meter no. 0335), wanted to be sure air taxis were included in legislation.

WADE COCHRAN of Air Center, Mt. Edgecumbe (meter no. 0351), representing Southeast Alaska Aviation Association, favors HB 634 with reservations that the private sector and flight schools are not addressed.

RAND DAWSON, an Anchorage attorney, pilot, and member of AOPA and Alaska Airmens Association (meter no. 0385), testified as an individual and as an attorney who has had the opportunity to see the impact of litigation. He explained the costs (often very high) incurred by the victim of an aircraft accident. He said the impact of this bill is an attack on the jury system of Alaska; the effect will be to deny victims the right to seek compensation for injuries they did not cause. He felt the bill tries to establish a limit without factual data. He said the impact of this legislation would be felt by victims with catastrophic injuries.

(Dawson testimony, continued.) Dawson said he failed to see the correlation between insurance premiums and personal injury settlements. He feels the Committee has an obligation to potential victims to provide more information before reaching a decision on this legislation. Rep. Rogers asked if Woodman felt the limitation on payments in Workers Compensation statutes also has catastrophic impact (meter no. 0477). Dawson (meter no. 0490) said the premise behind Workers Compensation is different and is designed to protect the victim. He said many victims receive additional compensation through third party actions. Rep. Bylsma requested a copy of Woodman's testimony.

CHUCK WEIR of Alexander & Alexander Insurance Brokers, Anchorage (meter no. 0525), addressing Rep. Halford, asked if research indicated it would be unconstitutional to limit legislation to air carriers; he felt it ought to extend to all operators and carriers, as well as to all personal injury actions statewide. He went on to say the $250,000 limitation would increase awards, as most air taxis now pay only $100,000 per seat. He said HB 634 would over double insurance costs for most carriers. He noted that the international award limitation is $50,000. Rep. Halford responded that initial research indicated there could be constitutional problems if limited to air carriers. Weir said that, in reference to Workers Compensation if an employee felt there was gross negligence on the part of the employer, the employee could refuse the Workers Compensation and sue the employer. Weir felt this could be written into HB 634. Rep. Randolph said premiums are high because awards are high; Weir disputed this. Rep. Randolph and Weir agreed that in cases of gross negligence, the air carrier should not be protected. Rep. Gardiner asked if juries generally award to the limit of insurance; Weir said they generally do. Discussion continued between Reps. Randolph and Gardiner, and Weir (through meter no. 0684).

CINDY ANDRECHECK of Executive Air Taxi and Charter, Bethel (meter no. 0727), gave a specific breakdown on increases in insurance rates for the past five years. She said the air taxi businesses would not be able to stand these increases if they continued, and reiterated that nothing is preventing individuals from providing themselves extra coverage.

PAUL KARKECK, commercial pilot and flight instructor in Fairbanks (meter no. 0850), said he doesn't believe the bill will solve their problems: it doesn't address the real causes of outlandish insurance rates; doesn't affect other aspects of air travel in the state; and the rights of the public and victims would be impaired. He felt the high accident rate is the major culprit of high insurance rates in Alaska. Karkeck stated that 75-80% of all air carrier accidents in the U.S. occur in Alaska. He felt the cost could also be traced to state law, and said laws needed to be changed to encourage competition (among insurance agencies) to bring costs down. He was also concerned that the bill doesn't address the needs of other aircraft owners; eg, private pilots, flight schools, instructors. He urged committee to vote against bill and create a panel of aviators to study needs. Rep. Randolph requested a letter giving specifics of how Karkeck felt problem should be approached.

LEE DANIELS, Delta Aviation (meter no. 0940), air taxi operator, supported bill. He would like to see the committee follow IATC guidelines, and said carriers should notify passengers of liability limitations and give them the option to purchase additional insurance or find alternate means of transportation.

KEN WARD, Ward Air, Juneau (meter no. 0979), went over increases in costs over past few years.

DON KOCH, Chief, Market Surveillance, State Division of Insurance (meter no. 1029) said the Division has taken a neutral position with regard to HB 634. He was unsure whether or not the legislation would affect insurance rates. He said it might be possible to use the Workers Compensation approach outlined by statute, which might attract workers compensation carriers to aviation insurance market. Rep. Rogers asked if group insurance would be possible; Koch said it would be statutorily possible. Rep. Gardiner asked what kind of information the Division has on the aviation industry; Koch replied they had very little. Rep. Gardiner felt more information was needed on whether HB 634 would actually reduce insurance rates. Rep. Halford said that an insurance broker in Alaska has no incentive not to write a policy for a bad risk client, because losses are spread evenly and everyone's rates are affected. He asked Koch if it would be possible to institute procedures that would require premiums and losses to be made public through the Division of Insurance, in order to encourage a fairer allocation of costs. Koch said the Division has a reporting system, but accurate loss figures have not been available. He said there are not that many syndicates participating.

JON LARSON, an attorney speaking for the local Bar Association in Nome (meter no. 1235), opposed the bill. He said it doesn't address the real cause (lack of safety), and protects carriers at the expense of the public. He felt the burden of this legislation would be borne by victims.

No action was taken on HB 634, and the teleconferenced meeting was adjourned by Vice-Chairman Bylsma at 3:02 p.m.

MINUTES REVIEWED AND APPROVED:

_____

Representative Terry Martin, Chairman
House Labor & Commerce Committee

Alaska Air Carriers Association

TESTIMONY
OF
TULINDA DEEGAN
PRESIDENT

ALASKA AIR CARRIERS ASSOCIATION

on

House Bill 634 - An Act to Limit Awards
for Personal Injury or Death in Aircraft Accidents
Before the
House Labor and Commerce Committee

January 21, 1982

4790 Business Park Boulevard • Suite 4 • Anchorage, Alaska 99503 • (907) 272-9933

The Alaska Air Carriers Association (AACA), founded in 1966, represents air carriers engaged in the transportation of passengers, cargo and mail. The membership includes certificated air carriers, commuter and air taxi operators.

The AACA wholly endorses House Bill 634. The AACA Board of Directors passed the following resolution at their November 14, 1981 meeting:

> WHEREAS, the Alaska air carrier industry is facing escalating insurance premiums;
>
> BE IT RESOLVED, that the AACA endorses legislation to limit liability in the event of wrongful death or injury.

The members of this committee are well aware of the importance of aviation in Alaska. Air transportation is essential to Alaska. Outside of the major population centers there are virtually no roads. Almost everything that is needed for survival, including food, clothing and medicine, must be brought in by air.

Escalating Insurance Costs

The air carrier industry has been faced with skyrocketing insurance premiums. In 1980, air carriers could purchase $5 million single limit liability insurance for $600 per seat. Air carriers renewing insurance today are facing between $3,000 and $4,000 per seat for the same coverage. In the last quarter of 1981, 19 air carriers suspended operation because they could not afford the insurance premiums. None of these carriers have a history of suspended operations during the winter months when business generally is slow.

Accident Rate Is Steady: Liability Limit Needed

AACA has found that the Alaskan aviation accident rate has remained fairly steady over the past five years. The chart below shows that the industry had 11 fatal accidents last year compared with 10 fatal accidents in 1980. In both years, the industry suffered 30 fatalities.

GENERAL AVIATION	12 Months 1981	12 Months 1980	5 Yr. Avg.
TOTAL ACC	236	236	257.4
FATAL ACC	38	30	36.8
FATALITIES	94	66	82.6
AIR TAXI/COMM			
TOTAL ACC	60	68	59.2
FATAL ACC	11	10	9.4
FATALITIES	30	30	29.6

Source: FAA

Clearly, our accident rate does not warrant the steady escalation in insurance premiums. The million dollar awards in the Alaskan aviation accident cases have contributed to the high cost of insurance.

Consumer Hurt

AACA estimates that 15% of air carrier rates charged the public goes to pay the insurance bill. Two years ago only 3% of the rates charged went to insurance payments.

Although it is hard to be dispassionate about the loss of life, it is difficult to understand why the loss of life in an aircraft accident is worth over $1 million, while the loss of life in other accidents depend upon the extent of an individual's own insurance. AACA doubts that the individuals who have received high awards carried more than a few thousand dollars in life insurance.

Limit of Liability Is Needed

The provisions of House Bill 634 will help to put a stop to the skyrocketing cost of insurance. AACA has been assured by several insurance brokers and underwriters that insurance premiums would be reduced by 15% to 40%, if House Bill 634 is enacted.

In 1949, Alaska had a law limiting the amount recovered when the death of a person is caused by the wrongful act or omission of another. This limit was set at $10,000. The claimants had two years to commence such action and the amount recovered was to be exclusively for the benefit of the decedent's husband or wife and children.

In 1959, the limit was raised to $55,000. In 1960, the Alaska State Legislature eliminated the dollar amount and revised the statute to allow the courts to determine the amount to be awarded.

Attached is the existing law, the 1959 law and the 1949 law.

Federal Actions

The large air carriers and aircraft manufacturers are promoting similar legislation and hope to have it introduced in Congress early in the year. The basic thrust of this legislation is to establish uniform federal law applicable to air crashes and to limit and apportion the damages resulting from such crashes. The proposed bill would add a new Title XIV to the Federal Aviation Act. Some of the highlights of the bill are as follows.

It would only apply to any occurrence which results in the death or hospitalization of five or more persons. Commuter flights, defined as flights on an aircraft with 30 or fewer seats and a payload capacity of 7,500 pounds or less, would be excluded from coverage by the bill. Although there would be no monetary ceiling on compensation under the bill, the types of damages which could be claimed would be limited.

Litigation would be divided into two rounds. Victims would present their claims on a no-fault basis in round one and the liability of persons who may have caused the accident would be determined and apportioned in round two. Interim payments for lost salaries or medical expenses and other expenses would be part of the system. Also, no contingent fees for lawyers would be permitted. The court would make a separate award of the attorney's fee which would be in addition to the compensation otherwise awarded. In round one, the victim would show the connection between the accident and the victim's claimed losses and the amount of the losses. The amount of damages awarded would be limited in various ways. No punitive damages would be allowed. The victim could recover for loss of earnings, cost of medical and rehabilitation services, and expenses incurred in replacing services which would otherwise be provided by an injured person or a decedent. Governmental payments to the victim would be deducted from the award and the recovery for loss of prospective earnings would take account of the fact that such earnings would be subject to income tax whereas the recovery will not be subject to income taxes. Pain and suffering of a decedent prior to death would not be recoverable, nor would recovery on account of emotional distress of a decedent's family be permitted. Recovery for pain and suffering would be permitted for a survivor of the accident if there is a serious and permanent disfigurement or injury or more than 90 days of total disability.

On an interim basis, until the liability was apportioned in the second round, the airline and airframe manufacturer would advance out-of-pocket losses to the victims on a 50-50 basis. If more than two companies were involved, these payments would be divided accordingly. Prior to the conclusion of round two when the damages would be finally apportioned among

the defendants, there could be a preliminary hearing to decide on a temporary apportionment on other than a pro rata basis. If one party were ultimately determined to have made excess payments, the would be entitled to interest on the excess amounts paid.

Air carriers would be required to provide financial protection (either through their own financial resources or insurance) against liability in amounts equal to the amount of insurance determined by the Secretary of Transportation to be available on reasonable terms in the private market. There would be for any given accident an aggregate limit on the liability of all persons who might be legally responsible for the accident. This limit would be equal to the highest amount of financial protection required of any air carrier involved in the accident. Above this limit, funds for compensation of accident victims would be provided by a Surcharge Advances Facility established in the Department of Transportation. This fund would be financed through surcharges imposed by the Secretary of Transportation on the carriage of passengers or freight in domestic commercial air transportation. Thus, the ultimate costs of accidents in excess of private coverage would be distributed among all users.

jury alone does not raise a presumption of the physician's or dentist's negligence. (§ 1 ch 49 SLA 1967)

Legislative committee report.—For report on ch. 49, SLA 1967 (CSSB 142), see 1967 House Journal, p. 492.

Article 7. Actions by or Against Deceased Persons.

Section
570. All causes of action survive
580. Action for wrongful death

Sec. 09.55.570. All causes of action survive. All causes of action by one person against another, whether arising on contract or otherwise, except those involving defamation of character, survive to the personal representatives of the former and against the personal representatives of the latter, but this shall not be construed so as to abate an action for a wrong where any party has died after the verdict or to defeat or prejudice the right of action given by AS 09.15.010. The personal representatives may maintain an action thereon against the party against whom the cause of action accrued, or, after his death, against his personal representatives. (§ 4 ch 78 SLA 1972; am § 34 ch 56 SLA 1973)

Revisor's note (1972).—This section was taken from former AS 09.55.530 which, in turn, was taken from § 61-7-1, ACLA 1949, as amended.

Effect of amendment. — The 1973 amendment substituted "personal representatives" for "executors or administrators" in the second sentence.

Legislative committee report.—For report on ch. 56, SLA 1973 (HCS SB 100), see 1973 Senate Journal Supplement No. 9; 1973 House Journal, p. 919.

Legislative intent. — The intent of the legislature inferred from the 1973 amendment to this section, is that actions no longer abate when the wrongdoer dies, but do abate when the injured party succumbs from noncausually connected matters. O'Dey v. Matson, 17 Alaska 763 (1958).

Section 43-3-10, ACLA 1949, did not repeal by implication this section and AS 13.20.310. Andersen v. Pacific S.S. Co., 8 Alaska 291 (1931).

Am. Jur. reference. — 1 Am. Jur., Abatement and Revival, § 68 et seq.

Sec. 09.55.580. Action for wrongful death. (a) When the death of a person is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefor against the latter, if the former might have maintained an action, had he lived, against the latter for an injury done by the same act or omission. The action shall be commenced within two years after the death, and the damages therein shall be such damages as the court or jury may consider fair and just, and the amount recovered, if any, shall be exclusively for the benefit of the decedent's husband or wife and children when he or she leaves a husband, wife or children, him or her surviving, or other dependents. When the decedent leaves no husband, wife or children surviving him or her or other dependents, the amount recovered

Supplement

shall be administered as other personal property of the deceased person but shall be limited to pecuniary loss. When the plaintiff prevails, the trial court shall determine the allowable costs and expenses of the action and may, in its discretion, require notice and hearing thereon. The amount recovered shall be distributed only after payment of all costs and expenses of suit and debts and expenses of administration.

(b) The damages recoverable under this section shall be limited to those which are the natural and proximate consequence of the negligent or wrongful act or omission of another.

(c) In fixing the amount of damages to be awarded under this section, the court or jury shall consider all the facts and circumstances and from them fix the award at a sum which will fairly compensate for the injury resulting from the death. In determining the amount of the award, the court or jury shall consider but is not limited to the following:

(1) deprivation of the expectation of pecuniary benefits to the beneficiary or beneficiaries, without regard to age thereof, that would have resulted from the continued life of the deceased and without regard to probable accumulations of what the deceased may have saved during his lifetime;

(2) loss of contributions for support;

(3) loss of assistance or services irrespective of age or relationship of decedent to the beneficiary or beneficiaries;

(4) loss of consortium;

(5) loss of prospective training and education;

(6) medical and funeral expenses.

(d) The death of a beneficiary or beneficiaries before judgment does not affect the amount of damages recoverable under this section.

(e) The right of action granted by this section is not abated by the death of a person named or to be named the defendant. (§ 4 ch 78 SLA 1972)

I. General Consideration.
II. Nature of Right Conferred by Section.
III. Parties.
IV. Negligence.
V. Damages.

I. GENERAL CONSIDERATION.

Editor's note. — This section was taken from former AS 13.20.340 which, in turn, was taken from § 61-7-3, ACLA 1949, as amended.

Section 61-7-3, ACLA 1949, was taken from the Oregon Code. Kreidler v. Ketchikan Spruce Mills, 10 Alaska 365 (1943).

Authority of Oregon decisions. — Where there is no surviving husband, wife or children, then this section may be and has been construed to the same effect as the Oregon law. But the authority of the Oregon decisions ends there. Dralle v. Steele, 13 Alaska 680 (1952).

Any decision based upon the Oregon law, as it existed on June 4,

allegedly acknowledging a mortgage debt were not recorded, they cannot revive any time-barred remedies based on a deed of trust, which is an "instrument affecting real estate" within the meaning of this section. Walker v. White, Sup. Ct. Op. No. 2196 (File No. 4574), 618 P.2d 561 (1980).

Sec. 09.10.220. When nonresident's cause of action barred.

NOTES TO DECISIONS

Creditor's efforts to enforce money judgment obtained in state of Washington were not time barred. — See Hamilton v. Seattle Marine & Fishing Supply Co., Sup. Ct. Op. No. 1401 (File No. 2695), 562 P.2d 333 (1977).

Sec. 09.10.230. Certain actions relating to real property.

NOTES TO DECISIONS

Cited in United States v. Pucee, 564 F.2d 306 (9th Cir. 1977).

Sec. 09.10.240. Commencement of action after dismissal or reversal.

NOTES TO DECISIONS

Dismissal of claim without prejudice. — An action was not time-barred when brought within one year after a timely action on the same claim was dismissed without prejudice. Atlas Enterprises, Inc. v. Consolidated Constr. Co., Sup. Ct. Op. No. 1526 (File No. 2982), 572 P.2d 68 (1977).

Chapter 15. Parties.

Section

10. Parents or guardian may sue for injuries or death to child
20. Parents or guardian may sue for seduction of child
30. [Repealed]

Sec. 09.15.010. Parents or guardian may sue for injuries or death to child.

A parent may maintain an action as plaintiff for the injury or death of a child below the age of majority. A guardian may maintain an action as plaintiff for the injury or death of his ward. (§ 30.01 ch 101 SLA 1962; am § 62 ch 127 SLA 1974)

Effect of amendments. — The 1974 amendment substituted "parent" for "father or, in case of his death or desertion of his family, the mother" in the first sentence.

NOTES TO DECISIONS

This section is a mere procedural device allowing the parent to bring an action on behalf of the estate of the child and creates no independent right of recovery in the parent. State Farm Mut. Ins. Co. v. Wainscott, 439 F. Supp. 840 (D. Alas. 1977).

Applied in Macey v. United States, 454 F. Supp. 684 (D. Alas. 1978).

Sec. 09.15.020. Parents or guardian may sue for seduction of child. A parent may maintain an action as plaintiff for the seduction of a child below the age of majority. The guardian may maintain an action as plaintiff for the seduction of a ward. The action may be maintained even though the child or ward is not living with or in the service of the plaintiff at the time of the seduction or afterwards and there is no loss of service. (§ 30.02 ch 101 SLA 1962; am § 63 ch 127 SLA 1974)

Effect of amendments. — The 1974 amendment substituted "parent" for "father or, in the case of his death or desertion of his family, the mother" in the first sentence and "child" for "daughter" in the first and third sentences.

Sec. 09.15.030. Unmarried females may sue for seduction.

Repealed by § 64 ch 127 SLA 1974.

Editor's notes. — The repealed section derived from § 30.03, ch. 101, SLA 1962.

Chapter 16. Contribution Among Joint Tortfeasors.

NOTES TO DECISIONS

Chapter is remedial in nature. — AS 09.16.010 — 09.16.060 are remedial in nature, designed to provide a remedy where none existed before. City of Juneau v. Alaska Elec. Light & Power Co., Sup. Ct. Op. No. 2265 (File No. 4795), 622 P.2d 954 (1981).

Application of chapter. — AS 09.16.010 — 09.16.060 are intended to apply where two or more parties inadvertently become joint tort-feasors. Nothing in it evidences an intent to preclude parties from contracting, in good faith, as to contribution or indemnification liability. City of Juneau v. Alaska Elec. Light & Power Co., Sup. Ct. Op. No. 2265 (File No. 4795), 622 P.2d 954 (1981).

Contract providing for indemnity liability not precluded. — A contract executed in good faith, providing for a measure of indemnity liability, is not precluded by this section. City of Juneau v. Alaska Elec. Light & Power Co., Sup. Ct. Op. No. 2265 (File No. 4795), 622 P.2d 954 (1981).

Cited in Kastner v. Toombs, Sup. Ct. Op. No. 2087 (File No. 4119), 611 P.2d 62 (1980).

Article 7. Actions by or Against Deceased Persons.

Sec. 09.55.570. All causes of action survive.

NOTES TO DECISIONS

Joinder of parents as third party defendants. — In an action for the wrongful death of a minor without dependents brought by the parents of the minor in their representative capacity, the parents could be joined in the individual capacity as third party defendants and were liable for their negligent supervision of the child. Macey v. United States, 454 F. Supp. 684 (D. Alas. 1978).

No portion of settlement attributable to survivorship claim. — The superior court correctly determined that no portion of the total settlement should be attributed to the survivorship claim for relief where there was nothing in the record which indicated that any pain and suffering which decedent may have suffered was other than momentary. Horsford v. Estate of Horsford, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 739 (1977).

Applied in Anderson v. Edwards, Sup. Ct. Op. No. 2274 (File No. 4586), 625 P.2d 282 (1981).

Cited in Larman v. Kodiak Elec. Ass'n, Sup. Ct. Op. No. 950 (File No. 1827), 514 P.2d 1275 (1973); State Farm Mut. Ins. Co. v. Wainscott, 439 F. Supp. 840 (D. Alas. 1977).

Sec. 09.55.580. Action for wrongful death.

NOTES TO DECISIONS

VI. Beneficiaries.

I. GENERAL CONSIDERATION.

History of section. — See In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Model for statute. — The Alaska wrongful death statute is closely modeled after the precursor of most wrongful death statutes, Lord Campbell's Act, 9 & 10 Vict. Ch. 93 (1846). State Farm Mut. Ins. Co. v. Wainscott, 439 F. Supp. 840 (D. Alas. 1977).

The Alaska Wrongful Death Statute was adopted substantially from the Oregon statute. Macey v. United States, 454 F. Supp. 684 (D. Alas. 1978).

Purpose of wrongful death action. — Examination of this section and its statutory predecessors suggests that the purpose of creating the action was primarily to compensate those who had suffered direct losses as a result of decedent's death. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

The primary purpose of the wrongful death statute is to compensate those who suffer a direct loss. Haakanson v. Wakefield Seafoods, Inc., Sup. Ct. Op. No. 1943 (File Nos. 3428, 3492), 600 P.2d 1087 (1979).

Strict construction. — Actions, like wrongful death, which arise by legislative fiat are to be strictly construed. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Limitation period in wrongful death statute construed in pari materia with general limitations provisions. — See Haakanson v. Wakefield Seafoods Inc., Sup. Ct. Op. No. 1943 (File Nos. 3428, 3492), 600 P.2d 1087 (1979).

AS 09.10.070 and this section compared. — See Haakanson v. Wakefield Seafoods, Inc., Sup. Ct. Op. No. 1943 (File Nos. 3428, 3492), 600 P.2d 1087 (1979).

The disability of a minor statutory beneficiary tolls the running of the two-year time limit for commencing a wrongful death action until the disability is concluded. Haakanson v. Wakefield Seafoods, Inc., Sup. Ct. Op. No. 1943 (File Nos. 3428, 3492), 600 P.2d 1087 (1979).

Cross-claim relating back to original answer not barred. — Cross-claim filed more than two years after the cause of action arose but less than two years after the original answer was filed related back to when the original answer was filed and was not barred by this section. Estate of Thompson v. Mercedes-Benz, Inc., Sup. Ct.

Op. No. 952 (File No. 1672), 514 P.2d 1269 (1973).

Joinder of parents as third party defendants. — In an action for the wrongful death of a minor without dependents brought by the parents of the minor in their representative capacity, the parents could be joined in the individual capacity as third party defendants and were liable for their negligent supervision of the child. Macey v. United States, 454 F. Supp. 684 (D. Alas. 1978).

Cited in Larman v. Kodiak Elec. Ass'n, Sup. Ct. Op. No. 950 (File No. 1827), 514 P.2d 1275 (1973).

III. PARTIES.

Under this section, only the personal representative may institute a wrongful death action on behalf of the deceased person. While under some circumstances the action might benefit only the estate's creditors, this result is not necessarily inconsistent with the legislative scheme. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Personal representative sustains, etc.

While the personal representative is the party who brings suit for wrongful death in Alaska, he or she is a nominal party only and holds any recovery as trustee for the statutory beneficiaries. Hankanson v. Wakefield Seafoods, Inc., Sup. Ct. Op. No. 1943 (File Nos. 3428, 3492), 600 P.2d 1087 (1979).

Administrator as nominal party.

If the decedent is survived by a spouse, child or dependent, the action is brought on behalf of the statutory beneficiary and damages are measured by the loss to the survivors. The personal representative is then a nominal party only and holds the recovery in trust. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977); State Farm Mut. Ins. Co. v. Wainscott, 439 F. Supp. 840 (D. Alas. 1977).

And as real party.

If the deceased is not survived by the beneficiaries named in the statute, the personal representative is the real party in interest in the wrongful death action. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977); State Farm Mut. Ins. Co. v. Wainscott, 439 F. Supp. 840 (D. Alas. 1977).

Metlakatla Indian Community. — Congress, by virtue of its enactment of 28 U.S.C. § 1360(a), did not waive the sovereign immunity of the Indian tribes and consequently, the Metlakatla Indian Community has sovereign immunity with respect to wrongful death action on the reservation. Atkinson v. Haldane, Sup. Ct. Op. No. 1495 (File No. 2981), 569 P.2d 151 (1977).

IV. NEGLIGENCE.

Joinder of parents as third party defendants. — See note under this catchline under analysis line I, "General Consideration."

V. DAMAGES.

The correct measure of damages.

Under Alaska's wrongful death statute damages are required to be assessed according to the loss suffered by each statutory beneficiary. Horsford v. Estate of Horsford, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Where the deceased leaves no wife or children, etc.

Where the deceased is not survived by the beneficiaries named in the statute, damages are limited to the loss to the estate and are distributed as other personal property of the deceased. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

An action for wrongful death of a child below the age of majority may be commenced by the parents of the child or the personal representative of the child. When the child leaves no husband, wife, children or other dependents the measure of damages is limited to pecuniary loss and must be administered as other personal property of the deceased. State Farm Mut. Ins. Co. v. Wainscott, 439 F. Supp. 840 (D. Alas. 1977).

Where the deceased is not survived by the statutory beneficiaries, damages are limited to the loss to the estate. Macey v. United States, 454 F. Supp. 684 (D. Alas. 1978).

Subsection (c) does not apply to actions by minors without dependents. Macey v. United States, 454 F. Supp. 684 (D. Alas. 1978).

If subsection (c) of this section applied to persons without statutory dependents the court would be required by the term "shall" to consider noncompensable items. The only sensible manner to avoid this result is to conclude that subsection (c) of this section does not apply to those without dependents. This reading of the statute is supported by the use of the term "benefit" in subsection (c) of this section when referring to the distribution to dependents and the use of similar terms in subsection

(c)(1) of this section. Macey v. United States, 454 F. Supp. 684 (D. Alas. 1978).

Thus, net accumulations theory may be used. — Under Alaska law, damages in a wrongful death action brought on behalf of the estate of a minor with no dependents are determined under a net accumulations theory. Macey v. United States, 454 F. Supp. 684 (D. Alas. 1978).

Wage tables for the year in which a trial occurs may be utilized to calculate probable net accumulations in an action for wrongful death on behalf of a minor with no dependents. Macey v. United States, 454 F. Supp. 684 (D. Alas. 1978).

Reduction of damages to present value. — Under Alaska law, damages in a wrongful death action on behalf of a decedent with no beneficiaries are not reduced to present value when assessed against a private party; such damages are reduced to present value as against the United States in an action based upon the Federal Tort Claims Act, 28 U.S.C. § 1346. Macey v. United States, 454 F. Supp. 684 (D. Alas. 1978).

In calculating damages in an action for wrongful death on behalf of a decedent with no dependents, the award will not be reduced to present value and general inflationary trends will not be considered. Macey v. United States, 454 F. Supp. 684 (D. Alas. 1978).

Superior court may order distribution of the proceeds of a wrongful death recovery. Engebreth v. Moore, Sup. Ct. Op. No. 1472 (File No. 3120), 567 P.2d 305 (1977).

No error in refusing to distribute according to intestate succession laws. — The superior court did not err in refusing to distribute the proceeds of the wrongful death settlement in accordance with Alaska's laws of intestate succession. Horsford v. Estate of Horsford, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

The legislature intended that damages in a wrongful death case are to be assessed according to the actual losses of each qualified surviving beneficiary. It is illogical to infer that the legislature further intended that distribution of such damages was to be based on the fortuitous application of Alaska's laws controlling inheritance of intestate estates. Horsford v. Estate of Horsford, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Only one instance where damages administered as part of decedent's estate. — Alaska's Wrongful Death Act explicitly provides for only one instance, namely, when there are no statutory beneficiaries, where the damages recovered are to be administered as part of the decedent's estate. Horsford v. Estate of Horsford, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Awards to surviving beneficiaries to be separate. — In determining awards under the Wrongful Death Act, the trier of fact should make a separate award for each surviving beneficiary. Horsford v. Estate of Horsford, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Although section is silent on that issue. — Alaska's wrongful death statute is silent as to whether or not the trier of fact should determine the loss suffered by each surviving beneficiary and then make a separate award for each, or calculate the loss suffered by each beneficiary, total such losses, and then enter a lump sum verdict. Horsford v. Estate of Horsford, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Court to make allocations. — When confronted with allocation problems arising in the context of a settlement of a wrongful death claim the court should make the necessary allocation. Horsford v. Estate of Horsford, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Subsection (c)(1) provides for consideration of deprivation of pecuniary benefits to the beneficiaries without regard to their ages. Horsford v. Estate of Horsford, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Formula. — In making allocations of wrongful death settlements under certain circumstances, the supreme court has approved the use of a formula whereby appropriate proportions can be arrived at by totaling the number of years of reasonably expectable dependency or loss suffered by all beneficiaries. This figure is to be used as the denominator and the proportionate share of each beneficiary is that fraction of the proceeds which is arrived at by using each beneficiary's individual years of reasonably significant loss or dependency as the numerator. Horsford v. Estate of Horsford, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Such formula does not conflict with subsection (c)(1). — Application of the allocation formula totaling number of years of reasonably expectable dependency or loss suffered by all beneficiaries was not in irreconcilable conflict with the "without regard to age" phraseology of subsection (c)(1), since there is an adequate rationale for, as well as flexibility embodied in, the

formula to reconcile it with the provisions of subsection (c)(1). Horsford v. Estate of Horsford, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

Since the legal obligation to support children ordinarily terminates at approximately the age of majority and because the reasonable expectations of a child for pecuniary contributions from his parents terminates under ordinary circumstances at about the same time, the formula's employment as the years of significant damages for a child only those years between the age of the child at the time of his parent's death and the age of majority has a rational basis. Horsford v. Estate of Horsford, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

If there is evidence of circumstances indicating a longer period of dependency or evidence furnishing a basis for finding a continued expectation of pecuniary contributions beyond the age of majority, then the formula can be adjusted or, if necessary, abandoned. Horsford v. Estate of Horsford, Sup. Ct. Op. No. 1394 (File No. 2653), 561 P.2d 722 (1977).

VI. BENEFICIARIES.

No provision for direct recovery by those who would take by intestate succession. — Although the wrongful death statutes of some states specifically provide for direct recovery of the proceeds of the action by those who would take by intestate succession, Alaska's does not. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Purpose of 1960 amendment of former § 61-7-3, ACLA 1949. — In 1960 the statute (then former § 61-7-3, ACLA 1949) was amended to its present form. At that time, the legislature added "other dependents" to the class of statutory beneficiaries. Considering the history and purposes of the statute, this amendment appears designed to protect the interest of those who, like children and spouses, will suffer financial loss. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977); Greer Tank & Welding, Inc. v. Boettger, Sup. Ct. Op. No. 2065 (File Nos. 4457, 4495), 609 P.2d 548 (1980).

An action may be brought directly on behalf of the surviving parent. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

But only if she shows that she is also a dependent. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Dependency is question of fact. — The term "dependent" provides for all persons who will suffer financial loss without creating either an excessively narrow or an overboard classification. Thus, dependency is a question of fact. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977); Greer Tank & Welding, Inc. v. Boettger, Sup. Ct. Op. No. 2065 (File Nos. 4457, 4495), 609 P.2d 548 (1980).

"Dependent" does not include those who can show they would have been dependent on the deceased had he survived. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Necessary showing. — The legislature, by adding "other dependents" to the categories of spouse and children, intended to embrace those who occupy a position similar to those in the specified classes and who were actually dependent upon the decedent for support at the time of his death. A showing must be made of actual dependency for significant contributions of support over a sufficient period of time to justify the assumption that such contributions would have continued. Greer Tank & Welding, Inc. v. Boettger, Sup. Ct. Op. No. 2065 (File Nos. 4457, 4495), 609 P.2d 548 (1980).

Where the mother of the deceased was the sole surviving heir and was not dependent on the deceased at the time of death, the proceeds of a statutory wrongful death action pass into the estate and are subject to the control and distribution of the court and to the claims of general creditors. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Mother of decedent did not have the right to receive directly the proceeds of the wrongful death action as a statutory beneficiary by virtue of AS 25.20.030, which requires each child to maintain his parents when they are poor and unable to work and maintain themselves. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Although AS 25.20.030 establishes a duty running between parent and child under specific factual circumstances, it does not create a right of action in the parent against a third-party tort-feasor. Nor does it establish dependency as a matter of law. In re Estate of Pushruk, Sup. Ct. Op. No. 1398 (File No. 2974), 562 P.2d 329 (1977).

Step children. — Because of the lack of precision in the language of this section, the status of stepchildren as potential beneficiaries is not clear. Brown v. Estate of Jonz, Sup. Ct. Op. No. 1808 (File Nos. 3216, 3228) 591 P.2d 532 (1979).

Superior court's ruling excluding the nonadopted stepchildren from recovery was not plainly erroneous, and therefore supreme court did not review the court's instruction, unobjected to at trial, that the word "heir" included deceased's widow and daughter, with no mention of the stepchildren. Brown v. Estate of Jonz, Sup. Ct. Op. No. 1808 (File No. 3216, 3228), 591 P.2d 532 (1979).

Decedent's divorced wife and nonadopted stepson were "dependents" under this section where the factual findings of the trial court which were supported by the evidence not only indicated the close familial relationship of the wife and stepson to the deceased, but also their actual dependency upon him for support. Greer Tank & Welding, Inc. v. Boettger, Sup. Ct. Op. No. 2065 (File Nos. 4457, 4495), 609 P.2d 548 (1980).

Article 8. Removal of Disabilities of a Minor.

Section

590. Removal of disabilities of minority

Sec. 09.55.590. Removal of disabilities of minority. (a) A minor who is a resident of this state and is at least 16 years of age, who is living separate and apart from his parents or guardian, capable of self-support and of managing his own financial affairs, may petition the superior court to have the disabilities of minority removed for limited or general purposes.

(b) A minor may institute this petition under this section in his own name.

(c) The petition for removal of disabilities of minority must state:

(1) the name, age, and residence address of the petitioner;

(2) the name and address of each living parent;

(3) the name and address of the guardian of the person and the guardian of the estate, if any;

(4) the reasons why removal would be in the best interest of the child; and

(5) the purposes for which removal is sought.

(d) The petitioner must obtain the consent of each living parent or guardian having control of the person or property of the petitioner. If the person who is to consent to the petition is unavailable or his whereabouts are unknown, or if a parent or guardian unreasonably withholds consent, the court, acting in the best interest of petitioner, may waive this requirement of consent as to that parent or guardian.

(e) The court may appoint an attorney or a guardian ad litem to represent the interests of the petitioner at the hearing.

(f) The court may remove the disabilities of minority as requested in the petition if found to be in the best interest of the petitioner, after a hearing. The removal may be for general purposes or the limited purposes specified in the decree.

(g) Except for specific constitutional and statutory age requirements for voting and use of alcoholic beverages, a minor whose disabilities are

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§ 61-7- 4. Corepresentatives considered as one person: Judgment and execution where part only served.
§ 61-7- 5. When judgment deemed evidence of assets.
§ 61-7- 6. Inventory as evidence.
§ 61-7- 7. Executor of his own wrong.
§ 61-7- 8. Time within which actions brought.
§ 61-7- 9. Presentation of claim as prerequisite to action: Limitation of liability.
§ 61-7-10. Provisional remedies.

§ 61-7-1. Cause of action not surviving. A cause of action arising out of an injury to the person dies with the person of either party, except as provided in section 61-7-3, but the provisions of this chapter shall not be construed so as to abate the action mentioned in section 55-3-13, or to defeat or prejudice the right of action given by section 55-3-8. [CLA 1913, § 1183; CLA 1933, § 3843.]

CROSS REFERENCES

Equitable actions by or against representatives, heirs, devisees or legatees: §§ 61-8-1–61-8-17.

COLLATERAL REFERENCES

1 Am Jur 63.

NOTES OF DECISIONS

Workmen's Compensation Act § 10 (§ 43-3-10 herein) did not repeal this section by implication. Andersen v Pacific S. S. Co. (1931) 8 A 291.

§ 61-7-2. Causes of action surviving; Executor's or administrator's right of action. All other causes of action by one person against another, whether arising on contract or otherwise, survive to the personal representatives of the former and against the personal representatives of the latter. When the cause of action survives, as herein provided, the executors or administrators may maintain an action thereon against the party against whom the cause of action accrued, or, after his death, against his personal representatives. [CLA 1913, § 1184; CLA 1933, § 3844.]

09.55.00

COLLATERAL REFERENCES

1 Am Jur 63.

NOTES OF DECISIONS

Workmen's Compensation Act, § 10 (§ 43-3-10 herein) did not repeal this section by implication. Andersen v Pacific S. S. Co. (1931) 8 A 291.

§ 61-7-3. Action for wrongful death: Disposition of amount recovered. When the death of a person is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefor against the latter, if the former might have maintained an action, had he lived, against the latter for an injury done by the same act or omission. Such action shall be commenced within two years after the death, and the damages

therein shall not exceed ten thousand dollars, and the amount recovered, if any, shall be exclusively for the benefit of the decedent's husband or wife and children when he or she leaves a husband, wife, or children, him or her surviving; and when any sum is collected it must be distributed by the plaintiff as if it were unbequeathed assets left in his hands, after payment of all debts and expenses of administration, and when he or she leaves no husband, wife, or children, him or her surviving, the amount recovered shall be administered as other personal property of the deceased person; but the plaintiff may deduct therefrom the expenses of the action, to be allowed by the proper court upon notice, to be given in such manner and to such persons as the court deems proper. [CLA 1913, § 1185; CLA 1933, § 3845.]

COLLATERAL REFERENCES

16 Am Jur 35 et seq.

NOTES OF DECISIONS

1. In General.
2. Nature of Action.
3. Defenses.
4. Damages.
5. Parties.
6. Pleadings.
7. Limitations.

1. IN GENERAL

This section was taken from the Oregon Code. Kreidler v Ketchikan Spruce Mills (1943) 10 A 365.

Where plaintiff's decedent had been aboard a schooner towed by a steamer in Alaskan waters, the tow-line parted, and the schooner was wrecked on the Alaskan shore, the cause of decedent's death was not the parting of the tow-line but the steamer's continuing failure to come to the relief of the schooner, and the breach of duty occurred within the Territory of Alaska regardless of whether the vessels were within or beyond the three-mile limit when the steamer abandoned her tow. Alaska Com. Co. v Williams (CCA9th 1904) 128 F 362, 63 CCA 92.

Where decedent's widow and administratrix of his estate failed in an action seeking damages for the destruction of decedent's property, and a special finding negatived defendant's negligence, the judgment was not res judicata in a second action against the same defendant to recover for decedent's death in the same occurrence. Koski v Alaska Juneau G. M. Co. (1921) 6 A 334.

2. NATURE OF ACTION

A wrongful death action is purely statutory; there was no such civil action at common law. Koski v Alaska Juneau G. M. Co. (1921) 6 A 334.

The right of action is given to the administrator or executor in his representative capacity, and is in the nature of an asset of the estate; heirs have no interest in the recovery on account of any right of action for a pecuniary injury sustained by them, and no common-law right of action is available to them. The Princess Sophia (DC, WD Wash ND 1929) 35 F2d 736.

3. DEFENSES

The contributory negligence of the deceased is a defense to an action under this section in whatever court such action may be prosecuted. Kimball S. S. Co., In re (DC, ND Calif 1903) 123 F 838.

4. DAMAGES

Where the deceased leaves no wife or children, the amount recoverable by his personal representatives is for the benefit of the estate, and the damage to the estate is the value of the life to the estate, measured by the earning capacity, thriftiness, probable length of life of the deceased, and the consequent amount of probable accumulations during such life expectancy. Jennings v Alaska Treadwell G. M. Co. (CCA9th 1909) 170 F 146, 95 CCA 388.

The true measure of damages in actions brought under this section is the pecuniary loss suffered by the estate, without any solatium for the

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CHAPTER 7
ACTIONS BY OR AGAINST EXECUTORS OR ADMINISTRATORS

Article 1
Generally

§ 61-7-1. Survival of cause of action arising out of injury to person or death after death of wrongdoer. Causes of action arising out of personal injury or death, caused by the wrongful act or negligence of another, shall not abate upon the death of the wrongdoer, and the injured person or the personal representatives of one meeting death, as above stated, shall have a cause of action against the executor, administrator or trustee of the estate of the deceased wrongdoer. [am L 1949, ch 102, § 1, p 260, app Mar. 24, 1949.]

Amendments. L 1949 amended section generally.

§ 61-7-3. Action for wrongful death: Disposition of amount recovered. When the death of a person is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefore against the latter, if the former might have maintained an action, had he lived, against the latter for an injury done by the same act or omission. Such action shall be commenced within two years after the death, and the damages therein shall not exceed fifty thousand dollars, and the amount recovered, if any, shall be exclusively for the benefit of the decedent's husband or wife and children when he or she leaves a husband, wife or children, him or her surviving; and when he or she leaves no husband, wife or children, him or her surviving, the amount recovered shall be administered as other personal property of the deceased person. When the plaintiff prevails, the trial court shall determine the allowable costs and expenses of the action and may, in its discretion, require notice and hearing thereon. The amount recovered shall be distributed only after payment of all costs and expenses of suit and debts and expenses of administration.

The damages recoverable under this section shall be limited to those which are the natural and proximate consequence of the negligent or wrongful act or omission of another.

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section, the Court or jury shall consider all the facts and circumstances and from them fix the award at such sum as will fairly compensate for the injury resulting from the death. In determining the amount of the award, the Court or jury shall consider but is not limited to the following:

(1) Deprivation of the expectation of pecuniary benefits to the beneficiary or beneficiaries, without regard to age thereof, that would have resulted from the continued life of the deceased and without regard to probable accumulations or what the deceased may have saved during his lifetime.

(2) Loss of contributions for support.

(3) Loss of assistance or services irrespective of age or relationship of decedent to the beneficiary or beneficiaries.

(4) Loss of consortium.

(5) Loss of prospective training and education.

(6) Medical and funeral expenses.

The death of a beneficiary or beneficiaries before judgment shall not affect the amount of damages recoverable hereunder.

The right of action hereby granted shall not be abated by the death of a person named or to be named the defendant. [am L 1949, ch 89, § 1, p 222, app Mar. 23, 1949; L 1955, ch 153, § 1, p 315, app Mar. 28, 1955; L 1957, ch 6, § 1, p 7, app Feb. 20, 1957.]

Amendments. L 1957 amended provisions relating to distribution when decedent leaves no spouse or children surviving, so that the amount recovered will be administered as other personal property instead of for the benefit per capita of the child or children of decedent's child or children, if any, and the surviving parent or parents of the decedent.

L 1955 amended section generally.

L 1949 changed maximum amount that may be recovered under section from $10,000 to $15,000.

1. **Construction.** This statute is not a survival statute, but creates a new cause of action. Ishmael v City Electric of Anchorage (1950) 12 A 721, 91 F Supp 688.

2. **Generally.** A deceased employee's heir, such as daughter not included among the beneficiaries listed in the Workmen's Compensation Act, has no cause of action under this statute for employee's death from injury covered by Compensation Act. McKenna v Evans-Jones Coal Co. (1950) 12 A 692.

The decision of the Alaska Industrial Board in a proceeding for compensation for the death of an employee, as to which of three companies was the decedent's employer, was binding in widow's subsequent death action against one of them. Hazel v Alaska Plywood Corporation (1957) 16 A 642.

Under this statute the measure of damages where the decedent was survived by a spouse and children was the pecuniary loss to the survivors, and not the loss to the decedent's estate. Wier Alaska Airlines v Simmonds (1957) 16 A 679, 241 F2d 57.

every hair seal inhabiting the inland waters and all water adjacent to the southern coast of Alaska east of the 152nd Meridian, and the waters of Bristol Bay and the coastal waters within three miles off the Mainland from Cape Newenham to Cape Krusenstern, inclusive, a bounty of $3.00, such sum to be paid in accordance with the provisions following.

Sec. 2. **Effective Date.** This Act shall become effective retroactive to January 1, 1960, upon its passage and approval or upon its becoming law without such approval.

Approved April 22, 1960

CHAPTER 163

AN ACT

Relating to damages in actions for wrongful death; and amending the first paragraph of Sec. 61-7-3, ACLA 1949, as amended by Ch. 89, SLA 1949, Ch. 153, SLA 1955, and Ch. 6, SLA 1957.

(H.B. 329)

Be it enacted by the Legislature of the State of Alaska:

Section 1. The first paragraph of Sec. 61-7-3, ACLA 1949, as amended by Ch. 89, SLA 1949, Ch. 153, SLA 1955, and Ch. 6, SLA 1957, is amended to read as follows:

Sec. 61-7-3. **Action for Wrongful Death: Disposition of Amount Recovered.** When the death of a person is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefore against the latter, if the former might have maintained an action, had he lived, against the latter for an injury done by the same act or omission. Such action shall be commenced within two years after the death, and the damages therein shall, be such damages as the court or jury may deem fair and just and the amount recovered, if any, shall be exclusively for the benefit of the decedent's husband or wife and children when he or she leaves a husband, wife or children, him or her surviving or dependents; and when he or she leaves no husband, wife or children, him or her surviving, or other dependents, the amount recovered shall be administered as other personal property of the deceased person but shall be limited to pecuniary loss. When the Plaintiff prevails, the trial court shall determine the allowable costs and expenses of the action and may, in its discretion, require notice and hearing thereon. The amount recovered shall be distributed only after payment of all costs and expenses of suit and debts and expenses of administration.

Approved April 22, 1960

CHAPTER 164

AN ACT

Relating to the furnishing of return transportation by employers upon termination of employment; amending Sec. 1, Ch. 67, SLA 1949 as amended by Ch. 136, SLA 1959; and providing for an effective date.

(H.B. 348)

Be it enacted by the Legislature of the State of Alaska:

Section 1. Sec. 1, Ch. 67, SLA 1949, as amended by Ch. 136, SLA 1959, is amended to read as follows:

Section 1. Any employer who furnishes, finances, or agrees to furnish or finance, or who in any way provides transportation for any person from the place of hire to any point within or

animous consent that Messrs. ness.

TION

by Messrs: Giersdorf and bility of using certain id rescue operations in ntatives in First ne Senate concurring, duct a study to determine SARAH by all state-owned i in intra-state traffic d, read the first time fairs.

ITTEES

as referred HOUSE BILL ecommendation that it Hope, Chairman, and Jones and Hammond. LL NO. 420 was referred

whom was referred HOUSE the recommendation that l be accepted in lieu ned by Douglas Gray, s, Franz, Erwin, McCombe, ed to the Committee on

Education to whom was ame back with the was signed by James s. McSmith and Messrs: Charles Jones. SENATE on Finance.

Education to whom was e back with the was signed by James . McSmith and Messrs: 396 was referred to

ucation to whom was reported the same . The report was signed in by Mrs. McSmith RRENT RESOLUTION NO. 50

was referred HOUSE BILL mendation that it Hurley, Chairman, and sen. HOUSE BILL NO.405

was referred to the Committee on Judiciary.

The Committee on State Affairs to whom was referred HOUSE BILL NO. 418 reported the same back with the recommendation that it do pass. The report was signed by James J. Hurley, Chairman, and concurred in by Messrs: Hansen, Haag and Freeman. HOUSE BILL NO. 418 was referred to the Committee on Rules.

The Committee on State Affairs to whom was referred HOUSE BILL NO. 403 reported the same back with the recommendation that it do pass with the following amendment:

Page 1, line 12: after word "appointed" strike "his" and insert therefore the words "the Governor shall declare the"; strike word "is".

The report was signed by James J. Hurley, Chairman, and concurred in by Messrs: Freeman, Haag and Hansen. HOUSE BILL NO. 403 was referred to the Committee on Rules.

The Committee on Judiciary to whom was referred HOUSE BILL NO. 329 reported the same back with the recommendation that it do pass with the following amendment:

Page 1, lines 23 and 24: Strike "be determined on the basis of the proof adduced at the trial; substitute "not exceed one hundred thousand dollars."

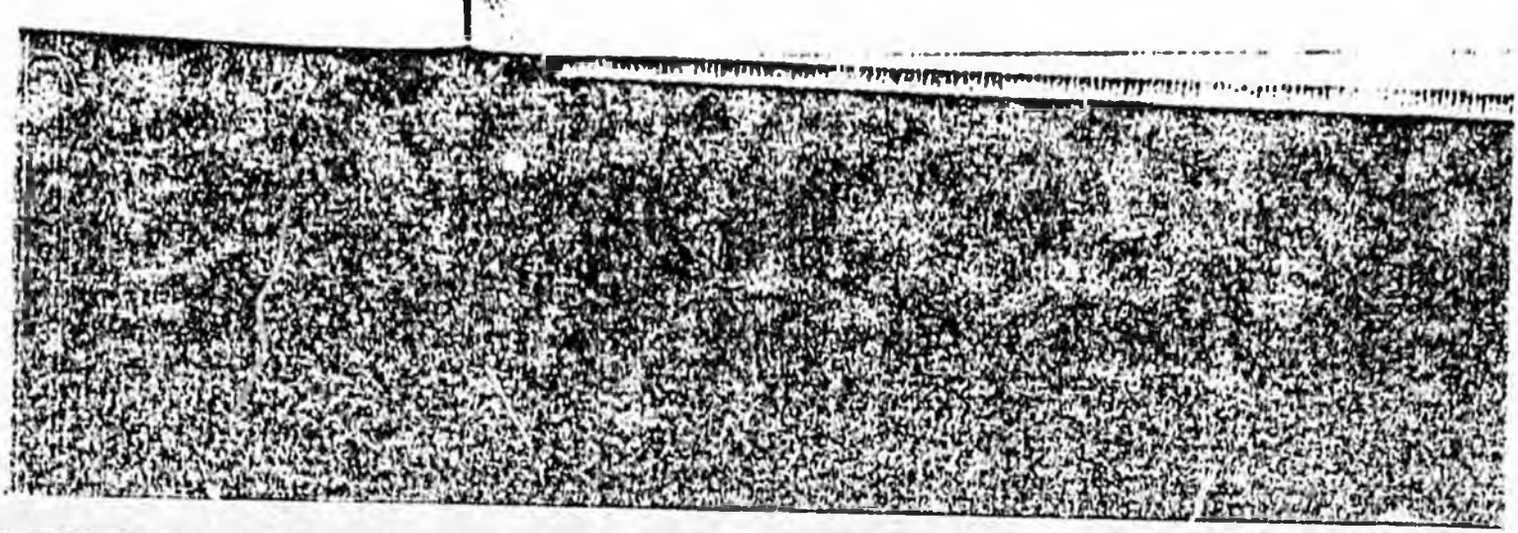
The report was signed by John S. Hellenthal, Chairman, and concurred in by Messrs: Roady, Fisher and Kendall. Do not pass: Robert Giersdorf. HOUSE BILL NO. 329 was referred to the Committee on Rules.

The Committee on Judiciary to whom was referred HOUSE BILL NO. 311 reported the same back with the recommendation that it be amended and that COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 311 containing the amendments be adopted in lieu of HOUSE BILL NO. 311. The report was signed by Messrs. Fisher, Giersdorf, Kendall and Roady. No Recommendation: John S. Hellenthal, Chairman. HOUSE BILL NO. 311 was referred to the Committee on Rules.

The Committee on Local Government to whom was referred HOUSE BILL NO. 437 reported the same back with the recommendation that it do pass. The report was signed by Douglas Gray, Chairman, and concurred in by Messrs: Franz, Erwin, Haag, McCombe and Curtis. HOUSE BILL NO. 437 was referred to the Committee on Rules.

The Committee on Federal Relations to whom was referred HOUSE JOINT MEMORIAL NO. 56 reported the same back with the recommendation that it do pass. The report was signed by Helen M. Fischer, Chairman, and concurred in by Messrs: Roady, Franz and Sheldon. HOUSE JOINT MEMORIAL NO. 56 was referred to the Committee on Rules.

INTRODUCTION AND FIRST READING OF HOUSE BILLS



The question being: "Shall HOUSE JOINT MEMORIAL NO. 59 pass?" On voice vote HOUSE JOINT MEMORIAL NO. 59 passed and was referred to the Committee on Engrossment and Enrollment for engrossment.

HOUSE CONCURRENT RESOLUTION NO. 50 was read.

The question being: "Shall HOUSE CONCURRENT RESOLUTION NO. 50 pass?" On voice vote HOUSE CONCURRENT RESOLUTION NO. 50 passed and was referred to the Committee on Engrossment and Enrollment for engrossment.

HOUSE CONCURRENT RESOLUTION NO. 51 was read.

The question being: "Shall HOUSE CONCURRENT RESOLUTION NO. 51 pass?" On voice vote HOUSE CONCURRENT RESOLUTION NO. 51 passed and was referred to the Committee on Engrossment and Enrollment for engrossment.

HOUSE CONCURRENT RESOLUTION NO. 54 was read.

The question being: "Shall HOUSE CONCURRENT RESOLUTION NO. 54 pass?" On voice vote HOUSE CONCURRENT RESOLUTION NO. 54 passed and was referred to the Committee on Engrossment and Enrollment for engrossment.

HOUSE MEMORIAL NO. 13 was read.

The question being: "Shall HOUSE MEMORIAL NO. 13 pass?" On voice vote HOUSE MEMORIAL NO. 13 passed and was referred to the Committee on Engrossment and Enrollment for engrossment.

SECOND READING OF HOUSE BILLS

HOUSE BILL NO. 329 was read the second time.

The Committee on Judiciary offered the following amendment:

Page 1, lines 23 and 24: Strike "be determined on the basis of the proof adduced at the trial"; substitute "not exceed one hundred thousand dollars"

Mr. Fisher moved and asked unanimous consent that the amendment be adopted. There being no objection, the amendment to HOUSE BILL NO. 329 was adopted.

Mr. Hansen moved and asked unanimous consent that HOUSE BILL NO. 329 as amended be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

concur in the Senate's amendments to COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 307 as amended. There being no objection, it was so ordered.

A message was ordered sent to the Senate advising that the House concurred in the Senate's amendments to COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 307 as amended. Thereupon the Speaker and Chief Clerk signed COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 307 as amended by the Senate and it was referred to the Committee on Engrossment and Enrollment for enrollment.

A message from the Senate, dated March 25, 1960, stating that the Senate passed HOUSE BILL NO. 329 as amended with the following amendments; was read:

Page 1, Line 23: Strike "not exceed (FIFTY) Thousand dollars" and add "be such damages as the court or jury may deem fair and just"

Page 1, Line 27: After word "surviving" insert words "or dependents"

Page 1, Line 28: After word "surviving," insert words "or other dependents"

Page 1, Line 28: After word "surviving," insert words "or other dependents,"

Page 2, Line 1: After word "person" insert "but shall be limited to pecuniary loss"

Mr. Fisher moved that the House concur in the Senate's amendments to HOUSE BILL NO. 329 as amended. Mr. Greuel seconded. On voice vote the motion carried and the House concurred in the Senate's amendments to HOUSE BILL NO. 329 as amended.

A message was ordered sent to the Senate stating that the House concurred in the Senate's amendments to HOUSE BILL NO. 329 as amended. Thereupon the Speaker and Chief Clerk of the House signed HOUSE BILL NO. 329 as amended by the Senate and it was referred to the Committee on Engrossment and Enrollment for enrollment.

A message from the Senate, dated March 25, 1960, stating that the President and Secretary signed the enrolled copies of HOUSE BILL NO. 258, HOUSE BILL NO. 461, HOUSE BILL NO. 288, COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 271 as amended, HOUSE BILL NO. 325, HOUSE BILL NO. 410, HOUSE BILL NO. 464 as amended by the Senate, HOUSE BILL NO. 457, COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 320, COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 318 as amended by the Senate, COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 251 as amended by the Senate, SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 223 as amended and COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 300 as amended by the Senate and they were ordered transmitted to the offices of the Governor and Secretary of State.

REPORTS OF STANDING COMMITTEES

The Engrossment and Enrollment Committee to whom was referred HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 149 reported to the Senate they had compared the same with the original bill and found it correctly enrolled. The report was signed by Senator Metcalf, Chairman and concurred in by Senator Bradshaw.

The enrolled copy of HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 149 was ordered sent to the House for the signatures of the Speaker and Chief Clerk.

Senator Moody moved and asked unanimous consent that HOUSE BILL NO. 424, as amended, be considered at this time. There being no objection, it was so ordered.

HOUSE BILL NO. 424, as amended, was considered again in second reading.

There being no amendments, Senator Moody moved and asked unanimous consent that HOUSE BILL NO. 424, as amended, be advanced to third reading and final passage. There being no objection, it was so ordered.

HOUSE BILL NO. 424, as amended, was read the third time.

The question being, "Shall HOUSE BILL NO. 424, as amended, pass the Senate?" The roll was called with the following result:

Yeas: 7 - Buckalew, McNabb, Metcalf, Orbeck, Ryan, Weise, Mr. President.

Nays: 9 - Bradshaw, Emonson, Hopson, Logan, McNealy, Moody, Nolan, Smith, Stewart.

Absent: 4 - Coghill, McNees, Owen, Peratrovich.

And so HOUSE BILL NO. 424, as amended, failed to pass the Senate.

Senator Moody asked for the personal privilege of the floor, and informed members of the Senate the House had agreed to meet with the Senate in a majority party caucus at 4:30.

HOUSE BILL NO. 325, as amended, was considered again.

Senator McNealy offered the following amendment:

Page 1, line 17: after word "surviving" insert words "or dependents"

Page 2, line 1: after word "person" insert "but shall be limited to pecuniary loss"

Senator McNealy moved for the adoption of the amendment. Senator Bradshaw seconded. On voice vote the amendment was adopted.

Senator Buckalew offered the following amendment:

Page 1, line 23: strike NOT EXCEED one hundred FIFTY THOUSAND DOLLARS and add be such damages as the court or jury may deem fair and just

Senate Journal 1960

Senator Buckalew moved for the adoption of the amendment, and asked unanimous consent. Senator McNealy objected and seconded.

Senator Stewart asked unanimous consent for a short recess. There being no objection, it was so ordered.

AFTER RECESS

Senator Buckalew asked unanimous consent for the adoption of his amendment. There being no objection, it was so ordered.

There being no further amendments, Senator Moody asked the concurrence of the Senate to advance HOUSE BILL NO. 329, as amended in the Senate, to third reading and final passage. There being no objection, it was so ordered.

HOUSE BILL NO. 329, as amended in the Senate, was read the third time.

The question being, "Shall HOUSE BILL NO. 329, as amended in the Senate, pass the Senate?", the roll was called with the following result:

Yeas: 16 - Bradshaw, Bronson, Buckalew, Hopson, Logan, McNabb, McNealy, Metcalf, Moody, Nolan, Orbeck, Ryan, Smith, Stewart, Weise, Mr. President.

Nays: 0

Absent: 4 - Coghill, McNees, Owen, Peratrovich.

And so HOUSE BILL NO. 329, as amended in the Senate, passed the Senate.

HOUSE BILL NO. 329, as amended in the Senate, was referred to the Committee on Engrossment and Enrollment for engrossment.

Senator Moody asked unanimous consent for a recess until the call of the Chair. There being no objection, it was so ordered.

AFTER RECESS

The Senate reconvened at 3:30 p.m.

Without objection, the Senate reverted to

COMMUNICATIONS

Telegram of March 24, 1960 to President Beltz from Clarence King, President, Ketchikan Chamber of Commerce urging enactment of bonding authority bills, was read and referred to the State Affairs Committee.

Letter of March 24, 1960 to the President of the Senate, from Mrs. Eugene O. Roguszka, Secretary Democratic South Central District Committee, advising that John A. Burns, former Delegate in Congress from Hawaii, would be the keynote speaker for the Second Session of the Democratic State Convention to be held in Anchorage on April 2 and 3, was read.

1-25-82
HB 159

Sofo ✓✓✓
January 25, 1982

Original sponsor: Rules/Legislative Council

IN THE HOUSE BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 159 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to workers' compensation; and providing for an effective date."

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

Sec 66 P44

* Section 1. AS 18.80.220(a)(4) is amended to read:

(4) an employer, labor organization or employment agency to discharge, expel or otherwise discriminate against a person because he has

(A) opposed any practices forbidden under AS 18.80.200 - 18.80.280; [OR BECAUSE HE HAS]

(B) filed a complaint, testified or assisted in a proceeding under this chapter; or

(C) filed a claim for workers' compensation benefits under AS 23.30;

Sec 13 P13

* Sec. 2. AS 23.30.025 is amended by adding a new subsection to read:

(c) An insurer may issue a policy of insurance insuring the payment of benefits under this chapter which provides for a deductible amount to be paid by the employer. A policy with a deductible provision must be approved by the director of insurance and must provide that the deductible amount be paid by the insurer to the employee on behalf of the employer. After payment of the deductible by the insurer, the insurer may recover the deductible amount from the employer. The failure of an employer to reimburse an insurer for the deductible amount does not relieve the insurer from any other obligation it may have under the policy of insurance. An insurer is not required to apply for a deviation

under AS 21.39.070 in order to issue a policy under this subsection. This subsection does not apply to a policy of excess insurance purchased by a self-insurer.

Sec 17 P17

* Sec. 3. AS 23.30.045(c) is amended to read:

(c) For a person eligible for vocational rehabilitation service under this chapter or AS 23.15.080 [AND] who is placed with an employer for service [WITHOUT WAGES] at the request of the board or the division [OFFICE] of vocational rehabilitation to give him on the job training, work readiness, [OR] work therapy experience [,] or work sampling, the liability set out in (a) of this section applies to the state rather than to the employer.

Sec 26 P 22

* Sec. 4. AS 23.30.080 is amended by adding a new subsection to read:

(d) If an employer fails to insure or provide security as required by AS 23.30.075, the board may issue a stop order prohibiting the use of employee labor by the employer until the employer insures or provides security as required by AS 23.30.075. If an employer fails to comply with a stop order issued under this section, the board shall assess a civil penalty of at least $1,000 per day. The employer may not obtain a public contract with the state or any of its political subdivisions for one year following the violation of the stop order.

Sec 30 P 23

* Sec. 5. AS 23.30.095(a) is amended to read:

(a) The employer shall furnish medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires [, NOT EXCEEDING TWO YEARS FROM AND AFTER THE DATE OF INJURY TO THE EMPLOYEE. HOWEVER, IF THE CONDITION REQUIRING THE TREATMENT, APPARATUS, OR MEDICINE IS A LATENT ONE, THE TWO-YEAR PERIOD RUNS FROM THE TIME THE EMPLOYEE HAS KNOWLEDGE OF THE NATURE OF HIS DISABILITY AND ITS RELATIONSHIP TO HIS EMPLOYMENT AND AFTER-DISABLEMENT.

IT SHALL BE ADDITIONALLY PROVIDED THAT, IF CONTINUED TREATMENT OR CARE OR BOTH BEYOND THE TWO-YEAR PERIOD IS INDICATED, THE INJURED EMPLOYEE HAS THE RIGHT OF REVIEW BY THE BOARD. THE BOARD MAY AUTHORIZE CONTINUED TREATMENT OR CARE OR BOTH AS THE PROCESS OF RECOVERY MAY REQUIRE]. When medical care is required, the injured employee may designate a health care provider [LICENSED PHYSICIAN] inside the state to render the care except in cases where, in the judgment of the board, care or treatment or both can best be administered by the selection of another health care provider [PHYSICIAN]. Upon procuring the services of a health care provider [PHYSICIAN], the injured employee shall give proper notification of his selection to the employer within a reasonable time after first being treated. [IF FOR ANY REASON DURING THE PERIOD WHEN MEDICAL CARE IS REQUIRED THE EMPLOYEE WISHES TO CHANGE TO ANOTHER PHYSICIAN, HE MAY DO SO IN ACCORDANCE WITH RULES PRESCRIBED BY THE BOARD.]

* Sec. 6. AS 23.30.095(b) is amended to read:

(b) If the employee is unable to designate a health care provider [PHYSICIAN] and the emergency nature of the injury requires immediate medical care, or if he does not desire to designate a health care provider [PHYSICIAN] and so advises the employer, the employer shall designate the health care provider [PHYSICIAN]. Designation under this subsection, however, does not prevent the employee from subsequently designating a health care provider [PHYSICIAN] for continuance of required medical care.

→ Sec 31 P24+25

* Sec. 7. AS 23.30.095(c) is amended to read:

(c) No claim for medical or surgical treatment is valid and enforceable as against the employer unless, within 20 [TWENTY] days following the first treatment ~~and following the time set by the board for notice of subsequent treatments~~, the ~~health care provider~~ [PHYSICIAN] giving the treatment or the employee receiving it furnishes to the

employer and the board notice of the injury and treatment, preferably on a form prescribed by the board. The board shall [MAY], however, excuse the failure to furnish notice within 20 days when it finds it to be in the interest of justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of the medical or surgical treatment so obtained by the employee.

Sec 32 P24

* Sec. 8. AS 23.30.095(e) is amended to read:

(e) The employee shall, after an injury, at reasonable times during the continuance of his disability if requested by his employer or, when ordered by the board, submit himself to an examination by a health care provider [PHYSICIAN OR SURGEON] authorized to practice [MEDICINE] under the laws of the state in which the employee may be found, furnished and paid for by the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR EXAMINATIONS.] No fact relative to the injury or claim communicated to or otherwise learned by a health care provider [PHYSICIAN OR SURGEON] who may have attended or examined the employee, or who may have been present at an examination is privileged, either in the hearings provided for in this chapter or an action to recover damages against an employer who is subject to the benefits [COMPENSATION] provisions of this chapter. If an employee refuses to submit himself to any examination provided for in this section [HEREIN], his rights to compensation shall be suspended until the obstruction or refusal ceases, and his compensation during the period of suspension may, in the discretion of the board or the court determining an action brought for the recovery of damages under this chapter [HEREUNDER], be forfeited. The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. No autopsy may be held without notice first being given to the widow or widower or next of kin if they reside in the

state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If no adequate notice is given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

Sec 36 P 26

* Sec. 9. AS 23.30.105(a) is amended to read:

(a) The right to benefits [COMPENSATION FOR DISABILITY] under this chapter is barred unless a claim for them [IT] is filed within two years after the employee has knowledge of the nature of his disability and its relation to his employment and after disablement. The [HOWEVER, THE MAXIMUM TIME FOR FILING THE CLAIM IN ANY EVENT OTHER THAN ARISING OUT OF AN OCCUPATIONAL DISEASE SHALL BE FOUR YEARS FROM THE DATE OF INJURY, AND THE] right to benefits [COMPENSATION] for death is barred unless a claim for benefits [THEREFORE] is filed within one year after the death. If [, EXCEPT THAT IF] payment of compensation has been made without an award on account of the injury or death, a claim may be filed within two years after the date of the last payment. It is additionally provided that, in the case of a latent injury [DEFECTS PERTINENT TO AND CAUSING COMPENSABLE DISABILITY], the injured employee has full right to claim as shall be determined by the board, time limitations notwithstanding.

Sec 40 P 30

* Sec. 10. AS 23.30.110(c) is amended to read:

(c) The board shall make the investigation which it considers necessary in respect of the claim, and upon application of an interested party shall order a hearing on it. If a hearing on a claim is ordered, the board shall give the claimant and other interested parties at least 10 days' notice of the hearing, served personally upon the claimant and other interested parties or sent by registered mail, and shall, within 30 [20] days after the hearing is held [HAD], by order, reject the claim

or make an award in respect to it. If a hearing is continued by the board, additional notice under this subsection is not required. [IF NO HEARING IS ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN RESPECT TO IT.]

Sec 45 P 33

* Sec. 11. AS 23.30.155(j) is amended to read:

(j) If an employer has made advance payments or overpayments of compensation, he is entitled to be reimbursed, after approval by the board, out of any unpaid installment or installments of compensation due.

Sec 46 P 33

* Sec. 12. AS 23.30.155 is amended by adding new subsections to read:

(n) Compensation owed to an injured employee in the state shall be paid by a check or draft that may be cashed on the first banking day after it is received by the employee and on any succeeding banking day.

(o) If the board determines that it is in the interest of an injured employee and that a substantial hardship will not be imposed on the employer, the liability of the employer for all or part of compensation payable under AS 23.30.190 may be discharged by the payment of a lump sum.

Sec 51 P 36

* Sec. 13. AS 23.30.175(b) is repealed and reenacted to read:

(b) After June 30 and before December 1 of each year, the commissioner shall adopt and publish the average weekly wage for each jurisdiction for the preceding calendar year as published by the United States Secretary of Labor for the purposes of unemployment insurance. In determining the rate of compensation the commissioner shall use the average weekly wage figure for each jurisdiction, including Alaska, for which the Secretary of Labor computes an average weekly wage. These figures are the applicable average weekly wages for those jurisdictions for the following calendar year.

Sec. 52 P 36&37

* Sec. 14. AS 23.30.175(c) is repealed and reenacted to read:

(c) The following rules apply to recipients who do not reside in Alaska:

(1) The weekly rate of compensation shall be calculated by multiplying the recipient's average weekly wage times the ratio of the average weekly wage of the jurisdiction in which the recipient resides to the average weekly wage of Alaska. The rate is based on the average weekly wages in effect when the recipient leaves Alaska and shall be adjusted annually upon publication of the average weekly wages for all jurisdictions.

(2) The calculation required by this subsection does not apply if the recipient is absent from Alaska for medical or rehabilitation services not reasonably available in Alaska.

(3) If the average weekly wage of the recipient and the resulting compensation rate is determined under AS 23.30.220(2) the calculation required by this subsection applies to only those wages earned in Alaska.

(4) Application of this subsection may not result in a reduction of the weekly compensation rate to less than $65 a week except as provided in (a) of this section.

Sec 53 P 37

* Sec. 15. AS 23.30.175(d) is repealed and reenacted to read:

(d) In a jurisdiction for which no average weekly wage is computed by the United States Secretary of Labor for the purposes of unemployment insurance, the average weekly wage shall be as determined by the commissioner.

Sec 55 P 38,39,40

* Sec. 16. AS 23.30.190(a)(20) is amended to read:

(20) in all other cases in this class of disability the compensation is 66-2/3 percent of the difference between his average weekly wages and his wage-earning capacity after the injury in the same

employment or otherwise, payable during the continuance of the partial disability, but subject to reconsideration of the degree of the impairment by the board on its own motion or upon application of a party in interest; [WHENEVER THE BOARD DETERMINES THAT IT IS IN THE INTEREST OF JUSTICE, THE LIABILITY OF THE EMPLOYER FOR COMPENSATION, OR ANY PART OF IT AS DETERMINED BY THE BOARD, MAY BE DISCHARGED BY THE PAYMENT OF A LUMP SUM;]

Sec 56 P40

* Sec. 17. AS 23.30.191 is repealed and reenacted to read:

Sec. 23.30.191. EXPENSES FOR REHABILITATING INJURED EMPLOYEES. An employee, who, as a result of injury, is or may be expected to be totally or partially incapacitated for his normal occupation and who, under the direction of the board, is being rehabilitated to engage in a remunerative occupation, may receive compensation necessary for his rehabilitation of 66-2/3 percent of his average weekly wage subject to the maximum payable under AS 23.30.175.

Sec 58 P41

* Sec. 18. AS 23.30.215(a)(1) is amended to read:

(1) reasonable and necessary funeral expenses not exceeding $2,500 [$1,000];

Sec 59 P41, 42

* Sec. 19. AS 23.30.220(2) is amended to read:

(2) the average weekly wage is [THAT MOST FAVORABLE TO THE EMPLOYEE] calculated by dividing 456 [52] into the total wages earned, including self-employment, in the highest paid three consecutive years out of [ANY ONE OF] the five [THREE] calendar years immediately preceding the injury;

Sec 63 P43

* Sec. 20. AS 23.30.250 is amended to read:

Sec. 23.30.250. PENALTY FOR MISREPRESENTATION. A person who willfully makes a false or misleading statement or representation for the purpose of obtaining a benefit or payment under this chapter is guilty of theft as defined in AS 11.46.100(3) and is punishable as provided in

AS 11.46.120 - 11.46.150 [A MISDEMEANOR, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $1,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH].

Sec 68 P45

* Sec. 21. AS 23.30.265(16) is amended to read:

(16) "medical and related benefits" includes but is not limited to physicians' fees, nurses' charges, pain clinic services, hospital services, hospital supplies, medicine and prosthetic devices, physical rehabilitation, and treatment for the fitting and training for use of such devices as may reasonably be required which arises out of or is necessitated by an injury, and transportation charges to the nearest point where adequate medical facilities are available;

Sec 70 P45,46

* Sec. 22. AS 23.30.265(20) is amended to read:

(20) "wages" means the money rate at which the service rendered is recompensed under the contract of hiring [IN FORCE AT THE TIME OF THE INJURY,] and includes the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer, and gratuities received in the course of employment from other [OTHERS] than the employer;

Sec 71. P45,46

* Sec. 23. AS 23.30.265 is amended by adding new paragraphs to read:

(29) "benefits" means compensation and medical and related benefits;

(30) "health care provider" means a chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a physical therapist licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a psychologist and a psychological associate licensed under AS 08.86; and a hospital as defined in AS 18.20.130, including a governmentally owned

or operated hospital; a corporate entity covered under AS 21.88.050-(b)(12); an employee of a health care provider acting within the course and scope of his employment; and persons comparably licensed in other jurisdictions to provide health care;

(31) "in the course of employment" includes travel to and from a remote job site but does not include activities outside of working hours off a site provided by the employer that are not under the supervision or control of the employer.

Sec 72 P46

* Sec. 24. AS 23.30.095(g), 23.30.125(b), 23.30.175(e) and (f), and 23.30.225(b) are repealed.

Sec 72 P 46

* Sec. 25. This Act takes effect July 1, 1982.

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 25, 1982
1:20 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph
Rep. Gardiner

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 159 An act relating to workers' compensation, and providing for an effective date.

WITNESS REGISTER

Tom Sofo
LAA Legal Services
State Capitol, Pouch Y
Juneau, Alaska 99811
465-3867
Position Statement: Gave overview of workdraft changes and amendments.

Jeff Barry, Administrative Assistant
House Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811
465-3669
Position Statement: Available to answer questions and present results of research.

Jacquelyn McClintock, Director
Division of Workers Compensation
Department of Labor
PO Box 1149
Juneau, Alaska 99811
465-2790
Position Statement: Available to answer questions.

Don Koch
Division of Insurance
Department of Commerce & Economic Development
Pouch D
Juneau, Alaska 99811
465-2577
Position Statement: Available to answer questions.

Jack Thompson
WCCA/ACE
2216 Post Road
Anchorage, Alaska 99501
272-0536
Position Statement: Observing; available to answer questions.

M.C. Morgan
Division of Vocational Rehabilitation
Department of Education
9170 Glacierwood Drive
Juneau, Alaska 99801
586-6500
Position Statement: Overview of function of vocational rehabilitation; answered questions.

PREVIOUS ACTION

HB 159 — No previous action. No amendments formally considered this date.

Statutory reference: AS 18.80; AS 23.30.

ACTION NARRATIVE

Tape #005
Recording
Number 0004 — The meeting was called to order by Chairman Martin at 1:20 p.m. All committee members were present. Chairman Martin introduced Jeff Barry, administrative aide to the Committee, and Tom Sofo of LAA Legal Services. Chairman Martin gave a brief recap of work completed so far, and went over the week's agenda. He was hopeful that the committee would be ready for final action on HB 159 by the week of 2/14-18.

Number 0118 — TOM SOFO, LAA Legal Services, went over the workdraft committee substitute for HB 159. He said all references to self-insurance are omitted from this workdraft. He noted that the bill contains a parallel section to each section of the governor's bill, HB 659, and compared the workdraft to the governor's bill section by section.

Section 1 (of HB 159): Includes form for ascertaining discrimination.

Section 2: Deals with insurance matters; allows insurers to use deductible. This was

taken from the last version of HB 159. Sofo noted that almost all amendments in this draft have appeared in prior drafts.

Number 0190 — Section 4: Speaks to employer penalties and stop order authority. There was some clarification by Don Koch, Division of Insurance, and Jackie McClintock, Division of Workers Compensation.

Number 0210 — Section 5: Regards furnishing of medical care. One thing introduced is the concept of "health care provider" to include a broader range of services and care. Sofo noted that the last portion of the bill defines health care providers.

Number 0242 — There was discussion about reporting times. Rep Rogers preferred the draft committee substitute version of reporting times over those in the last version. Jeff Barry noted that when people don't show up for scheduled appointments for treatment, the health care provider notifies the Workers Compensation Board (under the draft CS).

Number 0279 — Sofo said that, in Section 5, the draft bill removes the two-year limitation on employer furnished medical services.

Number 0307 — Rep. Rogers noticed that, in Section 8, which appears on line 20, pg 4 of the draft bill, the word "benefits" replaces the word "compensation". He saw nothing wrong with that, but felt it should be consistent throughout the bill. Sofo pointed out that the Workers Compensation Act didn't consistently use the words "benefits" and "compensation". He tried to clarify the difference between the two.

Number 0346 — Sofo said that, in Section 10 of the draft CS, there appeared language new to the bill: AS 23.30.110(c) notice requirements are changed from 20 days to 30 days, and if a noticed hearing is not held, no additional notice is required.

Section 19: Sofo said that, on page 8, Section 19 of the bill, regarding weekly wage, they had tried to look at a compromise method of determining compensation by taking the three highest years' wages of the

preceding five years.

Number 0378 — There was discussion between Rep. Rogers and Sofo regarding clarifying the distinction between "compensation" and "benefits". Sofo felt there was also a problem with the definition of what is meant by "in the course of employment".

Number 0425 — There was discussion among Rep. Rogers, Sofo, and McClintock regarding scheduled and unscheduled payments.

Number 0443 — Section 23: Sofo said this section includes new definitions, the most controversial of which would probably be the definition of "in the course of employment".

Number 0456 — Committee discussion: Sofo said the greatest substance deleted in the draft version is self-insurance. Rogers noted that another new change is the repeal of AS 23.30.225(b). Sofo spoke to social security offset, saying the section didn't interact correctly with federal regulations, so to correct this discrepancy, language was deleted.

Number 0515 — Rep. Rogers noted that three factors must be met for a worker not to be considered performing "in the scope of employment": 1) outside working hours; 2) off site; and, 3) not under the supervision of the employer. Considerable discussion ensued regarding what activities fell under this definition.

Number 0570 — Sofo then addressed the five proposed amendments to the workdraft. He said they were deleted from the new workdraft for ease in dealing with the legislation.

Number 0595 — Rep. Rogers did not understand why people should be denied medical benefits on the basis of how many job referrals they received; he felt the language should perhaps be changed to job "offers". There was discussion of this point between Reps. Rogers and Martin.

Number 0672 — Sofo addressed the second proposed amendment, which requires injured employees to report wages earned or lose their benefits. He said this stands as a reporting requirement. Barry said the

question could be raised as to whether an additional insurance policy, such as loan insurance, could be construed as earnings. Rogers pointed out that the amendment specifically addresses reporting "wages", which are defined as something received from an employer.

Number 0701 — Koch asked what the Division of Insurance would be expected to do with information when it is received. McClintock added that her division hears claims, but doesn't adjust them. Sofo said this was discussed before, and that the workdraft does not give guidelines as to what the information will be used for.

Number 0721 — Sofo addressed the third proposed amendment, which referred to compensation for permanent partial disability. He said the language seems to delete the amount of time compensation could be collected, and lowers some benefits. Reps. Randolph and Rogers asked if lowering the benefit amounts had any affect on premiums, and asked the reasons for this action. Rep. Martin thought John Lewis, a consultant scheduled to give testimony later in the week, might be able to clarify this point. Barry pointed out that the effect would be that the lowest paid people would lose benefits. Rep. Rogers felt that, if low paid people were affected and higher paid people unaffected, they should look at the number of dollars, not the number of weeks. He said it would seem they would want to help the lower wage earners.

Number 0778 — Sofo said the fourth proposed amendment addresses unemployment compensation. There was discussion among the committee, Sofo, and Koch.

Number 0825 — Sofo said the fifth proposed amendment ensures that a worker eligible for workers compensation can't collect sick pay and workers compensation in a total amount that is more than 100% of a worker's normal pay. This provides incentive to return to work. Barry added that an example is a worker drawing holiday pay, vacation pay, and workers compensation. He noted that abuses have come in areas of non-compensable sick pay. There was discussion between the

committee and Barry.

Number 0883 — Jack Thompson, of WCCA/ACE, asked if a non-union employer gets a benefit a union employer would not. Barry said no; there was discussion between Barry, Thompson, and Koch on this point.

Number 0910 — Rep. Martin asked M.C. Morgan, of the Division of Vocational Rehabilitation, to address the committee.

Number 0932 — M.C. Morgan said that, in this legislation, Vocational Rehabilitation is one of the primary deliverers of services to people drawing workers compensation. During the year, 500-600 disabled will be placed in employment, 40% of whom are severely disabled. Approximately 5% of those clients are under workers compensation. He gave rehabilitation statistics, breakdowns, and observations on the differences between their general caseload and the workers compensation cases. He said that disincentives to returning to work were eligibility for workers compensation on the basis of permanent injury; greater extent of injuries; and greater extent of benefits. He said it is difficult for a vocational rehabilitation counselor to motivate a client when the client knows this could damage his claim. He said this helps to explain the longer timeframe and higher cost to rehabilitate a workers compensation client.

Number 1026 — At Rep. Martin's request, Morgan said he would draw up a list of suggestions, particularly suggestions to eliminate disincentives to return to work. He noted that 44% of the workers compensation referrals come 9-12 months after the injury; and 30% come 18 months after injury. He said these long referral times reduce the chances of rehabilitating the injured person. There was discussion between Martin and Morgan.

Number 1045 — Rep. Rogers said that, at a December meeting with the Workers Compensation Board, it was suggested that there should be separate methods of calculating average weekly wage for permanent and partial disabilities, the temporary disability rate being based on

recent employment, and the permanent disability figured over a longer term. Rep. Martin said they should wait for John Lewis's input on this subject.

Number 1058

As there was no further business to come before the committee, the meeting was adjourned at 2:47 p.m.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 1/25/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓	~~E~~	1:15	
Rep. D. Randolph	✓		1:18	
Rep. B. Rogers	✓		1:15	
Rep. T. Gardiner	✓		1:15	
Rep. T. Martin, Chair	✓	~~1:06~~	1:06	

Subject Matter:

House Bill No. HB 159

Senate Bill No. _____

Special Orders:

Alaska State Legislature

REPRESENTATIVE
TERRY MARTIN
DISTRICT 8
CHAIRMAN—LABOR AND COMMERCE COMMITTEE
PHONE 465-3873

3960 REKA DRIVE—D
ANCHORAGE, AK 99504
PHONE 333-6990

DURING LEGISLATURE
POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE 465-3784

January 5, 1982

To: All concerned about Alaska's Workers Compensation --an addition to report of December 17, 1981

From: Representative Terry Martin

Ref: More points of view to consider for Alaska's Workers Compensation legislation--HB 159, 1981

Changes have taken place in our state which now result in a number of claimants drawing excessively large benefit amounts or drawing benefits when they should not be entitled to them at all. An effort should be made to seek alternatives that would eliminate oversized, unearned benefits while still protecting the vast majority of the workforce. Necessary changes should result in compensation large enough for most claimants to survive on during time of recuperation and rehabilitation of injury suffered while on the job, and during period of temporary unemployment, while at the same time not reducing or eliminating the incentive to return to work.

Current policies and lack of regulations or laws result in very large benefit amounts when compared to some individuals' complete work histories. An example of this phenomena is the part-time and seasonal worker. The number of part-time/seasonal workers has grown dramatically in the past years and the projections are that the part-time/seasonal work force will continue to grow faster than the total work force. In Alaska, many seasonal and part-time workers seem to get injured in the closing days of their current jobs. For claimants

with a history of short working periods on an annual basis, a percentage of full-time workers compensation should be considered as to percentage of time worked in the immediate calendar year. The current policy is unfair to workers with full-time, long history of working, and also to employers. A strong duration formula will help to offset the adverse effects of a liberal benefit formula. Furthermore, support of persons only marginally in the labor force should be a welfare function and not a function of worker compensation.

Disqualification. Claimants should be disqualified for willful misconduct connected with work.

Gross misconduct may include acts of dishonesty, violation of safety rules, assault and battery, and destruction of employer's property as assessed by the Workers Compensation Board. The Board may also evaluate a percentage of workers compensation for willful misconduct connected with work. This would include willful acts which do not warrant a disqualification under the gross misconduct provision.

Job Refusal. Claimants may be disqualified by the Workers Compensation Board for refusal of suitable work after release by proper medical authority. Suitable work may be limited to jobs that had approximately the same pay as employment at time of injury.

Vacation Pay. The Workers Compensation Board may consider if vacation pay should postpone the individual from receiving workers compensation benefits for the weeks the vacation pay would cover. Worker compensation is designed to be a wage-lost replacement program, therefore the feeling that the employee is receiving continual wages, so it would not be appropriate to allow the individual to draw both benefits.

Unemployment Compensation. Normally an individual receiving workers compensation for any week would not be able to work, and therefore would not qualify for unemployment compensation. There are situations, however, where the person could be able to work but cannot perform his old job because of the disability. If he is receiving unemployment compensation for any such week, the worker compensation should reduce dollar for dollar any unemployment benefit the individual could otherwise receive.

Eliminate "socialized cost" of workers compensation from employers' premium rates. Rates assigned to employers should be designed to try and recoup from most employers the loss of employees wages and medical cost of injury. In many states, there has been a tendency to recognize that the cost of benefits of certain types should not be charged to individual employers; thus, the legislature should address the question of separating the socialized cost from workers compensation premiums paid by employers, and make the cost--eg, retraining and rehabilitation--the responsibility of proper State agencies. This switch in financing social cost would certainly make State agencies more consciencious of expenditures associated with so-called "retraining programs", when State revenues are used to support their non-controlled advocacies of social benefits, rather than a distant third or fourth party paying the bill, that has virtually no control over social cost of workers compensation. In evaluating the current rate formula in Alaska, the premiums may result in recouping more for socialized costs than what is necessary or fair to the employer. Since 1975, there has been an interplay where there was a large increase in benefit payments which are not recouped fast enough through the normal rate schedule.

The State legislature readily sees other factors that increase the cost of premiums for workers compensation that should be immediately addressed. These changes would reverse the incentives of staying on compensation rather than returning to work as soon as possible. For instance, the compensation formula should not result in an individual drawing more income monthly while on compensation than he or she took home while fully employed. Thus the formula should exclude from wages payments by the employer of the employee's tax for federal old age and survivors insurance, and payments from or to certain special benefits funds by employers. For monthly payments, other income from food stamps, medicaid, medicare, child care, unemployment compensation, and other social services should be not allowed or deducted.

In the state of Alaska, an employer should be subject to certain interest or penalty payments for delay or default in payments of

contributions and incur penalties for failure or delinquency in making reports of proper coverage for employees. The Workers Compensation Division or Department of Labor should be allowed authority to immediately close a business until there is proof that employees are covered for injuries received on the job and the premiums are paid up to date. It should be mandatory that insurance carriers notify the Division of Insurance within ten days when an employer has failed to pay premiums or suspended insurance policy.

Original employers, especially self-insured employers who will not for any reason rehire an employee who is re-seeking work, should be somewhat responsible to contribute to the second injury fund covering an ex-employee who is off workers compensation and working for a new employer. Such a policy may encourage reemployment by the original employer or encourage a new employer to hire previously injured or handicapped workers.

1-26-82

HB 159

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 26, 1982
1:07 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Gardiner
Rep. Randolph
Rep. Rogers

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 159 An act relating to workers' compensation; and providing for an effective date.

WITNESS REGISTER

Zee Jackson
Rehabilitation Consultant
PO Box 3130
Anchorage, Alaska 99510
264-2460
Position Statement: Presented preliminary results of survey of injured workers.

Jim Robison
W/C District Council of Laborers
Alaska State AFL-CIO
Box 899
Anchorage, Alaska
276-1640
Position Statement: Comments.

Barbara Grisson
Pacific Marine Insurance
201 Danner
Anchorage, Alaska
800-426-4115
Position Statement: Suggestions.

Jack Thompson
WCCA
2216 Post Road
Anchorage, Alaska 99501
Position Statement: Comments.

PREVIOUS ACTION

HB 159 — No previous action. No action taken this date.

Statutory Reference: AS 18.80; AS 23.30.

ACTION NARRATIVE

Tape #005
Recording
Number 1058 — The meeting was called to order by Chairman Martin at 1:07 p.m. He introduced Zee Jackson, who had prepared a study for presentation to the committee.

Number 1070 — Zee Jackson, rehabilitation consultant from Anchorage, presented the preliminary findings of a comprehensive study of vocational rehabilitation in the Alaska Workers Compensation Program. She went over the abstract prepared. Jackson noted that workers are not timely referred for rehabilitation, and Workers Compensation is not advising workers of their potential entitlement to vocational rehabilitation because of a lack of staff.

Number 1092 — Jackson gave her recommendations and an overview of rehabilitation in workers compensation (see page 10 of her report). Her recommendations were: 1) early identification of injured workers who potentially need rehabilitation; 2) use of competent rehabilitation providers; 3) provide opportunities for return to direct employment; 4) maintenance of atmosphere conducive to rehabilitation; and, 5) provide incentives and remove disincentives to rehabilitation. She said that getting people back to work is the crux of rehabilitations.

Number 1160 — Jackson referred to page 14 of her report, and presented a summary and interpretation of data. She said the primary sources of data were the state Division of Rehabilitation; two private rehabilitation firms; records of the Division of Workers Compensation; hearing testimony; and meetings of system participants, attorneys, medical community, insurers, and others. She pointed out the limitations of the data, such as different meanings to different people of some terms (eg, "successfully

rehabilitated worker").

Number 1199 — Jackson went over comparisons of public and private agency rehabilitations data (pages 18-19 of report). She explained comparison data for four workers compensations acts with provisions for rehabilitation benefits (Alaska, Idaho, and two federal programs)(p. 22 of report).

Number 1280 — Rep. Randolph had questions about actual costs of rehabilitation (see table 1, p. 18). There was discussion between the committee and Jackson regarding figures. Don Koch, of the state Division of Insurance, gave figures for insured workers compensation programs last year.

Number 1336 — Jackson referred to p. 16 of her report regarding findings and recommendations. She said there is no rule about when an injured worker is referred for rehabilitation. Many agencies use a timeframe based on injuries received, but referral generally runs 60-120 days from the date of injury. She said catastrophic injuries are referred right away. Jackson suggested instituting a reporting requirement for sending injury reports to Division of Workers Compensation. She also recommended the Division screen reports to ensure services are provided, and to notify injured workers of their rehabilitation rights. She referred to p. 17 of her report, and questioned counselors' qualifications to evaluate clients; she felt counselors may misperceive their roles; eg, advising people to settle cases or by giving advice to the Board, which is beyond the counselors' expertise. She felt the plans presented by counselors don't contain enough information (eg, specific goals, progress reporting timeframes). She said the problem exists because there are no guidelines or definitive procedures.

Number 1398 — Jackson said there seems to be a lack of understanding of roles in the system. There should be standards of time for evaluation, how long to implement plan, length of programs. She said counselors should be required to report consistently, and contents of report should be defined.

Number 1412 — Jackson noted that there is not much effort

on the part of employers to take injured workers back. She said there is a need to develop return to work programs with employers and injured workers. Rep. Randolph said if an employer puts an injured worker back to work, he is putting someone else out of work. There was discussion between the committee and Jackson about back-to-work programs.

Number 1476 — Rep. Martin asked Jackson which parties she had evaluated in her study; Jackson explained.

Number 1491 — Jackson went over the elements needed to maintain an atmosphere conducive to rehabilitation. She referred to page 24 of her report, and explained the need to provide incentives and remove disincentives to putting injured workers back to work. She gave examples of incentives and disincentives.

Jackson felt that putting a dollar limit on the second injury fund creates difficulties because the upper limit becomes a "goal" for people; they come to expect $10,000 worth of rehabilitation. She said the injured worker's right to money must be tied to the worker's need. She suggested rewording to leave a dollar amount and replace with language such as "all necessary costs". She felt this would not increase the cost of the program if properly managed.

Number 1625 — Jackson said the Workers Compensation Board needs to have unquestioned authority.

Number 1637 — Jackson discussed the risks of premature compromise and release settlements. She said self-employment plans often do not work. She felt settlements should be the exception rather than the rule. She went on to say that excessive litigation can impede successful rehabilitation. Jackson felt that attorneys don't really have a place in the system. She saw the need for a well-defined procedural mechanism for delivering rehabilitation to avoid excessive litigation. She felt that a major reason for litigation is a lack of information available to the worker. She said that void can be filled if there is a rehabilitation delivery system that sets the tone for a

positive rehabilitation program which, early on, lets the worker know his rights and responsibilities. She said this system has to have remedies when one party is not cooperating or not playing by the rules.

Number 1724 — Jackson went over commonly expressed concerns on the part of physicians, counselors, injured workers, insurer/employer, and attorneys (see p. 30 of report).

Number 1737 — Rep. Rogers said these were good suggestions, but only three or four required legislative action. He said that most of her suggestions could be within the administration, or in the self-interest of insurers and employers. Jackson responded that legislators could help. She said the primary ingredient is the ability of the administrative agency to provide assistance which all parties will need. She felt the Division doesn't currently have the staffing or background, and said they need a person with a good understanding of how to construct a program.

Number 1772 — Rep. Martin asked how far the state is from a reasonable program. Jackson replied that she was surprised no one was monitoring rehabilitation. She added that, as a counselor, she would never attempt to work with a client with an attorney present. She said the Board encounters resistance when trying to deliver assistance, and was surprised the Board's authority is taken so lightly. She saw a high element of "outlaw mentality". Jackson said the authority is in the law, but is not used. She felt that, because roles and procedures are not defined, it is hard for the Board to exercise authority. She said the state needs a defined procedures manual. She also noted that counselors are not given, and probably would not take, directions.

Tape 6, Side A,000 — Jim Robison, of W/C District Council of Laborers and the Alaska State AFL-CIO, commented on Jackson's presentation.

Number 0017 — Barbara Grisson, of Pacific Marine Insurance in Anchorage, said one incentive not mentioned is a 6% saving on Second Injury Fund tax when an employer re-employs an

injured worker.

Number 0036 — Jack Thompson, of WCCA, Anchorage, felt there were economics people don't realize.

Number 0050 — Jackson again reiterated the need for regulations to define the Board's authority.

Number 0090 — As there was no further business to come before the committee, the meeting was adjourned at 2:50 p.m.

Presentation of Preliminary Findings of a Comprehensive Study of Vocational Rehabilitation in the Alaska Workers' Compensation Program

Presented by

Zee Pamplin Jackson
Rehabilitation Consultant
P.O. Box 3130
Anchorage, Alaska 99510
(907) 264-2460

January 26, 1982

Abstract, Summary of Recommendations, Overview

ABSTRACT

This study was conducted to determine the effectiveness of the delivery system for rehabilitation benefits to injured workers covered by the Alaska Workers' Compensation Act. Factors examined in evaluating the system included the average time from the date of injury to the date of referral to rehabilitation, the percentage of lost-time cases receiving rehabilitation benefits, the percentage successfully rehabilitated, the average time spent in rehabilitation programs, and the average cost of such programs. The primary sources of information and data were the state Division of Vocational Rehabilitation and one of the private rehabilitation firms doing business in Alaska. Another source of data was a survey of injured workers who had previously participated in rehabilitation programs, and of workers who had signed compromise and release agreements in which the right to participate in such programs as part of the compensation system was waived. The rehabilitation programs used in two other state workers' compensation systems were evaluated, in order to show examples of the potential savings to be derived from a properly structured and managed system, and to examine procedures to be considered in developing an effective delivery system for rehabilitation. Gathering quantifiable data from all sources was difficult, due to the incomplete nature of the available records.

The study found that the delivery system is not providing timely and adequate rehabilitation services to a substantial number of those workers who could benefit from them, for two primary reasons. First, the system does not afford prompt referral of appropriate cases to rehabilitation facilities. Second, the Division of Workers' Compensation is not consistently advising workers of their potential entitlement to these services, nor is it monitoring the services being provided, primarily due to a lack of resources and trained personnel, as well as the absence of established guidelines and procedures for monitoring the system.

SUMMARY OF RECOMMENDATIONS

RECOMMENDATION 1

That insurers/employers report to the Division of Workers' Compensation:

a. All injured workers who experience continuous time loss of 90 to 120 days from the date of injury, depending on the staffing level of the Division, and

b. All acutely injured workers where an immediate determination can be made that the worker will not likely be able to return to the job held at the time of injury.

RECOMMENDATION 2

That the Workers' Compensation Division screen reports no later than 5 working days from the date each report is received.

RECOMMENDATION 3

That subsequent to, or during the screening process, the Workers' Compensation Division contact each reported worker. The purpose for contact is to explain the benefits to which the worker may be entitled, and to set the tone for a positive rehabilitation outcome by explaining the objective of rehabilitation, the worker's rights and responsibilities in the rehabilitation effort.

RECOMMENDATION 4

That the Workers' Compensation Division establish and publish the procedural mechanism to support the reporting, screening and contact activities.

RECOMMENDATION 5a

That pursuant to the adoption of regulations on vocational rehabilitation, (See Exhibit 1) the Workers' Compensation Division establish, publish and distribute guidelines for providers of rehabilitation services in accordance with recommendation 5b through 5e, and the following time frames:

- Completion of Vocational Evaluation and Plan Recommendation - 6 weeks
- Complete Development of Plan - 6 weeks
- Direct Placement Program - 3 months
- On-The-Job Training - 3 to 6 months, depending on the skills to be acquired coupled with the skill level of the injured worker.
- Vocational Training - 52 weeks (extensions subject to prior approval by the Board)

RECOMMENDATION 5b

That rehabilitation providers issue a report within 30 days of initial contact with an injured worker. Background information regarding the worker's age, education, work history, and general medical condition, as well as a summary of activities conducted during the 30 day period should be included in the report. Information regarding the next immediate plan of action should also be included.

RECOMMENDATION 5c

That plans submitted for approval contain pertinent information as outlined in proposed regulations on Vocational Rehabilitation 8 AAC 47.040(b)(1) through (9).

RECOMMENDATION 5d

That subsequent to implementing plans, rehabilitation providers issue monthly progress reports sufficient in content and scope to inform all interested parties of the progress being made toward achieving the vocational goal of the plan.

RECOMMENDATION 5e

That approval by the Board must be obtained prior to amendment, suspension or termination of an approved rehabilitation plan.

RECOMMENDATION 6

That insurers provide assistance to employers in developing programs for re-employment of injured workers.

RECOMMENDATION 7

That insurers/employers arrange for counselor services to include on-site-job analyses and assistance in modification of jobs to enhance reemployment opportunities of an employer's injured employees.

RECOMMENDATION 8

That the Workers' Compensation Division encourage the development and implementation of reemployment programs by providing positive monitoring/ endorsement of the efforts of parties.

RECOMMENDATION 9

That contractual agreements be negotiated for reemployment/rehabilitation of injured union members.

RECOMMENDATION 10

That insurers/employers increase their efforts to effectively and timely communicate with injured workers by contacting them as soon after the injury as possible to explain their entitlement to benefits and the procedure for securing these benefits.

RECOMMENDATION 11a

That in the case of workers experiencing time loss, who may need rehabilitation services, insurers/employers assign a counselor to contact the worker as soon as this determination can reasonably be made.

RECOMMENDATION 11b

That insurers/employers consider hiring a rehabilitation professional to enhance their ability to effectively communicate with, and timely provide services for injured workers.

RECOMMENDATION 12a

That insurers assist employers by providing loss control services to assure appropriate rating consistent with their safety record and reemployment practices.

RECOMMENDATION 12b

That to supplement the loss control services provided by insurers, employers seek the assistance of the States Division of Insurance in rating matters and methods.

RECOMMENDATION 13

That counselors enhance their efforts to place injured workers by informing employers of Targeted Jobs Tax Credit provisions and by providing assistance necessary to facilitate employer participation in the program.

RECOMMENDATION 14

That language in AS 23.30.040(e) be changed to remove the dollar amount and provide for necessary costs of rehabilitation services subject to Board approval.

RECOMMENDATION 15

That the Workers' Compensation Division increase employer awareness and encourage employer use of the Second Injury Fund in employment of industrially injured workers. Increased publicity and eligibility interpretation will enhance this effort.

RECOMMENDATION 16

That cooperative agreements involving transfer of Second Injury Fund monies to the Division of Vocational Rehabilitation be discontinued.

RECOMMENDATION 17

That criteria for development, recommendation and implementation of rehabilitation plans, in accordance with recommendations 5a through 5e, be applied to all providers of vocational rehabilitation services to injured workers covered by the state compensation laws.

RECOMMENDATION 18

That as a general policy, the Board deny settlement of claims, prior to an injured worker's completion of a supervised rehabilitation program.

RECOMMENDATION 19

That the Division of Workers' Compensation acquire the necessary staff to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

OVERVIEW OF REHABILITATION

IN WORKERS' COMPENSATION

A. HISTORY OF REHABILITATION PROVISIONS FOR INDUSTRIALLY INJURED WORKERS.

Rehabilitation in workers' compensation programs in the United States has been paid increasing attention over the past 10 years following publication of the 1972 Report of the National Commission on State Workmen's Compensation Laws. However, the realization that workers' compensation laws should include provisions of rehabilitating industrially injured workers was manifested by the Massachusetts Industrial Accident Board as early as 1914, when a member of that board went to study the German program. Pursuant to that study, and a meeting in 1916 of the International Association of Industrial Accident Boards and Commissions (IAIABC), during which the delegates were advised that a primary goal of workers' compensation programs would be the rehabilitation of disabled workers, the first state vocational rehabilitation law was enacted in 1918 in Massachusetts. The law, administered by the Industrial Accident Board, covered only those persons disabled by industrial accidents and occupational diseases. Following Massachusetts' lead, other states enacted laws with similar rehabilitation provisions. Congress, through the passage of Public Law 236 in 1920, created the State/Federal Vocational Rehabiliation Program. Its statement of purpose provided for the promotion of vocational rehabilitation of industrially disabled workers. Thus, persons with occupational disability were the prime target for vocational rehabilitation services. Subsequent Congressional mandates, however, shifted the attention to other specific disability groups and resulted in obscuring the focus on industrially injured workers. This shift in focus, coupled with the existence of the common law tort liability in the compensation system with its inherent litigation, resulted in the failure of both systems to adequately provide rehabilitation services to the industrially disabled: a condition which still exists today, according to the report of the National Commission (National Commission on State Workmen's Compensation Laws, 1972) and Larson, who suggests that one-half of 1% of industrially injured workers are rehabilitated under the federal/state programs. Larson further suggests that 10% of workers currently being injured could benefit from vocational rehabilitation services. (Larson, 1980).

B. REHABILITATION DEFINED.

The increased emphasis on the inclusion of rehabilitation benefits in a modern workers' compensation system has prompted attempts by those in the system to define rehabilitation. A noteworthy observation is made by Sawyer in this regard, wherein he makes a distinction between the philosophical differences in rehabilitation of the workers' compensation system and the state/federal program. He observes that the objective of workers' compensation rehabilitation is to restore the industrially injured worker to a state of employability equal to, or as near as possible to that of his pre-injury status, through the provision of only those services necessary to achieve this objective. On the other hand, Sawyer notes, the state vocational program seeks to rehabilitate disabled persons to their maximum potential through the provision of

educational and other services deemed necessary by the disabled worker to achieve a chosen vocational objective. (Sawyer, 1978).

A further distinction can be made through examination of the primary funding source of each program. The state vocational rehabilitation program is supported by federal and state funds, while the cost of rehabilitation in a workers' compensation system is borne by private industry through contributions to a special or second injury fund and direct payment to private rehabilitation providers. The employer further contributes to the rehabilitation of industrially injured workers through payment of compensation benefits during the period of rehabilitation.

A third distinction, perhaps more revealing than the first two, is the difference in population served by each system. As was previously discussed, Congressional mandates have directed the focus of the state/federal program to give priority to specific disability groups classified as severely disabled. These include developmental disabilities, congenital, orthopedic and neurological conditions, and catostrophic injuries resulting in paraplegia and quadriplegia. The bulk of individuals in these disability categories are adolescents and young adults, most of whom have never participated in the world of work. Therefore, the process employed in making them work ready is habilitation, as opposed to rehabilitation. Since their backgrounds do not include significant work experience which would have imparted marketable skills, their plans usually include long-term pre-vocational and vocational preparation centered around academic training toward a specific career goal chosen by the individual. Contrast this to the industrially injured group, who for the most part, have not been severely disabled by their injuries according to state/federal guidelines, and whose pre-injured work experiences have imparted skills which can usually be marketed in the workplace. On the whole, their natural orientation is not likely to be toward academic or classroom training, as they did not choose this method to enter the world of work to begin with, and they have not usually chosen to engage in academic pursuits at any point in their work life prior to the injury and subsequent visits to the state vocational rehabilitation office. It is reasonable to conclude that the approach taken in assisting them to return to the workplace will differ considerably from that taken for the other group.

The socially underlying concept of rehabilitation embraced by rehabilitation professionals is the intrinsic dignity of man, his feeling of self-worth and his right to life, liberty and the pursuit of happiness. In a workers' compensation system, this concept cannot realistically exist independent of economic wisdom. The timely return of an industrially injured worker to a safe employment status, commensurate with that held at the time of injury, through the investment of necessary resources, is a logical goal in a workers' compensation system. The end result is an economic as well as a social asset to the injured worker, the compensation system and society. Well-managed, cost-effective rehabilitation will enable many disabled workers to return to productive jobs and thus reduce compensation costs.

C. THE APPROPRIATENESS OF REHABILITATION IN A WORKERS' COMPENSATION SYSTEM.

In 1976, the Rehabilitation Committee of the International Association of Industrial Accident Boards and Commissions conducted research on rehabilitation in state compensation agencies. The Committee called for the inclusion of rehabilitation services in all state workers' compensation programs and went

on to submit a model program of medical care and rehabilitation which was adopted by the IAIABC in 1977. The stated purpose of the model program was the assurance and coordination of efficient and timely delivery of services necessary to restore the industrially disabled employee to optimum physical and vocational well-being. (Ross, 1976).

The need for rehabilitating injured workers was stressed in the 1977 report of the President's Interdepartmental Workers' Compensation Task Force. The report which stressed reemployment, advocated increased private rehabilitation efforts by employers and insurance companies. (Interdepartmental Workers' Compensation Task Force, 1977).

The Insurance Rehabilitation Study Group is an organization whose purpose is to provide a forum for members of the insurance industry to explore and develop concepts and programs of rehabilitation and medical administration applicable to all phases of insurance. The group undertook a project to develop guidelines and language dealing with rehabilitation and subsequently published a report which in part stated:

> While insurance losses and benefits are usually stated in monetary terms, the full consequences of human disability cannot be measured by money alone. Earnings lost due to accident or sickness can be replaced and medical expenses can be reimbursed, but there is no meaningful way to financially translate the value of an arm or a leg, or the personal dignity of being able to contribute to society as a useful member rather than merely existing disabled and dependent.
>
> The study group went on to state that:
>
> If insurance is to protect against these human losses, it must do more than provide financial compensation alone. It must also strive to restore such losses. Insurance should provide the means for disabled workers to return to gainful employment whenever possible, and to regain as much functional independence as they can, even if they cannot return to work. Compensation cannot accomplish these goals without rehabilitation. (Insurance Rehabilitation Study Group, 1975).

The Study Groups' report included its model rehabilitation program.

Based on the cited research and studies conducted by recognized authorities in workers' compensation, it is clear that the consensus among those in the compensation system supports the premise that rehabilitation is an effective tool which should be included in workers' compensation if the system is to fulfill its total responsibility to the industrially injured worker and to society within the economy.

D. WHO SHOULD FUND REHABILITATION IN WORKERS' COMPENSATION

Leading insurance companies, employers and other members of the workers' compensation community support the belief that all costs of the system should

be borne by the employer and not by the general public. Sawyer suggests:

> While some individual insurers and self-insured employers still approach the subject of rehabilitation with varying degrees of acceptance, the matter of involvement is no longer an option. Through a tion of either basic legislative changes or administrative regulation, the responsibilities of carrier" and employers to provide rehabilitation service, specifically directed toward returning injured workers to suitable gainful employment are spreading to all jurisdictions. (Sawyer, 1981.)

E THE ROLE OF THE STATE WORKERS' COMPENSATION AGENCY IN REHABILITATION.

The National Commission on State Workers' Compensation Laws suggested that a state agency has six primary obligations in a workers' compensation program. Those obligations are applicable to rehabilitation and will be used for the purpose of this discussion.

First, the agency must ensure that the basic objective of rehabilitation is met by taking the initiative to administer the laws relative to rehabilitation.

Second, the agency must continually review the performance of the rehabilitation program and make procedural changes to improve the program when change is indicated.

Third, the workers' compensation agency is obliged to advise workers of their rights and obligations under the law and to assure that they receive the rehabilitation benefits to which they are entitled.

Fourth, the agency should apprise employers and carriers of their responsibilities and rights under the law. Physicians and attorneys must also be informed of their obligations in the rehabilitation process.

Fifth, the agency should assist in voluntary and informal resolution of rehabilitation issues and assure that such resolutions are consistent with the law.

Sixth, in the absence of voluntary resolutions, the workers' compensation agency must make adjudicatory decisions to resolve issues affecting rehabilitation.

The compensation agency must have sufficient authority and staff to fulfill these six obligations. Moreover, the skills and background of the staff must be consistent with the functions to be served and the tasks to be performed.

PART ONE

Five Specific Goals of Rehabilitation

in a

Workers' Compensation Program

PART ONE

Five Goals of Rehabilitation in a Workers' Compensation Program

I. Early Identification of Injured Workers Who Potentially Need Rehabilitation

Workers who may not be able to return to regular employment after suffering job related injuries should be referred to rehabilitation as soon as this determination has been made or can be reasonably predicted. Proponents of the early involvement theory share the common realization that time can be a deadly enemy to successful rehabilitation. Benign neglect of what originally may be a minor disability can result in a protraction of the condition to the point where an unwholesome outlook regarding return to work becomes permanent and fixed, and the psychological hurdle required to overcome this is extremely difficult if not impossible to achieve.

Needs:

1. A funding source (employer/insurer)
2. A non-adversary approach (employer/carrier)
3. Effective administration by workers' compensation
   a. Screen reports
   b. Contact workers
   c. Monitor services
   d. Settle disputes

II. Use of Competent Rehabilitation Providers

The unusual characteristics of workers compensation and the different approach required for successful rehabilitation, as this report has previously elaborated, are strong arguments for the use of counselors trained in industrial rehabilitation. While this training does not require an intimate knowledge of the law, it should include the ability to recognize the needs of the industrially injured population and the compensation community alike. The backgrounds of most rehabilitation professionals include formal training in rehabilitation or a behavioral science. However, institutions have traditionally failed to include substantial courses on workers' compensation in rehabilitation programs. Thus, the degree of competence required to achieve success in a workers' compensation rehabilitation program has generally been acquired through well designed, in-service programs and practical hands on training.

Critical Elements Needed:

1. Sound background in basic rehabilitation principles
2. Ability to work with multiple parties
3. Willingness to deliver according to needs of the system
   - direct placement approach
   - on-the-job training
   - appropriate evaluation (timely and limited)
   - timely developed training (as needed only)
   - timely issued reports (information)
4. Respect for, and responsive to Board authority

III. Provide Opportunities for Return to Direct Employment

The success of rehabilitation in a workers' compensation program rests on the attainment of one of its most critical goals: the earliest possible return of workers to direct employment. Members of the workers' compensation community share the widely held belief that the fewer changes made in the life of an injured worker in the rehabilitation process, the more successful that process is likely to be. Conversely, a more complex rehabilitation plan requiring numerous changes in the life of the injured worker, and requiring a proportionate period of time to implement, diminishes the chance of a successful outcome.

Needs:

1. Employer Responsibility
   - modify old job
   - offer new job
     (Use on-site job analysis)
2. Employee Responsibility
   - cooperate w/employer efforts
   - timely accept job offer
   - maintain flexibility
3. Union Support and Involvement
   - go to bat for member (negotiate)
   - negotiate contract agreements to support light duty and rehabilitation

4. Counselor Role

   - consult physician for sound work restrictions
   - perform on-site job analysis
   - counsel worker toward accepting job
   - keep all interested parties informed

5. Attorney Obligation (for both parties)

   - remain on side line and advise respective clients to cooperate

6. Workers' Compensation Agency

   - advise, assist, monitor

7. Board

   - settle disputes

IV. Maintenance of Atmosphere Conducive to Rehabilitation

Rehabilitation is a process which does not occur in isolation. The conditions and atmosphere surrounding this process are primary determinants of its eventual outcome. The screening and early identification of injured workers who potentially need rehabilitation services will not necessarily result in a successful outcome if the process is fraught with hostilities, mistrust and excessive litigation. Certain elements which may be conveniently termed the "Four C's" must be present to ensure successful rehabilitation.

1. Concern - employer/carrier for worker
2. Communication - employer/carrier - worker - workers' compensation agency - counselor - physician - attorney
3. Coordination - counselor
4. Commitment/Cooperation -- all parties

V. Provide Incentives, Remove Disincentives to Rehabilitation

A rehabilitation program which makes early identification of workers needing rehabilitation, provides for early return to direct employment, uses competent rehabilitation providers and maintains an atmosphere conducive to rehabilitation, may fall short of fully achieving the primary objective of a workers' compensation system unless it maintains sufficient incentives and removes disincentives in its rehabilitation program. Caution must be exercised so that expectations regarding rehabilitation are not solely based on the premise that good faith efforts will spontaneously occur. There must be a realization that basic human nature usually requires the existence or application of stimuli necessary to create sufficient incentives before actions are taken to achieve a desired goal.

A. Incentives

1. Proper Rating of Employers.

Authorities in workers' compensation have suggested that internalizing the costs of workers' compensation by properly rating small, as well as large employers would provide an incentive for reemploying injured workers.

a. Experience Rating - provides for a before the fact look at safety and reemployment record for recent years. A good record results in credit toward future premium.

b. Retro Rating - employer pays advance premium based on classification rate times estimated payroll. Losses are assessed after period of months (pre-determined). Depending on experience, employer may get reimbursed.

2. Targeted Jobs Tax Credit

- Incentive for private employers who hire certain targeted groups (vocational rehabilitation clients included)

50% of first $6000 wages for first year

25% of first $6000 wages for second year

3. Second Injury Fund

- Widely publicized
- Adequate eligibility interpretation
- Effectively managed - guard against abuse

4. Additional maintenance for extra expense during rehabilitation

5. Monitoring by workers' compensation agency

B. Removal of Disincentives

1. Prevention of premature and inappropriate compromise and release settlements

2. Eliminate excessive litigation

C. Other Stimuli

1. Penalty for non-cooperation (Both Parties)

2. PPD determination should reflect non-cooperation

PART TWO

Findings, Conclusions, Recommendations

SUMMARY AND INTERPRETATION OF DATA

The primary providers of vocational rehabilitation services to injured workers in Alaska are the state vocational rehabilitation agency and two private rehabilitation firms. The state agency and one of the private firms, offered data retrieved from their automated data systems. Collection of data from the other private firm was precluded due to incomplete records which lacked essential information pertinent to the study. Limitations do exist for the purpose of comparing data collected from the two sources.

First, data for the state rehabilitation program reflects a three year period from FY 78 through FY 81. Data supplied by the private rehabilitation firm is for the FY 81 period.

Second, terms common to rehabilitation of disabled persons have several definitions for the purposes of statistics, depending on who collects the data. For example, a workers' compensation rehabilitation program, for purposes of closure statistics, defines a successfully rehabilitated worker as one who has 1) maintained paid employment for at least sixty days; 2) in a job consistent with the restrictions imposed by the disabling condition. The state rehabilitation program defines a successfully rehabilitation person as one who has completed a rehabilitation program and has 1) maintained paid employment for at least 60 days in a job which may or may not be consistent with restrictions imposed by the disabling condition; or 2) has not returned to work, but has been restored to an optimum level of function as an unpaid home maker. In this case, the private rehabilitation firm describes a successful case as one in which the injured worker 1) returned to paid employment in a job which may or may not be consistent with restrictions imposed by the disabling condition; or 2) whose claim was closed or denied as a result of the involvement of the rehabilitation firm. Again, it is important to keep these limitations in mind when making comparisons between data presented for the two sources.

Tables 1 and 2 present data received from the state vocational rehabilitation program. Tables 3 and 4 present data received from the private rehabilitation firm.

Although data limitations do not allow us to make any unequivocal conclusions concerning workers' compensation rehabilitation in Alaska, several widely accepted ideas are supported by the figures presented here. For both the state/federal program and the private sector rehabilitation firm, the earliest referrals become, on average, the least expensive cases. While there is an anomaly in the trend at 19-24 months (where both providers experienced an unexplainable dip in cost), the general direction is one of increased costs as the time between date of injury and date of referral increases. There do appear to be differences between the state program and the private firm in terms of average cost. In Table 3a, the private rehabilitation firms shows 75% of the sample cases with costs below $2500. The comparable figure for the state is 64% below $2500, seen in Table 2a. This difference can be explained several ways. First, as seen in Table 1, the average time between date of injury and date of referral for the state/federal program is 16.8 months. A similar figure for the private firm is 11.8 months. Given the relationships expressed in Tables 2b and 3b, one would then expect the state program's average costs to be higher. A second factor affecting costs is the average time spent in the rehabilitation

process. Table 1 shows the state program's clients spending 27 months, on average, in rehabilitation in FY 80. A similar figure from the private firms was 7.4 months, on average, between referral and closure. A third explanation for cost differences between the State program and the private firm is found in Table 1 which shows a significant percentage of the state/federal program's cases received college training in FY 80. While no similar figure exists for the private rehabilitation firm, meetings and discussions revealed that very few of their clients received college training. Given rising tuition costs, this would clearly add significant expense to the State program's services.

Table 1 shows that as the percent of clients receiving college training has decreased since FY 78, the percent of clients successfully rehabilitated has increased. This inverse relationship supports studies which have been conducted outside Alaska and concluded that shorter, less expensive programs tend to be more successful than longer and more expensive rehabilitation plans.

Table 1 also shows 54% of DVR's eligible referrals experienced successful outcomes in FY 80, although it is not known how many unpaid homemakers, or workers whose jobs were not consistent with restrictions imposed by the disabling condition, were included in this figure. A similar figure in the private firm's survey, seen in Table 4, is 55%. However, it is important to note that in the private firm survey, 34 cases were closed "via cash settlement/account denies coverage," and were classified as "successful" even though it was not known whether these persons returned to productive employment consistent with restrictions imposed by the disability. Subtracting these cases from the total number of successful cases then, reduces the success factor to 20.7%.

While many inferences and suggestions can be drawn from the data presented in Tables 1-4, one must remember that the percentage of clients involved in rehabilitation with respect to the total number of time-loss cases is quite small. For FY 81, the Second Injury Fund officer estimated 200-250 cases were determined eligible for second injury rehabilitation funds. From FY 78 - FY 80, the Workers' Compensation Division processed an average of 6838 time-loss cases. Because of the referral time lag mentioned earlier, it cannot be stated that a certain percentage of time-loss cases from a given year will receive rehabilitation. However, an estimated 3 to 4 percent of time-loss cases in a given year, eventually become eligible for rehabilitation. The Second Injury Fund officer has also reported that in a recent purge of 45 active rehabilitation files, only 17 (38%) had completed a program and returned to work. He cited the signing of compromise and release agreements as a major reason for workers dropping out of a program. In fact, the survey of 142 workers eligible for rehabilitation found almost 70% of them had signed compromise and release agreements, and most of these were after rehabilitation had begun.

What conclusions do these figures suggest? Because they represent such a small number of injured workers, a pure statistician could take any one piece of data mentioned here and find it is not statistically valid. But when all pieces are considered together, the data begins to support itself. Early referrals should cost less, and they do in Alaska. A longer period between injury and referral should raise costs, and it appears to do so for both programs.

GOAL I

Early Identification of Injured Workers Potentially Needing Rehabilitation.

CONCLUSION

There is no universally accepted, hard and fast rule regarding the point at which an injured worker should be referred to rehabilitation. Among the workers compensation agencies with organized rehabilitation units, the range is 60 to 120 days of continuous time loss from the date of injury. Immediate reporting is encouraged for workers with acute or catostrophic injuries.

Based on available data, it appears that the average time from the date of injury to referral of injured workers to rehabilitation is 14.3 months in Alaska. (See Tables 1 & 3) In light of the existing trends among those agencies with organized rehabilitation units, coupled with the results of two of the units discussed in the main report, it appears that the Alaska system could benefit from changes which would enhance its efforts to achieve the early identification goal.

RECOMMENDATION 1

That insurers/employers report to the Division of Workers' Compensation:

a. All injured workers who experience continuous time loss of 90 to 120 days from the date of injury, depending on the staffing level of the Division, and

b. All acutely injured workers where an immediate determination can be made that the worker will not likely be able to return to the job held at the time of injury.

RECOMMENDATION 2

That the Workers' Compensation Division screen reports no later than 5 working days from the date each report is received.

RECOMMENDATION 3

That subsequent to, or during the screening process, the Workers' Compensation Division contact each reported worker. The purpose for contact is to explain the benefits to which the worker may be entitled, and to set the tone for a positive rehabilitation outcome by explaining the objective of rehabilitation, the worker's rights and responsibilities in the rehabilitation effort.

RECOMMENDATION 4

That the Workers' Compensation Division establish and publish the procedural mechanism to support the reporting, screening and contact activities.

GOAL II

Provision of Rehabilitation Services by Competent Counselors

CONCLUSION

Counselors presently providing rehabilitation services to injured workers covered by the Act are presumed to have sound backgrounds in basic rehabilitation principles. However, a review of rehabilitation plans, reports and correspondence, as well as views expressed by these counselors, raises questions regarding whether the remaining three critical elements are sufficiently present to meet the objective of a workers' compensation rehabilitation program. (See discussion of Critical Elements Needed Under Goal II in Part One). First, some counselors appear not to understand their roles as they attempt to interpret laws regarding a worker's entitlement to rehabilitation benefits to the Board and they inappropriately make recommendations to the Board regarding settlement of workers' claims.

Second, it appears that some counselors are unable/unwilling to deliver services in a manner consistent with supporting the objective of the system. Services are not timely delivered (six months to complete a vocational evaluation and make recommendations). Training plans are developed prior to pursuing opportunities for direct return to employment. Some plans do not clearly define the vocational objective of the worker, or provide information regarding the type, scope and time frames within which services are to be provided. In cases where the vocational goal is defined, subsequent reports do not reflect specifically what has been accomplished toward achieving the goal.

Third, some counselors believe the system should afford a "pure" environment within which rehabilitation services can be provided to workers: They should not be required to interact with insurance adjusters, attorneys or the Board, as this interferes with their ability to effectively deliver services.

Finally, some counselors seem unprepared/unwilling to accept the Board's authority to make decisions regarding the rehabilitation of injured workers covered by the Act. Board requests for information in support of recommended plans are questioned and in some cases ignored. In some instances, attempts to coerce Board approval of second injury fund expenditures are made simultaneous to the counselor's overt resistance to Board requests for information needed to support a plan recommended by the counselor.

Clearly, the lack of regulations, definitive procedures and guidelines for vocational rehabilitation, has affected the performance of counselors providing services to injured workers covered by the Act.

RECOMMENDATION 5a

That pursuant to the adoption of regulations on vocational rehabilitation, (See Exhibit 1) the Workers' Compensation Division establish, publish and distribute guidelines for providers of rehabilitation services in accordance with recommendation 5b through 5e, and the following time frames:

- Completion of Vocational Evaluation and Plan Recommendation - 6 weeks

TABLE 1

DVR[1/]

	Eligible Cases Closed	Avg. Time in Rehab. Process	% College Training	Successful Rehabs.	Avg. Cost Per Eligible Case	Avg. Cost/ Successful Case
FY80	61	27(mos.)	21%	33 (54%)	$2280	$3505
FY79	50	23	36%	22 (44%)	1615	2821
FY78	48	32	38%	20 (42%)	1468	3021

* Through 7/1/81 -
Average time between date of injury and date of referral (includes cases still open): 16.8 Months.

1/ Table 1 is data received from DVR off the R-300 form.

TABLE 2

DVR[2/]

For 72 Eligible Closed Cases Referred through 7/1/80:

a. Cost	#	
0-500	18	
500-1000	9	
1000-1500	9	64% below $2500
1500-2000	7	
2000-2500	3	
2500-3000	3	
3000-3500	2	
3500-4000	7	
4000-4500	1	
4500-5000	3	
5000-and over	10	

b. Referral Period	#	Avg. Cost/Case
0-6 Months after inj.	14	$2168
7-12	26	2391
13-18	10	2494
19-24	7	975
25-30	10	2332
30-36	4	2492
36 and over	1	8258

The average time between injury and referral was derived from DVR data and injury dates produced from AK Workers' Comp. files.

2/ Since these figures reflect only closed rehabilitation files, an average referral period derived from Table 2b will not correlate with the corresponding figure presented in Table 1 of 16.8 months.

TABLE 3

PRIVATE REHAB.

For 188 case files closed between 7/1/80 and 7/31/81

a. Cost	#	
0-500	40	
500-1000	36	
1000-1500	28	75% below $2500
1500-2000	25	
2000-2500	13	
2500-3000	12	
3000-3500	11	
3500-4000	10	
4000-4500	4	
4500-5000	2	
5000 and over	7	

b. Referral Period	#	Avg. Cost/File
0-6 Months after inj.	NA	$1414
7-12	"	1670
13-18	"	2003
19-24	"	1875
25-30	"	1926
30-36	"	2198
36 and over	"	-

* The average length of time between date of injury and date of referral: 11.8 months.

TABLE 4

PRIVATE REHAB.

	Cases	%
Total	188	100.0
Successful Rehabilitation	91	48.4
(Due to Company Involvement)		
Return to Work	39	20.7
Case Closed via Cash Settlement/ Account Denies Coverage	34	18.1
Other	18	9.6
General Success	13	6.9
Other	84	44.6
Evaluation Only Requested	15	8.0
Lack of Cooperation by One of the Involved Parties	11	6.0
Company Requests Closure - Costs Not Warranted	38	20.0
Other	20	10.0

- Complete Development of Plan - 6 weeks

- Direct Placement Program - 3 months

- On-The-Job Training - 3 to 6 months, depending on the skills to be acquired coupled with the skill level of the injured worker.

- Vocational Training - 52 weeks (extensions subject to prior approval by the Board)

RECOMMENDATION 5b

That rehabilitation providers issue a report within 30 days of initial contact with an injured worker. Background information regarding the worker's age, education, work history, and general medical condition, as well as a summary of activities conducted during the 30 day period should be included in the report. Information regarding the next immediate plan of action should also be included.

RECOMMENDATION 5c

That plans submitted for approval contain pertinent information as outlined in proposed regulations on Vocational Rehabilitation 8 AAC 47.040(b)(1) through (9).

RECOMMENDATION 5d

That subsequent to implementing plans, rehabilitation providers issue monthly progress reports sufficient in content and scope to inform all interested parties of the progress being made toward achieving the vocational goal of the plan.

RECOMMENDATION 5e

That approval by the Board must be obtained prior to amendment, suspension or termination of an approved rehabilitation plan.

GOAL III

Provide for Early Return to Direct Employment

The extent to which injured workers are provided opportunities for return to direct employment is a primary determinant of the ultimate success of rehabilitation in a workers' compensation program. Administrators of rehabilitation programs for the Idaho Industrial Commission and the Office of Workers' Compensation Programs (OWCP) as well as others in the industrial rehabilitation community, support this premise. The Idaho program states as its primary goal: the earliest possible return of the injured worker to meaningful safe work. (See Exhibit 2). The OWCP, in an effort to improve its rehabilitation program has developed/endorsed return to work programs for injured workers covered by the Longshoremen's and Harbor Worker's (LHCA) and the Federal Employee's Compensation Acts (FECA). According to information received from the OWCP, 763 injured workers were successfully rehabilitated under the FECA for FY 81. Sixty eight percent of these workers were reemployed by their previous employers. Savings in compensation payments alone totaled 7½ million dollars. During the same fiscal year, 368 workers were successfully

rehabilitated under the LHCA, resulting in actual savings of 3½ million dollars in compensation payments. Twenty-three percent of these rehabilitated workers were reemployed by their previous employers. (See Table 5 for comparative figures on the rehabilitation programs of the Federal Acts, the States of Idaho and Alaska Compensation Acts)

Insurance companies can be exceedingly instrumental in helping their insureds develop reemployment programs. A carrier for a large employer covered under the LHCA reports services provided the employer in establishing a reemployment program approved by the OWCP, resulted in the employer rehiring 18 injured workers over a nine month period during FY 82. A 1½ million dollar savings in projected compensation payments resulted from this effort. Additionally, the employer reported higher morale and reduction in suspected fraudulent claims as additional payoffs. That tremendous benefits are derived by the reemployment of injured workers by employers at the time of injury is too obvious for further elaboration.

CONCLUSIONS

There is little evidence in support of Alaska employers providing measurable opportunities for reemployment of injured workers. Only one self-insured reported having an organized return-to-work program. Figures to substantiate this effort were not afforded. The risk manager of a major employer indicated an extensive feasibility study has been conducted over the past year in preparation for developing a comprehensive reemployment program. A precious few employers reported a limited effort of temporarily assigning employees to light duty. On the whole, employers readily proclaimed the nature of their business precludes rehiring their injured employees: Their operations simply cannot accommodate workers with less than full body integrity. Insurer's comments contributed little to modify or change the complexion of this proclamation. Neither party admitted to having particular knowledge on how to improve this present state of affairs, although the suggestion of some insurers regarding performance of on-site-job analyses in cases of reemployment, dispells the notion of complete unawareness in this matter.

RECOMMENDATION 6

That insurers provide assistance to employers in developing programs for re-employment of injured workers.

RECOMMENDATION 7

That insurers/employers arrange for counselor services to include on-site-job analyses and assistance in modification of jobs to enhance reemployment opportunities of an employer's injured employees.

RECOMMENDATION 8

That the Workers' Compensation Division encourage the development and implementation of reemployment programs by providing positive monitoring/ endorsement of the efforts of parties.

A few union representative claimed favorable dispositions to contractual agreements providing for reemployment of injured workers. However, previous

TABLE 5

Comparison Data for Four Workers' Compensation Acts with Provisions for Rehabilitation Benefits

Program	No. of Time Loss Workers	Received Rehabilitation Services		Worker's Successfully Rehabilitated			
		No.	% of Time Loss	No.	% of Workers Received Services	% of Time Loss Workers	% of Return to Work w/previous employer
1/ Alaska	6,356	249	3.9	72	28.9	1.1	Unknown
2/ Idaho	7,800	1431	18	344	24	4.4	38
3/ OWCP - 4/ FECA	47,982	7608	16	763	10	1.6	68
OWCP - 5/ LHCA	19,082	4947	26	386	7.8	2.0	23

Remarks:
1/ Figures based on information collected for FY 80 and 81.
2/ Figures obtained from FY 81 statistics of Idaho Industrial Commission
3/ Office of Workers' Compensation Programs
4/ Federal Employees' Compensation Act
5/ Longshoremens Harbor Workers' Compensation Act

efforts in this regard were reportedly rebuffed by management and were thus abandoned by labor. Trust fund sponsored, on-the-job training programs are provided for injured union members.

RECOMMENDATION 9

That co ractual agreements be negotiated for reemployment/rehabilitation of injured union members.

GOAL IV

Maintenance of Atmosphere Conducive to Rehabilitation

CONCLUSIONS

The element of concern is sufficiently intangible to render itself unmeasurable in a quantifiable way. It is therefore difficult to present an elaborate discussion on the extent to which insurers/employers are concerned about their injured employees during the course of their claims. This would require a detailed examination of randomly selected files maintained by carriers, with particular notations made of such items as timeliness of first and subsequent compensation payments, timely and adequate provision of medical and rehabilitation services, the extent to which claimants were advised of their entitlement to benefits, etc. Moreover, the quality of contacts between the injured worker and the insurer/ employer would be difficult if not impossible to capture. The elements of communication, coordination and commitment lend themselves to more discussion, particularly in regards to rehabilitation.

In general, the extent and timeliness of communication with injured workers seem inadequate for the purpose of supporting a successful rehabilitation program. First, the lag between date of injury to date of referral as previously noted, supports the conclusion that injured workers are not timely contacted and advised of their entitlement or potential need for rehabilitation services. Second, rehabilitation reports and other correspondence reflect communication is sporadic and generally inadequate to ensure the rehabilitation effort of a successful and cost effective outcome. Progress in rehabilitation plans is not timely monitored or timely reported. Concurrently, coordination of activities necessary to develop realistic return to work plans is insufficient, so that inordinate delays and interruptions occur to the detriment of injured workers, the rehabilitation program and the compensation system alike.

As to the extent of commitment to rehabilitation in the Alaska system, the time lag from date of injury to referral for services, and the percent of time-loss workers provided services, (approximately 5.4), coupled with the percent of time-loss workers successfully rehabilitated, (approximately 1.1%) indicate this element too, is woefully inadequate to support a rehabilitation program.

RECOMMENDATION 10

That insurers/employers increase their efforts to effectively and timely communicate with injured workers by contacting them as soon after the injury as possible to explain their entitlement to benefits and the procedure for securing these benefits.

RECOMMENDATION 11a

That in the case of workers experiencing time loss, who may need rehabilitation services, insurers/employers assign a counselor to contact the worker as soon as this determination can reasonably be made.

There is a developing trend among leading insurance companies to hire a rehabilitation staff member who serves as a communication link between the injured worker and insurance company, as well as other appropriate parties in the system. This staff member assists in creating an atmosphere conducive to an early return to work and facilitates coordination and development of rehabilitation plans for those workers who may not be able to return to direct employment.

RECOMMENDATION 11b

That insurers/employers consider hiring a rehabilitation professional to enhance their ability to effectively communicate with, and timely provide services for injured workers.

GOAL V

Provision of Incentives, Removal of Disincentives

CONCLUSIONS

Incentives

A. Experience and Retro Rating

The extent to which these methods are used in rating Alaska employers is unknown and is beyond the presentation of this report. Their suggested use by authorities in workers' compensation has been sufficient to present them as incentives for employers to reemploy their injured workers.

RECOMMENDATION 12a

That insurers assist employers by providing loss control services to assure appropriate rating consistent with their safety record and reemployment practices.

RECOMMENDATION 12b

That to supplement the loss control services provided by insurers, employers seek the assistance of the States Division of Insurance in rating matters and methods.

B. Targeted Jobs Tax Credits

According to the Division of Employment Security, Alaska employers rarely take advantage of this tax credit when employing the industrially injured worker. Several factors, such as eligibility criteria and employer awareness may be influencing this. Whether counselors adequately advise employers of this incentive when attempting to place injured workers is unknown.

RECOMMENDATION 13

That counselors enhance their efforts to place injured workers by informing employers of Targeted Jobs Tax Credit provisions and by providing assistance necessary to facilitate employer participation in the program.

C. Additional Maintenance

Injured workers undertaking a rehabilitation program can receive up to two hundred dollars in additional maintenance to defray extra expenses incurred during their rehabilitation program. This provision appears to be adequately serving the purpose for which it was established.

D. Second Injury Fund

The Alaska Workers' Compensation Act has provisions for a Second Injury Fund to be administered in accordance with orders and awards of the Board. AS 23.30.040(a). Subsection (e) authorizes expenditures for rehabilitation expenses and maintenance during the period of rehabilitation which may not exceed $10,000 for one person. When it comes to placing limitations on rehabilitation benefits in a workers' compensation system, there is an inherent problem in stating these limitations in monetary terms: Expectations and rehabilitation plans are designed around the upper limits of the dollar amount, rather than around what services are actually needed to make the injured worker employable. The worker believes his is an undeniable right to a program which costs $10,000, even though a less expensive program may be more appropriate to restore his employability. The counselor views the $10,000 as the worker's personal account which he has a right to exhaust by charging the costs of items and services superfluous to his rehabilitation program. In settlement negotiations, the attorney seeks to include $10,000 in the total figure for rehabilitation benefits, which he argues is his client's right.

All parties appear to have forgotten a basic tenet in a workers' compensation rehabilitation program: An injured worker's <u>right</u> to rehabilitation services coexists with the <u>need</u> of the worker for such services. The type, scope and duration of a rehabilitation program will vary with each injured worker, depending on such factors as skill level, education, age and extent of disability. It is therefore, a reasonalbe assumption, that the costs of services will vary for individual programs. Provisions for rehabilitation should be made with this in mind which is the current practice in most state compensation programs.

RECOMMENDATION 14

That language in AS 23.30.040(e) be changed to remove the dollar amount and provide for necessary costs of rehabilitation services subject to Board approval.

This provision would enhance continual efforts of the Board to provide necessary expenditures for workers seeking to rehabilitate themselves back to the work place and at the same time, protect the investment of insurers/employers who support the Fund.

There appears to be a lack of employer awareness regarding the existence or purpose of the Second Injury Fund and its provision for pre-existing conditions, under AS 23.30.205. This incentive will not realize its basic purpose if employers are not aware of its nature or not encouraged to use it.

RECOMMENDATION 15

That the Workers' Compensation Division increase employer awareness and encourage employer use of the Second Injury Fund in employment of industrially injured workers. Increase publicity and eligibility interpretation will enhance this effort.

Provisions also exist for the Board to make cooperative arrangements with insurance companies, private organizations and institutions, and state or federal agencies to provide rehabilitation services to injured workers covered by the Act. Through the end of FY 81, the Board maintained a cooperative agreement with the Alaska Division of Vocational Rehabilitation. The agreement permitted transfer of lump sum funds from the Second Injury Fund on a fiscal year basis, to the Division of Vocational Rehabilitation, for the provision of rehabilitation services to injured workers in the compensation system. Currently, a cooperative agreement does not exist between the two agencies due to unresolved differences surrounding the Board's authority to approve rehabilitation plans submitted by counselors of the Division of Vocational Rehabilitation requiring Second Injury Fund expenditure. The wisdom of transferring lump sum Second Injury Funds to the agency, and attempting to renew a cooperative agreement between the two agencies is questionable for at least three reasons.

First, the traditional basis for forming cooperative agreements between a compensation and state rehabilitation agency may no longer exist. During the formative years of no fault workers' compensation, the sole provider of vocational rehabilitation services to the disabled population was the state vocational rehabilitation agency. However, the National Commission, as well as other authorities in workers' compensation, has detailed the past failures of state programs in general, to meet the needs of the workers' compensation system due to the philosophical differences of the two agencies. Additionally, there has been an emergence of private rehabilitation providers, who appear more able to gear their services to the needs of the compensation system. In view of these factors, cooperative agreements between the two agencies may well be obsolete.

Second, removal of Second Injury Fund monies from the administration of the Commissioner of Labor, by transferring them to another agency which has no administrative oversight in the workers' compensation system, undermines the commissioner's ability to effectively administer the Fund in accordance with the orders and awards of the Board.

The last reason has legal implications. As the law clearly assigns the administrative responsibility of the Fund to the commissioner, and transfer of monies from the Fund undermines the commissioner's ability to discharge that responsibility, it would appear that meeting the requirement of the law is precluded by a cooperative agreement. This issue is of particular

importance in view of the reluctance of the Division of Vocational Rehabilitation to respect the Board's authority to approve rehabilitation plans submitted by its counselors requiring expenditure of Second Injury Fund monies.

RECOMMENDATION 16

That cooperative agreements involving transfer of Second Injury Fund monies to the Division of Vocational Rehabilitation be discontinued.

RECOMMENDATION 17

That criteria for development, recommendation and implementation of rehabilitation plans, in accordance with recommendations 5a through 5e, be applied to all providers of vocational rehabilitation services to injured workers covered by the state compensation laws.

Disincentives

A. Premature Compromise and Release Settlements

Larson and other authorities in workers' compensation, are strong opponents to settlements which prematurely preclude an injured worker's participation in a supervised rehabilitation program. There is real concern for the worker who settles his claim and releases his rehabilitation benefits. He may quickly exhaust his settlement funds and find himself with inadequate skills to earn a living.

That workers submit applications for settlements to fund proposed self employment ventures, in lieu of participation in a supervised rehabilitation program, is common knowledge. Almost equally as common, and particularly disturbing in the Alaska system, and probably elsewhere, is the recommendation for such plans, without adequate documentation to support the soundness or feasibility of the proposals. The parties involved have varying motivations for this unfounded recommendation.

The injured worker views it as an opportunity to do what he has always wanted to do: Besides, he will not have to work as hard if he can work at his own pace.

The insurer/employer suggests it as a mutual agreement which affords an equitable solution toward the disposition of the claim: It will also relieve the insurer/employer of any future liability related to compensation and rehabilitation benefits.

Claimant's attorney argues it will allow his client to get on with resuming a normal life: It will also afford the attorney an immediate appreciable fee.

The rehabilitation counselor opines that: Given the workers vocational evaluation results, his interests and motivation to succeed, the proposed venture will afford him a realistic vocational goal: It will also provide the counselor with much needed relief from the task of developing a sound

rehabilitation plan, which has been difficult if not impossible to achieve in light of the worker's resistence to any plan other than the self employment venture.

In instances such as this, all parties seem to lose sight of the end goal of rehabilitation: The return of the injured worker to productive employment by restoring his ability to earn a living. The injured worker's desire to start his own business is inappropriately equated with the goal of rehabilitation. A self employment plan may restore the worker to productive employment which will afford him a livable wage, and thus is a means to an end. However, an unsound plan may not afford him a sufficient income and thereby fails to achieve the end goal of rehabilitation.

This is not to suggest that all self employment plans are unsound and thus should not be considered, or that all workers must participate in an approved rehabilitation plan before a claim can be settled. It is suggested however, that each plan must be carefully evaluated for its soundness and potential for successfully returning the worker to productive employment. In cases not involving self employment plans, claims should be settled only after a determination has been made that to do so is in the best interest of justice.

RECOMMENDATION 18

That as a general policy, the Board deny settlement of claims, prior to an injured worker's completion of a supervised rehabilitation program.

B. Excessive Litigation

Rehabilitation professionals providing services to inured workers in Alaska, readily attest to the activities of both the plaintiffs' bar and defense attorneys, as interfering in the rehabilitation process. Indeed this seems to be borne out by testimony during public hearings on Workers' Compensation and in the claims files of injured workers. Excessive litigation serves little if any useful purpose in the rehabilitation process and if allowed to exist, will undermine the primary objective of rehabilitation. It causes the focus to shift from restoring the worker's competative earning ability to highlighting his disability. In the ensuing process, rehabilitation is not used as an effective, productive tool for the long range benefit of the injured worker. It becomes a bargaining stick employed by the claimant's attorney in his quest to obtain his client's pot of gold, and it is simultaneously used as a trade-off carrot by the defense attorney to limit the employer's/insurer's future liability. To an appreciable extent, the Board can provide a remedial solution to this problem. Regulations, guidelines and well defined procedures regarding rehabilitation, will remove much of the need and opportunity to litigate issues surrounding the rehabilitation process. (See recommendations 1 through 5e).

C. Other Stimuli

Parties who refuse to cooperate or who sabotage the rehabilitation effort by passive-aggressive means, should be encouraged to cooperate through the application of remedial penalties acting upon both the insurer/employer and

the injured worker similarly. The Board has the authority to apply such remedies. A review of its more recent decisions and orders reflects an increased effort to make sufficient applications in support of the rehabilitation objective.

Delivery of Rehabilitation in Alaska's Workers' Compensation System

The Alaska Workers' Compensation program must have an effective rehabilitation delivery system if it is to meet its six obligations as outlined in the overview section of this report, and achieve the five specific goals of rehabilitation. Administrative monitoring and positive assistance to injured workers and all other members of the workers' compensation community, require the adoption of the recommendations set forth in this report. Despite the on-going efforts of the Division of Workers' Compensation to improve its delivery system to the workers' compensation community, it continues to lack the resources and staff necessary to achieve a successful rehabilitation program which will ultimately reduce the cost of the compensation system.

The savings experienced in other compensation programs cited in this report, resulted from the delivery of well managed, cost effective rehabilitation benefits. These results did not occur independent of the economic wisdom of administrators for those programs, who realized that a relatively small investment of resources would yield tremendous gains in the reduction of compensation costs to employers, injured workers and society.

RECOMMENDATION 19

That the Division of Workers' Compensation acquire the necessary staff to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

PHYSICIANS' CONCERNS

1. Rehabilitation counselors should consult with treating physician before contacting injured worker. The counselor often gives advise which conflicts with physician's planned course. Physician can pave the way and make the prospects of rehabilitation less threatening if he is aware of the counselor's contact in advance.

2. Workers should be advised of benefits from day one of injury. Rights and responsibilities of worker should be spelled out. This would reduce adversary atmosphere.

3. Employers engage in inappropriate hiring practices to begin with. Thorough pre-hiring physical exam should be conducted. Conditions incompatible with physical demands of certain jobs would be detected at that time.

4. Workers' compensation should take natural aging process into account. Wear and tear process should not be financed by workers' compensation system.

5. Remedies should be more vigorously applied to workers who fail to follow doctor's orders.

6. Attorneys are too involved in the rehabilitation process. Counselor, physician and injured worker should be primary parties involved.

7. Rehabilitation benefits should be consistent and uniformly delivered. There is no control in the present system. Physician and patient need rules to play by.

8. Employer must assume more responsibility to provide light duty work until worker can resume regular job.

9. Union dispatch precludes loyalty to the employer - Union regarded as the "employer".

10. Union rules should be more flexible to support rehabilitation.

11. Unions must assure worker's who are dispatched are physically able to perform the duties of the job.

12. Professional rehabilitation providers inadequate. A more clearly defined system would encourage more providers to practice in Alaska's system.

13. Services provided by DVR are not particularly geared to industrial workers - more effective with catostrophically disabled population.

14. Insurance adjusters have inadequate backgrounds in medicine and human behavior. Inappropriate actions against claimants result in adversary behavior by claimant; (foot dragging and going against doctor's recommendations.) Adjusters must use more amiable approach.

REHABILITATION COUNSELORS' CONCERNS

1. Attorneys often interfere with rehabilitation. Some attorneys forbid their clients to see counselors, insist on being present at every counseling session, attempt to dictate what program should be developed for the injured worker, and often advise their clients not to cooperate with the counselor by using passive aggressive tactics. Counselors would like to see guidelines or regulations developed which forbid attorneys to interfere or attempt to run the rehabilitation process.

2. The workers' compensation system expects counselors to be miracle workers. Successfull rehabilitation of injured workers in the compensation system is difficult if not impossible in light of the following:

   a. Inadequate requirements of workers to cooperate with the counselor.

   b. Ineffective enforcement of the vague rules presently existing in the system when evidence clearly shows the worker has been uncooperative.

   c. Some insurance companies act in good faith in attempting to arrange rehabilitation services for workers who need them. Other companies fail to make such arrangements and may even interfere when workers seek services on their own.

   d. Those companies that support the rehabilitation effort are often penalized as the Board allows uncooperative workers too many chances to cooperate. Limitations should be placed on these chances.

3. The Workers' Compensation agency should be staffed with rehabilitation professionals who determine which agency will provide services to injured workers in disputed cases. This would reduce the level of excessive "rehabilitation shopping" by all parties which presently exists, and it would eliminate dual assignment of rehabilitation providers by both sides.

4. Counselors have too little time as it is to provide adequate services to the disabled population. Requiring counselors to appear in hearings and other judicial processes further reduces the time counselors should be devoting to rehabilitating the disabled population.

INJURED WORKERS' CONCERNS AND REACTIONS

1. The system has gotten so complex that an attorney is absolutely necessary in proceeding with many cases. Yet, some injured workers were not advised that they needed an attorney until it was too late.

2. Injured workers have reported receiving "high pressure" from carriers to settle for smaller settlements than required by law. This included threats of holding up final settlement unless the injured worker agrees to carrier's terms.

3. Injured workers who realized later that they needed rehabilitation assistance, were not given any indication that the option was available, at the time of injury.

4. Benefits are either cut-off without notice or held up as part of pressure tactics. In cases of jobs which pay by commission, an injured worker reported that benefits stopped immediately upon taking the job, although it was 4 months before he received his first commission check.

5. There were positive reactions to some insurance companies' case management, in addition to positive feelings about some injured workers' rehabilitation experience.

6. There is concern expressed that DVR does not cooperate with the injured worker's interest in rehabilitation. This point was expressed in a case where the injured worker reported the counselor stalled 6 months in getting the program started and took 2 months in getting the purchase of a calculator approved.

7. Concern has been expressed over the proper medical treatment. The use of chiropractors is more helpful in some cases, yet is discouraged by some doctors.

8. Injured workers are frustrated that some of the jobs they are retrained for are not available on the job market when the rehabilitation program is completed. They wind up returning to their old job or taking a position which has a high probability of reinjury.

INSURER/EMPLOYER CONCERNS

1. The Act requires insurers/employers to provide rehabilitation services to injured workers. Thus, the insurer/employer should be able to determine which rehabilitation agency the worker will be referred to for these services. This would eliminate the current practice of workers/attorneys shopping around to find the counselor who will recommend the longest training program.

2. Claimants' attorneys should be restricted from practicing "rehabilitation" and submitting training/rehabilitation plans for their clients.

3. Insurers/employers should not be required to provide rehabilitation services to workers who refuse reemployment offers by employers. There should be a limit placed on the time an injured worker has to accept the offer.

4. When training plans are presented for approval, the Board should make every effort to ensure the need for training before approving the plan and requiring the insurer to continue total compensation payments. Training should be approved on the basis of <u>need</u> as opposed to the <u>desire</u> of workers who merely want a new career.

5. Counselors should be used to perform on-site-job analysis to determine if the job is compatible with the worker's restrictions. Presently, the physician, who does not have sufficient knowledge of the world of work, makes this decision based on the whims of the patient, who often misrepresents physical demands of a given job.

ATTORNEYS' CONCERNS

1. Alaska has an inadequate number of competent rehabilitation counselors. Often, workers do not have a choice and must use DVR.

2. Particular counselors are inconsistent in serving injured workers; engage in power playing to control worker's life; dabble in claims and legal matters; incorrect information given worker, sometimes intentionally, if worker has not followed the counselor's "rules".

3. Present system does not have mechanism to make rehabilitation work. No one to monitor system and keep parties in line, particularly counselors who behave in questionable manner.

4. Disputes regarding rehabilitation should be promptly heard and decisions timely issued. Delays destroy motivation for rehabilitation.

5. Artifical rehabilitation hurts workers with serious injuries.
   EX: Sixty-one year old worker w/65% rating. Has fifth grade education and no work skills other than heavy labor. Ineligible for retirement by 4 years. Placed in pie shop as a part-time wrapper. Paid $4.00/hr = $60/week = approx. $200/month. Counselor issued a report of "successful rehabilitation" so worker was found PPD, thus $60,000 limit applied. Questionable whether worker will be able to continue in work force due to severity of injury, age, and limited skills. If unable to continue working, $60,000 inadequate source of income for worker's remaining lifetime. If PTD, rating is precluded by "successful rehabilitation" stamp.

6. Board should penalize insurers/employers who misrepresent the law. Failure to advise worker of entitlement to rehabilitation is misrepresentation.

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APPENDIX OF EXHIBITS

CHAPTER 47

VOCATIONAL REHABILITATION

8 AAC 47.010. GOAL OF VOCATIONAL REHABILITATION. The board shall direct and provide for the vocational rehabilitation of employees entitled under the Act. Vocational plans formulated under the Act and this chapter must be designed to restore the injured employee to gainful employment. (Eff. / / , Register).

Authority: AS 23.30.005
AS 23.30.040

8 AAC 47.020. DUTIES OF THE PARTIES. (a) The employer, the self-insurer, the insurance carrier, and the employee shall promptly recognize the need for the evaluation of vocational rehabilitation and shall initiate necessary action to restore the injured employee to gainful employment as expeditiously as possible.

(b) The employee shall cooperate in all phases of vocational rehabilitation. The employee shall promptly and responsibly participate in a board-approved vocational plan when ordered to do so by the board. If the employee does not choose to enroll in a vocational plan, nothing in this chapter is to be interpreted so as to require the employee to do so. However, in cases where the employee chooses not to enroll in a vocational plan, or unreasonably refuses to complete a vocational plan, the degree of permanent partial disability will be determined as though the employee had enrolled in, and successfully completed, the vocational plan. The employee shall notify the board and the employer within 14 days of the first consultation with a vocational rehabilitation representative.

(c) The vocational rehabilitation representative shall notify the board and all interested parties within 14 days of the first consultation with an employee. Thereafter, the vocational rehabilitation representative shall file regular monthly reports with the board during the consultation period. Within 14 days of the final consultation, the vocational rehabilitation representative shall file a report of consultation which must contain the findings, conclusions and recommendations regarding vocational rehabilitation. (Eff. / / , Register).

Authority: AS 23.30.005
AS 23.30.040

8 AAC 47.030. EVALUATION ANALYSIS. (a) No vocational plan may be initiated until board approval has been secured. Board approval may be secured by any party by filing a petition for initiation of a vocational plan, accompanied by a written evaluation analysis. Copies of the petition and the evaluation analysis must be served upon all parties and the administrator of the Alaska Second Injury Fund, in accordance with 8 AAC 45.060.

CHAPTER 47
VOCATIONAL REHABILITATION

Section

10. Goal of vocational rehabilitation
20. Duties of the parties
30. Evaluation analysis
40. Vocational plans
50. Modification, suspension, or termination of vocational plans
60. Vocational rehabilitation definitions

(b) A written evaluation analysis must be accompanied by copies of all medical reports referred to in the analysis and must, in addition, include

(1) an assessment of the employee's employable skills, including a synopsis of his work history and educational background;

(2) a summary of the disabilities limiting the employee's employment opportunities; and

(3) a specific accounting of the employee's pre-injury wage and an assessment of his post-injury wage-earning capacity.

(c) After the complete, written evaluation analysis has been filed the board will review the factors discussed in the analysis and will determine whether the employee is able to return to his previous employment or to modified employment or whether, instead, direct job placement, on-the-job training or formal retraining is necessary in order to return the employee to gainful employment.

(d) If the board determines that formal retraining is necessary, it shall direct the employer or the employee, or both, to initiate a vocational plan in accordance with 8 AAC 47.040. The board will give preference to direct job placement and on-the-job training over a formal retraining program. (Eff. / / , Register).

Authority: AS 23.30.005

8 AAC 47.040. VOCATIONAL PLANS. (a) Following evaluation in accordance with 8 AAC 47.030, a vocational plan may be initiated by direction of the board or by any person. Vocational plans must be developed by a qualified rehabilitation representative designated by either the employer, the carrier, the self-insurer, the employee, or the board.

(b) Proposed vocational plans must be submitted to the board in the form of a petition by the person responsible for initiating the vocational plan. The petition must be in writing and must include

(1) the gainful employment objectives of the vocational plan, including estimated earnings and reasonable availability of gainful employment;

(2) the name and location of the educational institution, public or private vocational training agency, or company or business involved in the vocational plan;

(3) the nature, extent, and duration of services to be provided during the period of rehabilitation;

(4) the dates of commencement and expected completion of the vocational plan;

(5) a statement regarding the general financial condition of the employee;

(6) the amount of weekly income maintenance benefits, tuition, fees, and transportation costs, if any, and the time and manner of such payments to the employee during the period of rehabilitation;

(7) the employee's written acceptance of the plan, plus any comments the employee desires to make a matter of record concerning why the plan is in his best interests;

(8) the name of the rehabilitation representative who prepared the plan, a complete description of his or her qualifications, and the name and address of the representative's institution, agency, or company; and

(9) all medical, psychological, and vocational evaluation reports related to the case.

(c) Objections to a vocational plan must be filed in writing with the board within 10 days of the date of service of the plan upon the board.

(d) Upon receipt of written objections, or where it appears obvious that the employee and the employer are unable to reach agreement on the terms of the vocational plan, a prehearing conference will be scheduled. If agreement is reached at the conference, the board may approve the plan. If the differences cannot be resolved at the prehearing conference, the matter shall be set for a hearing. Hearings shall be held in accordance with the provisions of this chapter.

(e) Upon receipt of a proposed vocational plan acceptable to all parties concerned, or following a hearing, and after review the board shall approve, disapprove, or modify the plan.

(f) Implementation of the plan must begin as soon as the employee is capable of participating in the program and medical opinion indicates the employee's recovery will not be impeded by participation in the plan. The plan shall begin upon the date of board approval or the date specified in the plan, whichever occurs last.

(g) In the event

(1) a vocational plan is not offered by the employer; or

(2) an employer-offered plan or a rehabilitation agency-offered plan is not accepted by the employee; or

(3) the board finds that the employee is eligible for a plan but the proposed plans are not effective

the board, on its own motion or upon the petition of any party, shall

make a determination by means of a hearing or hearings of the services necessary to restore the employee to gainful employment. (Eff. / / , Register).

Authority: AS 23.30.005
AS 23.30.040

8 AAC 47.050. MODIFICATION, SUSPENSION, OR TERMINATION OF VOCATIONAL PLANS. Any party may petition the board for modification, suspension, or termination of a plan. The petition shall be treated as any other petition under § 050 of this chapter. The board shall order the modification, suspension, or termination if it finds

(1) satisfactory progress is not being made in the approved plan; or

(2) the plan is not likely to prepare the employee for gainful employment due to unexpected contingencies; or

(3) the employee refuses to complete the vocational plan approved by the board; or

(4) a more suitable plan becomes available. (Eff. / / , Register).

Authority: AS 23.30.005

8 AAC 47.060. VOCATIONAL REHABILITATION DEFINITIONS. As used in this chapter

(1) "Gainful employment" means employment which is reasonably attainable and which offers an opportunity to restore the employee as soon as possible to maximum self-support, due consideration being given to the employee's qualifications, physical and mental condition, interests, motivation and incentives, pre-injury earnings and future earning capacity, and the present and future labor market.

(2) "Implementation of a plan" means commencement by the employee of an actual return-to-work plan of direct job placement, on-the-job training or vocational training in accordance with an approved vocational rehabilitation plan.

(3) "Initiation of a plan" means the creation and drafting of a written vocational rehabilitation plan.

(4) "Vocational rehabilitation" means a program of services, not limited to medical services, designed to restore an injured or disabled employee to gainful employment.

(5) "Vocational rehabilitation representative" means a person who possesses the special skills, knowledge, education, training, and experience necessary to develop and implement vocational rehabilitation plans.

(6) "Vocational rehabilitation plan" means the planning and providing of services, not limited to medical services, reasonably necessary to restore an employee to gainful employment. Such services include, but are not limited to, vocational evaluation, counseling, retraining, on-the-job training, and job placement assistance. (Eff. / / , Register).

Authority: AS 23.30.005
AS 23.30.040

Idaho
Industrial Commission

317 Main Street, Boise, Idaho 83720
Phone 334-2193

Rehabilitation Division Offices

Boise
317 Main Street
Boise, ID 83720
Phone: 334-2461

Caldwell
109 N. Kimball
Caldwell, ID 83605
Phone: 459-0016

Coeur d'Alene
401 Front Street
Coeur d'Alene, ID 83814
Phone: 667-9714/3056

Idaho Falls
101 Park Avenue
Idaho Falls, ID 83401
Phone: 523-4011

Lewiston
1118 "F" Street
Lewiston, ID 83501
Phone: 746-3935

Pocatello
Center 151 Bldg. — Suite 105
Pocatello, ID 83201
Phone: 234-2810

Twin Falls
630 Blue Lakes Blvd. N.
Twin Falls ID 83301
Phone: 734-8300

COMMISSIONERS
Gerald A. Gedde[illegible] Lawrence G. Sirhall - Will S. Defenbach

Worker Rehabilitation

Idaho
Industrial Commission
Rehabilitation Division

Exhibit 2

The Rehabilitation Division

was established by the 1978 Legislature in an effort to reduce the period of temporary disability resulting from industrial injury or disease and to aid in restoring the disabled employee to gainful employment with the least possible physical impairment.

What Are Our Goals?

- To provide for the earliest possible return of the injured worker to meaningful, safe work
- To return the injured worker to as near his pre-injury status as possible
- To reduce the period of temporary benefits paid injured workers

Who Is Eligible For Our Services?

Workers receiving Idaho Workmen's Compensation benefits for whom the Rehabilitation Division can be of assistance in reducing the period of temporary disability or aiding the worker in a return to employment compatible with his disability.

What Services Are Provided?

Services provided are those necessary to return the worker to a job with his former employer, or to a job similar to the one held prior to becoming injured.

Services available include:

- Vocational evaluation
- Job site evaluation
- Vocational counseling
- Assistance in job modification
- Training in job seeking skills
- Placement
- Follow-up
- Reporting system to those involved in the rehabilitation process

Who Benefits From Our Services?

- Disabled workers
- Employers
- Attorneys
- Physicians
- Society

Who Should Be Referred?

- Workers requiring a change of occupation.
- Cases with long periods of disability
- Injuries resulting in restrictions of function
- Cases with a potential for high financial exposure

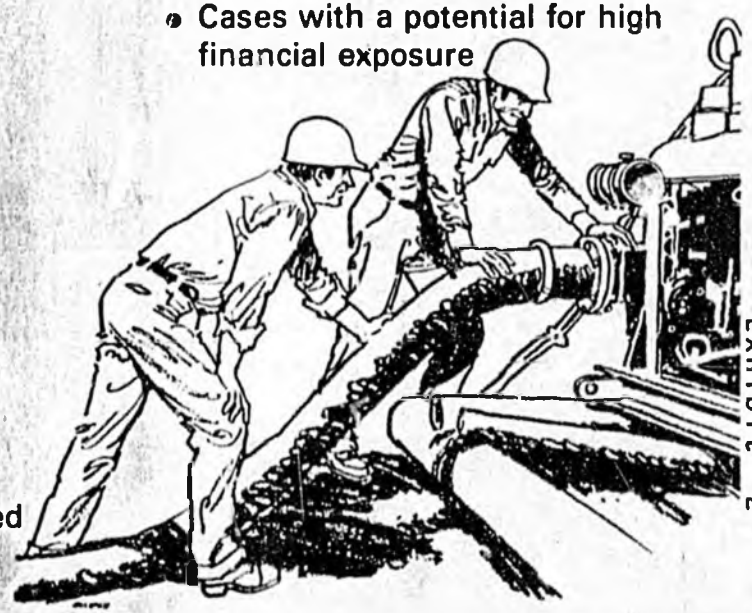

Exhibit 2

9:00 Jeff - Resolutions;

Discussion
of
Preliminary Results
of
Survey of Injured Workers

METHODOLOGY

This survey was conducted to measure the post injury, economic status of injured workers and to examine their reactions to the delivery system of rehabilitation benefits in the Alaska Workers' Compensation System

A time frame considered to be most useful to the survey was established. Workers who sustained injured between January, 1977 and December 1980 were included in the survey. This time frame eliminated injuries occurring during the pipeline "boom" economy of the mid-seventies. It also provided an adequate stabilization period for injured workers to get back on their "economic feet."

Injured workers surveyed were divided into three groups. The first group included workers who had signed compromise and release agreements, which did not include provisions for rehabilitation benefits. The second group of injured workers were those referred to the state vocational rehabilitation agency, and the third group of injured workers were those referred to private rehabilitation firms.

Survey forms were mailed to all 142 workers in the two rehabilitation groups. For the compromise and release group, every second case was selected out of a total of 1000 cases. Surveys were mailed to 468 injured workers in this group. Thus, the total number of workers surveyed for the three groups was 610. This represents an adequate cross section of the entire universe.

Response to the Survey

Due to time constraints and problems experienced in obtaining correct addresses, the survey has not been completed. Of the 610 survey forms sent out, 180 (30%) were returned as undeliverable as the worker was either unkown at the address, or the forward had expired. Of the remaining 430 surveys, 65 (15%) have been completed and returned. In the next two weeks, telephone surveys will be conducted to complete the sample of respondants.

Preliminary Results

Of the 65 workers who responded, 26 had received rehabilitation services. In evaluating how helpful rehabilitation was in returning them to work, 14 respondant stated "very helpful", 7 chose "not helpful" and 5 chose something in between. As more surveys are returned, the responses will be correlated with the source of referral. Of the 26 rehabilitation respondents, 12 were referred to rehabilitation by a source other than the choices given in the survey. This "other" source was the doctor and 8 of these 12 found rehabilitation was "very helpful" in returning them to work. However, until more responses are received, no hard and fast conclusions or inferences can be made with any degree of validity.

Responses to questions on income from employment only, are more complete. Virtually all the workers had been injured well over two years ago. Yet in 1980, 52% of the 65 workers had incomes under $12,000. In 1981, 55% of the 65 respondants reported incomes under $12,000. For the remaining group, in 1980, only 10 respondants had incomes over $25,000, while that number rose to 15 in 1981. These figures support the beliefs of those in the workers' compensation community regarding the fate of injured workers. Unless positive steps are

taken quickly to return them to the work place, injured workers can get stuck at a level of income far below that held at the time of injury. However, due to the small percent of survey response received to date, definitive conclusions cannot be made.

The survey does allow a look at income in another way. Of the 65 respondants, 31 were employed at the time they received the survey. A comparison of pre-injury and post-injury average weekly wage (AWW) for this group shows that 12 respondants had an AWW in the same income bracket as before injury, 15 had weekly wages in a higher bracket than before injury, while only 3 had an AWW which fell into a lower bracket than before injury. These figures support another commonly held belief in the compensation system. For workers who timely return to the work place, upward, economic mobility is possible. Responses which evaluate physical demands of current jobs add another diminsion regarding employability of injured workers. Desptie the fact that 27 of the 31 employed respondants are working for wage at or above their pre-injured weekly wage, 16 or over half the group, are in positions that required less physical demand than their pre-injure jobs. In other words, an injury which results in physical limitations need not result in limiting the personal and economic achievement, afforded by productive employment.

ZEE PAMPLIN JACKSON
Rehabilitation Consultant

December 11, 1981

The Alaska State Legislature has funded a study of rehabilitation and retraining for injured workers in the state. The goal is to develop more efficient and constructive rehabilitation and retraining services in Alaska so that injured workers can receive the best help possible during their period of disability. Part of this study will compare the post-injury experience of people who have gone through rehabilitation and retraining, with the post-injury experience of people who have signed compromise and release agreements.

As someone who has signed a compromise and release agreement, you can provide useful information for the study. If you would fill out the brief enclosed questionnaire and return it in the postage paid envelope, I would greatly appreciate it.

I want to emphasize that any information you provide will remain strictly confidential. This study is in no way connected with any benefits you may have received in the past, or might received in the future. If you have any questions, please call me collect at (907) 264-2460 from 8:00 a.m. to 4:30 p.m. Alaska Standard Time.

Your help in this project could make a difference in getting better and more effective laws passed for the protection of injured workers. Thank you for your time and cooperation in returning the questionnaire as quickly as possible.

Sincerely,

Zee Jackson
Rehabilitation Consultant

P.O. Box 3130 • Anchorage, Alaska 99510 • (907) 264-2460

"CONFIDENTIAL FOR STATISTICAL PURPOSES ONLY"

RETURN IN THE ENCLOSED STAMPED ENVELOPE TO:

Zee Jackson
P.O. Box 3130
Anchorage, Alaska 99510

WORKERS' COMPENSATION VOCATIONAL REHABILITATION SURVEY

1. When were you injured? MONTH _____ YEAR _____

2. Since your injury, have you received any rehabilitation services?

YES ☐ IF YES, ANSWER THESE QUESTIONS NEXT →

NO ☐

IF NO, CONTINUE WITH QUESTION #3

2a. Who referred you to the rehabilitation services?

Insurance Carrier ☐ Employer ☐

Division of Workers Comp. ☐

Attorney ☐ Other ☐

2b. How helpful was the rehabilitation service in returning you to work?

Very helpful ☐ Helpful ☐

A little helpful ☐ Not helpful ☐

NOW GO TO QUESTION #3

3. How long were you unable to work because of your injury?

Less than 1 month ☐ 1-3 months ☐ 4-6 months ☐ 7-12 months ☐
Over 1 year ☐

4. Are you currently employed?

YES ☐ IF YES, ANSWER THESE QUESTIONS NEXT →

NO ☐

4a. What is your usual gross weekly income?

Under $200 ☐ 100-299 ☐ 300-499 ☐ 500-800 ☐
Over 800 ☐

4b. How long have you been at your present job?

Under 1 month ☐ 1-3 months ☐ 4-6 months ☐
7-12 months ☐ Over 1 year ☐

4c. Are the physical demands of your current job
greater than ☐ less than ☐
the same as ☐
your pre-injury job? ☐

4d. Is this a seasonal job?
Yes ☐ No ☐ Other (Explain)

NOW GO TO QUESTION #5

4e. Is your work injury preventing you from working?

YES ☐ NO

5. Approximately what was your gross income from employment in 1980?

Under $12,000 ☐ 12-18,000 ☐ 18,001-25,000 ☐
25-35,000 ☐ 35,000 or over ☐

6. Approximately what do you expect to earn from employment only in 1981?

Under $12,000 ☐ 12-18,000 ☐ 18,001-25,000 ☐
25,000-35,000 ☐ 35,000 or over ☐

PLEASE WRITE ANY COMMENTS YOU MIGHT HAVE ABOUT YOUR EXPERIENCE WITH THE WORKERS' COMPENSATIUON SYSTEM

You can use the reverse side.

B. Reeves

Disincent 25 to RTW

1. AWW –
   a. best 3 last 3 could be more than ~~one~~ @ time of injury cmpo - AWW more than
   b. Spendable income should be basis for comp. rates
      Should not include room + board or fringes

Primary Parties in W/C

Employee – Labor — Laborers, Operating Engineers, Carpenters, Teamsters

Employer – Management

Needs of Primary Party
RTW. Timely
Reduce Comp. cost

RHB Services comparable & accomplishing goals

RHB Counselors are facilitators, (ee)
NOT primary parties

House Labor & Commerce SIGN-IN SHEET Voc. Rehab

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Pat Mooney	0581 - 50 Bld. Juneau	Voc. Rehab -	?	586-6500
Mike Rudisell	0589 - 60 Bld Juneau	Voc Rehab.		586-1245
Mike Thomas	Box 1211 Juneau	Am. Insurance Assn	No	5863340
Jim Robison	Box 899 Anch.	W/C district counsel of Labor Alaska State AFL-CIO		276-1640
Don Rouleau	Box 11-2653 Anch.	"	No	274-5464
Paul Haase	P.O Box 1149	Workers' Comp. Second Injury fund	No	465-2791
Kel Christian	P.O. Box 330 Anch		Yes	262-2460
Dick McClintock	P.O.B 1149 Juno	Dept of Labor W/C Div.	NO	465-2790
Ed Hite	201 Danner, Anch	Daryl A. Cody	NO	349-6733
Jack Thompson	2216 Post Rd Anch 99501	WCCA		
Michael Thill	Capital Rm 119	Senate Labor & Commerce Aide	No	465-3716
Eileen Collins	P.O. Box 1149	Labor	No	465-2700
David Kerner	P.O. Box 1149	W/C Board Mbrs	No	465 2790
Elaine VanderSande	" " "	Workers Comp	No	465-2790
Jean Kyes		A.M.C.	—	6-1740
Jon Rogers		AGC	No	276 5354
Barbara Hudson	201 Danner - Anchorage	Pacific Marine Ins	no	800-426-4115
Paul Tweedy	5921 Sunset St	Self	No	276-6856
DAVID KERTNER	P.O.B. 1149, DEPT LABOR	LABOR W/C BOA. Workers Comp	NO	465.2780
Wes Coyner				

HOUSE LABOR & COMMERCE COMMITTEE HEARING DATE: 1-26-82

House Labor & Commerce SIGN-IN SHEET Voc. Rehab

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Glenn Lundell	Box 1149, Juneau 99811	Dept of Labor	No	465-2700
Dwayne Ward		Labor	No	
Don Koch	POUCH D JUNEAU 99811	DIV. OF INSURANCE	NO	465 2577
George Kruse	310 2nd - Juneau 99801	AK State COALC	No	586-7323
MIKE MORGAN	9170 GLACIERWOOD DR	DIV VOC REHAB	NO	586-6500
Kathy Kolkhorst	P.O. 1712 Juneau 99802	A.G.'s office	NO	465-3603

HOUSE LABOR & COMMERCE COMMITTEE HEARING DATE: 1-26-82

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 1/26/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:05	
Rep. D. Randolph	✓		12:58	
Rep. B. Rogers	✓		1:15	
Rep. T. Gardiner	✓		1:18	
Rep. T. Martin, Chair	✓		12:58	

Subject Matter:

House Bill No. 159

Senate Bill No. _____

Special Orders:

1-27-82
HB 159

AN INTERIM REPORT ON THE ALASKA WORKERS' COMPENSATION SYSTEM

John H. Lewis
P.O. Box 330550
Miami, Florida 33133
(305) 443-8111

January 27, 1982

INTRODUCTION

The purpose of this document is to analyze the major areas of concern within the Alaska workers' compensation system. The items discussed were chosen because of their economic significance, and in some instances because of existing controversies as to their proper role in the compensation system. Although many issues remain for additional discussion, those contained in this report represent the critical questions which must be resolved in order to develop an appropriate legislative response to the current workers' compensation controversy.

THE BUNKHOUSE RULE

The major criteria for determining the compensability of an accidental injury is whether it arose out of and in the course of the employment (AOE/COE). This phrase is contained in the Alaska Workers' Compensation Act as well as 48 others. Obviously this test must be interpreted in those instances in which compensability is disputed, and as a result, there is a huge volume of case decisions from across the country, providing additional and more specific guidelines for determining when the AOE/COE test has been met. Since the Alaska Workers' Compensation Act is relatively new, it did not go through the developmental period in which these rules were structured, and simply adopted existing guidelines, in many cases selecting the most far-reaching of available options. The bunkhouse rule is one of these guidelines.

Normally an injury must occur during the hours of employment and be caused by some incident of the work to meet the AOE/COE test. However, years ago the courts determined that when a worker is required to live away from home, particularly for extended periods of time, the test should be broader. This gave rise to the bunkhouse rule. The rule has many variations, all of which to one extent or another make the point that under these circumstances, injuries outside of normal working hours can still be deemed compensable, since the requirements of the job "forced" the employee to be in the circumstances which led to the injury. Despite some very unusual results, the bunkhouse rule has never been considered enough of a threat to the integrity of the workers' compensation system in any state to justify legislative intervention. In Alaska, due to the large number of remote work sites, the relatively high number of bunkhouse rule cases and the cost of even a minor injury, some question has been raised as to the continued application of the rule in its present form. However, any attempt at statutory modification of the rule should be undertaken with caution and something less than extreme optimism, because new language means new court tests, with unpredictable results. It may well be the fear of the unknown that has led other states to accept the certainty of existing case law rather than embark on the uncertain path of legislative action and subsequent court decisions.

A major consideration is whether the magnitude of the problem is worth the legislative effort. To date it appears that bunkhouse cases, at least those that raise questions about their propriety, do not constitute a significant expense when compared to the compensation system as a whole. However, they may very well constitute a significant portion of compensation expense for a number of employers.

Another consideration is the implications of modification of the rule. Assuming that a legitimate injury occurs at a remote site, but is not compensable due to the operation of a modified bunkhouse rule, the injured party will almost certainly incur considerable expense in returning to an area where medical treatment is available. There are a number of obvious solutions to this problem, but it cannot be ignored. One should also consider the impact on employers of a modification of the bunkhouse rule. The obligation to provide workers' compensation coverage grants the employer immunity from civil action by an employee only when an injury is compensable. A significant narrowing of the bunkhouse rule will increase the possibility of civil suits, which tend to be more expensive than workers' compensation cases. Given the standards which presently govern the question of liability in civil cases, many "minor" compensation cases could become "major" civil cases. Even the lowly broken tooth suffered during mealtime could find its way to the courts, if caused by a foreign or improper object in the employee's food.

A final consideration is a virtually unverifiable opinion expressed by a number of individuals familiar with the problem that most "abuses" of the bunkhouse rule result from a desire to return to civilization for various purposes and that any solution other than a better leave policy on the part of employers will simply lead to either "abuses" of the new rule or the development of other, equally expensive ways of getting back home.

The list of alternatives is practically endless. The following is a limited range of alternatives all of which can be modified and combined with others to reach the desired conclusion.

1. Limit compensable injuries at remote sites to accidents occurring during actual working hours.

2. Limit compensable injuries to those accidents occurring on the premises of the camp, regardless of the hour of occurrence or the activity engaged in.

3. Limit compensable injuries to those accidents occurring during working hours and those resulting from a special hazard directly related to the conditions of remote site living, such as a fire or weather related incident.

4. Eliminate from the range of compensable accidents those resulting from personal activities such as eating, and/or recreational activities.

A number of concerns have been expressed, primarily by those on the employer/carrier side, over the impact on costs of the current physician selection mechanism, which leaves the choice of treating physician to the employee. On its face this is a totally appropriate method, but there are a number of competing interests which at least deserve consideration. A factor weighing most heavily in favor of employee choice, a method used by approximately half the states, is that it is the employee who is being treated, and who should be given the opportunity to select physicians he trusts. On the other hand it is the employer who is paying the bills, which leads to legitimate concerns over paying for doctors who may not be the best available, or whose primary reason for selection may be a willingness to give a high disability rating, which in turn may lead to increased compensation benefits. Obviously the employee may have reason to be equally as concerned about an employer/carrier choosing a physician primarily on the basis of a willingness to testify "properly."

Perhaps the most effective solution to this dilemma lies with the Board. Given the small number of health care providers in Alaska, the Board should be well aware of the abilities of each. If a party feels improper treatment is being provided, an expedited hearing will give the Board the opportunity to order a change in treating physician, if necessary. If a physician is consistently one-sided in his testimony, the Board should be able to take this factor into consideration in reaching decisions on questions such as causation and extent of disability. The only potential problem here is with the appellate courts, which in their decisions tend to limit the Board's authority to accept or reject testimony based upon evaluation of a witness's credibility. If the Board is to be encouraged to take steps to minimize problems in medical care, it may be necessary to provide specific legislative direction to the courts, to insure that the Board's authority is not diluted.

The use of physicians in contested cases simply because of their extreme views can also be limited by encouraging the Board to select impartial examining physicians to help resolve medical disputes, and by explicitly relying on experts in whom the Board has a high degree of faith. Once again some legislative direction may have to be given to the courts to permit the Board to accept such testimony in appropriate cases rather than that presented by the litigants. This type of action can send a message to litigants that it does not pay to use medical testimony from witnesses who are biased, and can also result in a moderation of positions taken by medical experts.

In conjunction with the foregoing, there are a number of methods of physician selection in use in various states which can be considered.

1. Pure employee selection, as presently exists in Alaska.

2. Pure employer/carrier selection, tempered by the ability of the employee to apply to the Board on an expedited basis for change.

3. Initial employee selection for a limited period of time, such as ten days, with the employer having the right to change at the end of the period.

4. Initial employer/carrier selection for a limited period, with the employee having the right to change at the end of the period.

5. Employee selection from a panel selected by the employer/carrier.

6 Employer/carrier or employee selection from a panel designated by the Board. This typically involves initial inclusion of all practitioners in the state, with removal from the panel by the Board for cause.

SECOND INJURY FUND

The sole purpose of a second injury fund is to encourage the employment of physically impaired persons, or perhaps more accurately, to minimize the disincentives to their employment. A simple example will clearly explain the theory behind the operation of second injury funds. If an employer hires a worker with no physical impairment, who then loses an eye in a compensable accident, the compensation payable in Alaska for that loss will be for a period of 140 weeks. However, if that individual had suffered the loss of one eye prior to employment, the result of loss of the remaining eye would be permanent total disability, with benefit payments continuing for life rather than 140 weeks. In order to eliminate this financial disincentive to hiring, the Second Injury Fund, as it is used in Alaska, would pay all compensation payments subsequent to the first 104 weeks of disability.

Unfortunately, attempts have been made, sometimes successfully, to use funds as tools to reduce an employer/carrier's liability after the fact, when the preexisting impairment was questionable, or the employer's knowledge of its existence doubtful. This type of improper fund use typically leads to stringent controls which in turn lead employers to question whether the fund will work in their favor even when they act properly. In the face of such uncertainty, it is doubtful that even the best intentioned employer will rely on a fund and consider its benefits when contemplating the hiring of a physically impaired worker. Alaska has suffered from this syndrome and now appears to be in the phase which makes it more difficult to obtain reimbursement from its Second Injury Fund.

If the Second Injury Fund is to serve its purpose, two elements must exist. First, benefits from the Fund must flow only to those employers who hire or retain in employment individuals with significant permanent impairments which would otherwise be an obstacle to employment. Secondly, employers must at the time of hiring be as secure as possible in the knowledge that should an injury occur they will be financially protected by the Fund. Presently, uncertainty exists in Alaska as to both elements, and as a result there is considerable doubt as to whether the existence of the Fund provides much incentive for hiring physically impaired workers.

A relatively simple change in procedure may provide the certainty needed in both areas to make the Fund an effective tool. In order to establish knowledge of the impairment at the time of hiring, the employer of a permanently impaired worker could be required to file a simple form with the Fund, settling that question without a doubt, and precluding "after the fact" attempts to prove the requisite knowledge at the time of hiring. To simplify the filing process, each individual who sustained a permanent impairment in a compensable accident could, when ready to reenter the job market, be given a simple two-part form to present to prospective employers. The form would educate the employer as to the protection offered him by the Fund and would also provide the documentation of employment to be forwarded to the Fund. In such cases the employer would be guaranteed the protection of the Fund, should a subsequent injury occur, and would thus be given the incentive to hire. If necessary, a similar mechanism could be used to provide documentation for employees whose injuries would qualify them for Fund protection in the future but were not the result of a compensable accident.

AVERAGE WEEKLY WAGE

For a number of reasons related primarily to the pipeline, Alaska uses a method of computing average weekly wage which is different than those used in the other 49 states. In determining average weekly wage, and in turn the weekly benefit, the injured employee is permitted to pick the calendar year out of the three calendar years immediately preceding the injury in which total wages were the highest, and then divide by 52 to arrive at an average weekly wage. In some cases, this can result in unfairness to one side or the other. For example, an employer with an injured worker may find himself paying weekly benefits in excess of actual wages because of a high paying job with another employer three years prior to the accident. Similarly, an employee with a new but permanent high paying job may find his weekly benefit a small fraction of wages being earned at the time of injury, because of low earnings in the prior three years. Even for those with consistent annual earnings the rule can work a hardship. For example, a worker in extremely seasonal employment who earns a substantial income while working half the year, and nothing the remainder of the year, will have his earnings based upon a 52 week average. If he is injured and is totally disabled during a portion of the season his actual income loss will be twice as high as the average weekly wage on which the benefit is based.

Due to the impact of seasonality, no solution which is even remotely equitable for all concerned can be found unless the various segments of the benefit system, such as temporary total disability and permanent partial disability, are dealt with separately. Therefore, most of the average weekly wage question will be dealt with in those sections of the report which deal with benefits.

There is one aspect of average weekly wage which can be considered independently of benefits. That is, what elements of remuneration should be considered in determining the amount of pre-injury earnings. In Alaska the major concerns in this category are room and board, and fringe benefits. Conceptually, room and board are to be considered as part of average weekly wage only to the extent that they reduce the amount an employee would have expended for these items if he was not working. For example, with regard to room, if an employee is away from home for a few days, and the employer provides living facilities, there is no reason for the value of the facility to be included in average weekly wage computations. This is because the employee was still paying for his own home or rental while away, and did not experience an increase in net income because of the employer's payments. In the case of the worker who may be at a remote site for many months, and live in a facility provided by the employer, resolution of the question is not so simple. Theoretically, the value of living facilities should be included in the wage calculation only if the employee does not maintain another residence while at the remote site, since if he continued to make mortgage or rent payments at home, there would be no net economic benefit derived from living at the employer's facility. Whether a dual system of this type is acceptable, with employees being treated somewhat differently based upon their living arrangements at home, is a matter that is of purely legislative concern, with each of the alternatives somewhat arbitrary in its application.

The question of board is much easier to deal with, at least as to the initial determination as to whether it should be included in the weekly wage at all. Since a meal provided by the employer means a meal that the employee does not have to pay for, the provision of board will always result in a net economic benefit to the employee, and thereby justifies its inclusion in the wage computation. The value of the meal, as well as the value of living facilities, is another matter.

If it is an accurate assumption that room and board cost more to provide on the North Slope than in Anchorage, the valuation of these items presents a real question. Once again on a conceptual basis, the value to the employee is not what it costs the employer to provide room and board, but rather the amount of net economic to the employee. This requires valuation on the basis of how much would have been spent for these items had the employee remained at home. Obviously theory is of little help in this instance, since applying as esoteric an economic theory as this would create an administrative nightmare. Unless the legislature is willing to leave the question of valuation to contractual agreement or litigation on a case by case basis, legislative action is required. The most efficient mechanism may be to give the Board rule making authority to establish room and board values on a statewide or regional basis, to be included in the average weekly wage computation in appropriate cases. This authority provides a great deal of flexibility, in that changes in economic conditions can be quickly reflected in the rules, and adjustments made without the need for additional legislative or court action.

A much more difficult question is how to treat fringe benefits such as hospitalization insurance and employer-funded pension plans. At the present time, almost by practice rather than case decision, these items are not included in the computation of average weekly wage in Alaska. This occurs despite the fact that a reasonable argument can be made for the proposition that the statute is broad enough to permit their inclusion. The issue is of more than academic interest. If at some point a court holds that fringe benefits must be included in the wage computation, many open cases from past years will be entitled to have the weekly benefit increased retroactively, which would result in an enormous economic impact on employers and carriers. This is in addition to the financial impact such a ruling would have on new cases, particularly in view of the high level of fringes in some employments.

From the standpoint of the worker, fringes which are not continued after injury represent an economic loss, and therefore, a basis exists for the inclusion of their value in weekly wage computation. From the standpoint of the compensation system, their inclusion creates administrative problems (which are not entirely insurmountable) and more importantly would provide most workers with weekly compensation benefits substantially in excess of their take home pay, a situation which may be considered something less than optimum in view of the disincentives which it creates. The arguments on both sides are endless, and if the legislature decides to deal with this question it will hear each and every one. Suffice it to say that virtually every other state has avoided including this type of fringe benefit in the wage computation, except on an isolated basis, and Alaska has managed to operate its compensation system without their inclusion. Unless the state is willing to take on the economic and social problems which would be created by fringe benefit inclusion, the legislature should act to clarify the law and avoid the potential for court decision.

TEMPORARY TOTAL DISABILITY

The purpose of temporary total disability benefits is quite simple. They are intended to replace lost income during the time that the injured worker is recovering and unable to return to work. In most states this is also the easiest type of loss to deal with, by simply replacing a portion of the income lost during the period of total disability, with duration measured primarily from a medical standpoint. However, the impact of seasonality on a substantial portion of the Alaska work force creates a situation which cannot be dealt with by traditional means. Therefore, the following analysis and proposed solution may very well be viewed as radical within the context of existing workers' compensation systems. It may also be the only way to establish equity for those receiving and those paying temporary total disability benefits in Alaska.

As previously discussed, the "best of three" method for determining average weekly wage, and thereby temporary total disability benefits, creates problems for all concerned. If one accepts the proposition that temporary total disability benefits are intended to replace lost income during the period of recovery, then the wage basis used to compute these benefits must reflect the income which would have been earned during this period, rather than the level of income earned three years previously. This can be accomplished more accurately by applying the traditional average weekly wage formula used in a significant number of states. The period of comparision, rather than one of the preceding three years, would be the 13 weeks immediately prior to the injury. If the injured employee was not employed for substantially the whole of 13 weeks, the wages of a similar employee who was so employed are used, and if no similar worker is available, then the average weekly wage would be based upon the contemplated full-time wages of the injured worker. Since workers in seasonal employment tend to be highly paid, use of this mechanism may also require an increase in the maximum weekly benefit, so that the higher paid worker is not deprived of adequate income replacement due to the application of an inappropriate weekly maximum.

Of course there is another side to the coin. For the seasonal worker, this level of income replacement is only proper during the period of time that income would actually have been earned. To take the extreme case, is it correct to provide temporary total disability benefits when the injury occurs on the last day of the job, and recovery takes place during a period of time when the employee would have been receiving unemployment benefits? If the answer is no, then temporary total disability benefits in Alaska should be more closely matched to periods of gainful employment, rather than merely relying on the employee's physical condition, with unemployment benefits replacing workers' compensation benefits during what normally would be a period of unemployment. Obviously this method creates new opportunities for litigation, which may make it unacceptable. The only way to determine if the cure is worth the price is through an open discussion involving those primarily concerned, employees and employers. The answer depends upon the extent to which employees are currently being deprived of proper benefits due to the operation of the existing law, the extent to which employers are currently paying what may be considered excessive benefits during periods of seasonal unemployment, and the difficulties which will have to be overcome if "income matching" is to be accomplished in a significant number of cases.

PERMANENT PARTIAL DISABILITY

In every workers' compensation system the most expensive element, and the most controversial, is that of permanent partial disability benefits. Much can and has been written about the history, development and philosophy of permanent partial disability benefits, and some of it is quite interesting. However, what is necessary at this time is simply an understanding of the various benefit alternatives available for compensating permanent partial disability, a philosophical decision as to the reasons for which Alaska wishes to provide such benefits and, based upon that decision, the development of a mechanism and formula to distribute those benefits appropriately.

Permanent partial disability results when an individual is injured and having recovered to the greatest extent possible is left with a physical problem which did not exist prior to injury. If the condition is severe enough to totally destroy the individual's ability to obtain and retain gainful employment, the result is classified as permanent total disability. What we are concerned with here is that class of cases in which a permanent physical problem exists, but the ability to earn has not been totally destroyed. At this point there are three basic criteria which can be used to determine who is to receive permanent partial disability benefits, and in what amount.

The first theory is based upon permanent physical impairment, and is often referred to as the "whole man theory." Pursuant to this theory, the amount of benefits payable for permanency is determined on the basis of the degree of permanent physical impairment suffered, a purely medical determination, without reference to its effect upon the individual's life, employment or economic status. Assuming equal average weekly wages, a lawyer and a machinist who both suffered equally serious hand injuries would receive the same amount of money for their injuries, despite the probable difference in economic impact.

The second theory deals with loss of wage earning capacity, which takes into consideration not only the degree of physical injury, but also its probable impact on the ability of the individual to earn a living. This requires that in the event of a dispute, the fact finder must predict, usually quite soon after release from active medical care, what effect the injury will have on the individual's ability to compete in the open labor market. The test does not require any economic loss to occur and in fact, because the concern is with loss of capacity, a substantial award for partial loss of that capacity is in no way inconsistent with a factual situation in which the employee remains with the same employer and on the same job track until normal retirement, with no economic loss resulting from the injury. Typically, if this prediction, which usually takes the form of an award, proves wrong, nothing can be done to modify it in the absence of a change in the employee's actual physical condition.

The final alternative for paying permanent partial disability benefits is what is commonly known as the "wage loss" method. This system involves paying benefits based solely upon actual loss of income resulting from the effects of an injury, with the amount of the loss determined as it actually occurs, rather than on a "prediction" basis as would take place under the earning capacity loss theory described above.

Alaska follows a pattern used in well over half the states, with a few unique twists, starting with a combination of the impairment theory and the earning capacity loss theory. If a permanent injury is limited to any of the extremi-

ties (fingers, toes, hand, leg, etc.) or the eye or hearing, the amount of the benefit paid is based solely upon the physical impairment sustained, which in turn is based almost solely upon medical evaluation of the loss. The actual benefit calculation is accomplished by first determining the workers' weekly benefit rate, which is 66 2/3% of his average weekly wage, subject to a maximum of $942 per week. Sec. 23.30.190 of the Act is then consulted, which contains a schedule indicating the weeks of benefits, at the rate just described, for total loss or total loss of use of the particular bodily member involved. For example, total loss of an arm results in benefits being paid for 280 weeks, at the individual's weekly benefit rate. If the loss is less than total, the worker is paid benefits for the proportionate number of weeks. For example, a 50% loss of use of the arm would result in benefits paid for 50% of 280 weeks or 140 weeks. This method of benefit computation, known as "the schedule", is used to one extent or another in most states in the manner just described, but Alaska has complicated the picture to some extent by adding another limitation, that of a maximum dollar amount. For example, while the loss of an arm is theoretically 280 weeks of compensation, it is also subject to a dollar maximum of $43,680.00. This means that anyone whose weekly benefit is in excess of $156 (over 75% of injured Alaskan workers) will not receive the full 280 weeks provided initially by the statute. In fact, the average injured worker will only receive 136.5 weeks of compensation for total loss or loss of use of an arm. The same result holds true, within a few dollars and a few percentage points, for all of the other injuries covered by the schedule.

For those injuries not covered by the schedule, primarily back and head injuries, the benefit is based upon loss of wage-earning capacity, which is determined by computing the difference between earning capacity prior to injury and after injury, and replacing 66 2/3% of the difference, on a weekly basis. Theoretically these benefits are payable for life, but in reality are subject to a maximum dollar amount of $60,000.00. Although, as previously mentioned, earning capacity loss does not require actual loss of earnings, the Alaska statute does require that determination of the amount of loss in the first instance be accomplished by considering actual post injury earnings, but if actual earnings are found not to "fairly and reasonably" represent earning capacity, other factors can be considered, and an award made which is at variance with the actual economic loss sustained. Application of this "adjustment factor" varies from time to time, primarily due to changes in the philosophy of the Board, which must determine the degree of loss in contested cases. At the present time, the Board appears to place heavy reliance on actual earnings, and in many instances applies the law in a manner approaching that of a wage loss system, with benefits determined on a weekly basis as actual loss of income occurs.

Each of these methods contains a number of flaws, in both the amount of benefits which may be paid to an individual worker, and in the problems inherent in determining the amount to be paid. From the standpoint of getting the money to the people who need it, the impairment method is the weakest of the three. Historically, workers' compensation has placed major emphasis on paying benefits to replace economic loss, and since the schedule or impairment method does not consider economic loss at all, it misses the mark in most cases. Its primary justification is ease of application, since there is supposedly very little to argue about when determining the extent of physical impairment. However, it has been found that it is relatively easy to locate doctors who will be 20 to 30 percentage points apart when evaluating the same injury, and as a result use of a schedule does not guarantee an absence of litigation.

It is possible to minimize these shortcomings in two ways. First, if guidelines are adopted for the determination of the extent of impairment, such as those published by the American Medical Association, it is relatively easy to avoid significant disagreement among medical experts. Secondly, some degree of economic reality can be incorporated in the schedule as is done in California, by modifying the weeks to be paid in a number of ways. On the assumption that the economic impact of an injury increases geometrically, rather than proportionately as severity increases, the schedule can be "stepped" so that one week of benefits may be payable for each of the first 10 points of impairment (1-10% impairment), two weeks paid for each of the next 10 points, three weeks for each of the next 10, and so on. In this manner an individual with a 10% loss of use of the arm would receive 10 weeks of compensation and someone with a 20% loss would receive 30 weeks, reflecting an assumption, of limited validity, that the economic impact of a 20% loss is more than twice as severe as that from a 10% loss.

The weeks payable can also be modified to take into consideration other factors such as age, type of occupation (physical vs. sedentary), and amount of education, with a percentage increase or decrease in the rating depending upon the answers given to relevant questions contained in a rating formula. Obviously this significantly increases the liklihood of litigation, so that a price is paid for attempting to make the schedule more economically realistic.

Use of a schedule basis raises an interesting question as to the development of average weekly wage, particularly if an unmodified schedule based totally on physical impairment is used. Since economic impact is being ignored, there is no reason to tie the amount of benefit to average weekly wage. The fact that one worker makes more than another does not mean that his arm is also "worth" more, and in fact the opposite may be true. As a result, if an impairment schedule is used, the amount of benefits to be paid can be established legislatively as a specific dollar amount for each loss, to be paid in every case regardless of the individual's earnings.

Application of an earning capacity loss system also presents a number of problems, primarily on the operational side. From a philosophical standpoint, it more closely follows the basic workers' compensation premise of dealing with economic loss, although as previously described it is entirely possible to pay benefits for loss of capacity in cases in which no actual economic loss ever occurs. In fact, the few studies which have been undertaken tend to show that only a minority of cases demonstrated significant economic loss several years after injury, although in most of those cases the loss was significant.

Another finding from these studies demonstrates a more serious problem with earning capacity loss systems. For most of the cases with significant losses, the compensation paid was totally inadequate to deal with the economic loss incurred, while in the remaining cases the amount of compensation paid was far in excess of the loss. This resulted primarily from the fact that the award must by its very nature be a prediction, and an estimate, a task which is probably beyond the ability of mere mortals. There are simply too many variables determining the effect an injury may have on a given individual, and attempts to make the award fit the case are something less than accurate. Also inherent in this uncertainty is the need for lawyers and litigation in order to arrive at a "correct" decision. Since a determination of loss of earning capacity is strictly a judgment call, a claimant would be foolish to simply accept a determination made by the employer/carrier, and would be equally foolish to go before the Board without an attorney to present his case. Unfortunately there is little that can be done to eliminate these problems without virtually switching to another benefit system.

For purposes of determining loss of earning capacity, the computation of average weekly wage should simply reflect a realistic and established preinjury earning capacity. Since in this type of system we are not concerned with matching benefit payments with actual loss of income, it is possible and preferable to base the wage on average earnings for a recent but extended period of time, such as the previous twelve months. Given a willingness to accept the opportunity for additional litigation, the Board could be given the authority to modify the figure arrived at in this manner, if it can be established that because of extraordinary circumstances the figure is significantly high or low.

The third and final alternative is a wage loss system. In its purest form, it provides benefits only in the event of actual loss of income attributable to the injury. This immediately raises a question as to its fairness, since in the extreme case an individual who suffered a loss of limb but was able to return to full employment would receive nothing in the way of benefits for his injury. While this may not be inconsistent with historical workers' compensation philosophy, it does leave a great deal to be desired when applied in real life. This problem can be cured by paying an impairment award, preferably limited to serious injuries, regardless of any wage loss benefits which may also be due.

Another problem may result from comparing preinjury wages with inflated postinjury wages, an obvious inequity. This can be limited to a great extent by adjusting the comparison to take into consideration the change in wage rates through time, although given the experience under the Longshore Act, it is questionable whether an unlimited adjustment would be acceptable.

For Alaska, use of a wage loss system would raise two very significant questions. First, a wage loss system can only be successful, from a cost standpoint, if the great majority of workers can be returned to jobs which pay the same or almost the same as those held at the time of injury. If the frequently heard statement that "there is no light duty in Alaska" is true, adoption of a wage loss system would be an economic disaster. Similarly, if union rules are so strict that a worker with a permanent injury cannot be given preferential treatment in obtaining work within his capabilities, the ability to return people to gainful employment would be greatly reduced, and the benefits of a wage loss system eliminated.

Secondly, serious consideration must be given to the system's ability to determine when an income loss is "due to the injury" rather than some other factor, such as the end of the season. As in the case of temporary total disability, use of a wage loss system depends on matching benefit payments with actual economic loss, so that factors such as end of season, a return to a state with lower wage levels, and an individual's desire to reduce his workweek must all be taken into consideration in determining wage loss. If this cannot be accomplished with a fair degree of accuracy, the system would be a total disaster.

While research is continuing in an attempt to determine the ability of Alaska employers to return injured individuals to the workplace, in the final analysis a decision on these potential problems can only be reached by joint labor/management discussions. It is doubtful that anyone else can or should determine whether this type of system can be used effectively in Alaska and without their concurrence an attempt to implement a wage loss system would probably result in economic disaster.

If a wage loss system is adopted, the computation of average weekly wage would closely follow that recommended for temporary total disability. The wage base should reflect the weekly wages actually earned during the period of employment, whether it be six months or a year, so that the comparison of pre- and post-injury wages will reflect the actual loss incurred. Therefore, a 13 week average, or something in that range, would be appropriate, with the safeguards described in the temporary total disability section.

PERMANENT TOTAL DISABILITY

Statistically, permanent total disability benefits do not constitute a significant proportion of the overall cost of workers' compensation in Alaska, although the state does rank sixth nationally in frequency of permanent total cases. This does not mean that permanent total disability does not significantly impact on the compensation system. Its importance is hidden to a great extent, because its effects are felt in the area of permanent partial disability benefits. This is due to the threat of a case becoming a permanent total, with lifetime benefits and no dollar maximum, which results in cases being settled at levels approaching their maximum permanent partial disability value, $60,000.00, instead of being litigated, and possibly resulting in a finding of total disability.

As mentioned previously, permanent total disability occurs in those circumstances in which the injury is so severe as to totally destroy, for all practical purposes, the ability of an injured worker to obtain anything other than intermittent and financially insignificant employment. In cases in which the physical injury is severe, there is usually no question as to the individual's entitlement to total disability benefits. However, of concern to the Alaska compensation system is the worker who retains relatively substantial physical abilities, but claims to be or is actually unable to work because of the limited job opportunities in the area. For example, should an injured worker who cannot find employment in Eagle, where he lives, have his workers' compensation status determined on the basis of Eagle alone, or should the availability of suitable employment in other parts of the state be considered? And if there is no suitable employment in Alaska for someone injured shortly after moving to the state, or who has indicated in some manner that working in Alaska is temporary rather than permanent, should employment opportunities in the lower 48 be considered? Again there is no correct answer, only issues that are appropriate for legislative decision on a policy basis.

At the present time the statutory provision dealing with permanent total disability, Sec. 23.30.180, provides virtually no indication of the factors to be considered in determining total disability status. This is left to the courts, and results in a great deal of uncertainty as to the possible outcome of individual cases. Although no statute can eliminate the potential for court involvement, the legislature can create a great deal more certainty by enacting amendments to Sec. 23.30.180 which provide clear policy guidelines to those who must apply the law.

HOUSE LABOR AND COMMERCE COMMITTEE

FINAL INTERIM REPORT

December 17, 1981

The House Labor and Commerce Committee has completed its interim work. Most of the Committee's priority legislation is being drafted or redrafted and will be ready for further consideration early in the second session of the 12th Alaska Legislature.

Public participation during hearings in Anchorage and Fairbanks was excellent, particularly with regard to the Committee's three primarly areas of concern -- workers' compensation, statewide telecommunications and government permits.

Additionally, Chairman Terry Martin has reviewed some 30 pieces of legislation lodged in the Committee but which were not addressed in any detail during the interim. Chairman Martin is organizing these bills and resolutions by priority so they can be expedited early next session.

A status report of interim activities is as follows:

WORKERS' COMPENSATION

Tom Sofo of the legislative legal services arm currently is preparing the final redraft of House Bill 159 dealing with revision of state workers' compensation law.

The redraft will be ready for further Committee consideration early next session.

As the Committee's top priority during the interim, much time has been spent collecting public testimony from various concerns in an effort to reach consensus on resolving this lingering problem. The Committee has explored a multitude of proposals to reduce the escalating premium rates.

While the final interim bill will address various broad concerns of the Committee, specifics regarding insurance rates and self-insurance programs will be incorporated in a separate bill shortly after the start of the second session.

The Committee feels it must await results of an in-depth study being conducted by John Lewis of Florida, a workers' compensation expert on contract with the state Division of Workers' Compensation. Mr. Lewis's findings are necessary before revision of the complicated rate structure can be addressed in any detail.

However, the final interim redraft of House Bill 159 attempts to adjust the law in ways the Committee feels will help reduce the extremely high insurance premiums Alaska businesses pay out for workers' compensation.

For one, a significant reduction in premium rates can be assured through immediate response to the needs of employees injured on the job, so that these injured workers can be returned to the labor force in the shortest period of time.

This objective can be attained, in part, by requiring injured workers expected to be on workers compensation more than 90 days to be referred to rehabilitation or pain clinics within 30 days of injury. Public testimony from experts in the field reported that months and even years pass before an injured worker is referred to a clinic. Obviously, the quicker an injured worker is rehabilitated, the quicker he can be returned to the work force. This means less compensation is paid out which, in effect, would affect the rate structure.

In regard to workers' compensation-job training and placement programs, the cost, in many cases, should be borne by the appropriate agencies such as CETA, WIN, or other government sponsored groups directly responsible for an

employee injured while on the job.

Higher educational career training, skill centers and other post secondary educational opportunities such as college should be funded through a special state grant program.

It must be emphasized that retraining costs, when figured into insurance premiums borne by the employer, is ultimately passed on to the consumer. It is the consumer who picks up the tab for the increased cost of goods and services.

Following a recent meeting with the state Workers' Compensation Board, the Committee feels the Board must be given more authority in making final determination of workers' compensation cases, in order to avoid long and costly legal fights -- all of which is reflected in the rate structure.

A goal of six months from the time of injury to settlement will result in almost no need for expensive attorney and court fees. It is felt that a decrease of 50 percent in the time spent on litigation of cases could be attained if the law were more clear on the Board's authority. The Committee feels that the Board -- comprised of lay experts in the field --deals fairly with claimants and injured workers and give them every opportunity to air their grievances.

The Committee also feels that workers' compensation premiums could be further reduced in cases where an injured worker carries health insurance, or other insurance policies that cover personal injury.

The redraft of House Bill 159 also addresses the need to tighten up the so-called "Bunkhouse Rule," which essentially holds an employer responsible for an employee's safety when he is working more than 25 miles from his home.

While the Committee recognizes the right of workers to be protected when away from home, particularly in Alaska's remote regions, it also finds abuses in the system, especially during leisure-time activities and accidents caused by intoxication.

The Committee is of the opinion that an intoxicated or drugged worker who is injured is responsible for his actions and should not be entitled to collect workers' compensation benefits. Likewise, workers who become ill or contract social diseases due to intimate sexual activities away from home should not become the responsibility of the employer.

Likewise, if a worker is injured while racing motorcycles or playing sports during his leisure hours, it is highly questionable whether the employer should be responsible for his injury, particularly when other insurance programs carried by the worker may cover the injury.

The Committee also desires a clear and concise definition of the terms "benefit" and "compensation" as they appear in House Bill 159. In either case, the term should relate only to a worker's take-home pay and medical treatment. Workers' compensation was never meant to be an open-ended benefit system. The terms "compensation" and "benefit" appear so regularly throughout House Bill 159 that anything less than a concise definition will lead to misunderstanding and confusion.

GOVERNMENT PERMITS

The Committee has placed the redraft of Senate Bill 84 on hold until the beginning of the second session.

Testimony collected during the interim shows conclusively a real need for streamlining the government permitting process. However, it is equally clear that opinion on how to accomplish this goal varies widely.

On the one hand, the Alaska Oil and Gas Association (AOGA) and its membership believes Senate Bill 84 (Second Rules) does not go far enough in facilitating

the procedure for gas and oil permits. The association would like a stronger "lead agency" clause in Senate Bill 84 and a softening of language in the bill that guarantees "any individual, irrespective of his 'standing'otherwise granted under the law, to appeal a permitting decision, and further delay resolution of the application," according to the association.

On the other hand, environmental groups -- particularly Trustees for Alaska -- feel Senate Bill 84 and proposed administrative regulations do not adequately protect local community interest in the permitting procedure.

In the middle is the state Department of Law which, under direction of the Governor, has drafted new regulations governing classification of permits -- the reported purpose being to streamline the system.

Although the Committee feels there is strong support in both the House and Senate to clean up the system, it doesn't want to work hard to pass legislation only to have it vetoed by the Governor. This is why the Committee believes participation by the administration in this legislation is vital.

The Governor's chief executive, Jerry Reinwand, feels legislative participation in this issue is important and has reportedly held up implementing regulations until after the negotiation process. That process is underway, and hopefully an accord can be reached prior to the session.

STATEWIDE TELECOMMUNICATIONS

Legal services is currently drafting a House Concurrent Resolution that will spell out what the Committee feels should be the legislative policy regarding statewide telecommunications. The resolution will be sponsored by the House Labor and Commerce Committee.

The resolution is being drafted along the following lines:

-- Whereas a significant and increasing amount of public funds is being invested in telecommunications systems; and

-- Whereas it should be the role of state government to encourage and not compete with the private sector; and

-- Whereas the private sector which deals in Alaska telecommunications faces a crowding out by government in the wake of increasing state wealth; and

-- Whereas the private sector has been the foundation and vitality of the American Democratic and economic system; and

-- Whereas the Alaska State Legislature lacks a policy regarding the burgeoning telecommunications system;

Be it resolved that the Alaska State Legislature should take the following into account to serve as guidelines when considering telecommunications appropriations:

-- When and where possible, the state Divisions of Telecommunications should procure services from private enterprise or certified and franchised utilities and contract for the construction, management, operation and maintenance of telecommunications systems.

-- When and where possible, the state Divisions of Telecommunications should reduce or eliminate airwave interference of state owned or f[illegible]ced stations with privately owned and operated cable television stations.

-- Artificial regulatory and government barriers for growth and development of new and innovative services by the private sector should be removed.

-- In-state programming or Bush programming can be beneficial to sectors of the Alaskan community. However, the Divisions of Telecommunications should not only assure that such programs are cost effective, but production of these

programs should be available to the private sector on a contract or bid basis.

-- Alaska's villages should have the opportunity to own, operate and maintain their own satellite earth stations.

-- Companies owned and operated by Alaska residents and based in Alaska should be given a competitive edge over Outside interests.

-- No commercial advertisements shall be carried in state funded or state subsidized programs or in programs transmitted by state funded or state subsidized satellite channels.

-- The Legislature should encourage commercial radio and television news coverage of the legislative sessions by making equipment, space and satellite time available to the private sector. This would serve as a meaningful and efficient and non-controversial method of communicating legislative affairs to the public.

ARCHITECTURAL AND ENGINEERING SERVICES

House Bill 612, which relates to contracts for architectural, engineering and surveying services, has been redrafted and is ready for further Committee consideration upon convening of the legislative session.

House Bill 612 clarifies the conditions under which a state contract for professional services can be awarded. It requires the state and other subdivisions of the state to determine whether a bidding firm is "capable and qualified" to do the work, rather than issuing a contract strictly based on the lowest bid. A person who provides such professional services may annually submit to the department a statement of qualifications and performance data.

House Bill 600, which lays out contractual liability of architects, engineers, surveyors and the state of Alaska, is currently in a holding pattern until an equitable formula for liability can be worked out. A final redraft of House Bill 600 is expected prior to the beginning of the session.

COMPULSORY AUTOMOBILE INSURANCE

The Committee recommends the sponsors of House Bill 346 pursue other avenues to increase the number of insured drivers.

House Bill 346 has received little support during hearings held in Anchorage and Fairbanks during the interim.

It is generally felt that compulsory automobile insurance will not attain its primary goal -- to increase the number of insured drivers in Alaska. In fact, it is counter productive in that it is thought to be unenforceable and actually may result in higher insurance rates for the already insured driver. This is because the high risk factor of those who are generally uninsured under the current situation would be spread among drivers who already are insured.

The Committee understands that sponsors of the bill are currently exploring other alternatives including stronger state financial responsibility laws.

Cliff Gorge

M Gregg Baum
Parker's OP
apr - Mendenhall

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 27, 1982
1:36 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph

Members Absent: Rep. Rogers
Rep. Gardiner

COMMITTEE CALENDAR

HB 159 — An Act relating to workers' compensation; and providing for an effective date.

WITNESS REGISTER

Ed Holden
North American Rehabilitation
100 E 46th
New York, New York
Position Statement: Presented film regarding rehabilitation.

Zee Jackson
Rehabilitation Consultant
PO Box 3130
Anchorage, Alaska 99510
264-2460
Position Statement: Summary of presentation (1/26) of her study.

John Lewis
Workers Compensation Consultant
PO Box 330550
Miami, Florida 33133
(305) 443-8111
Position Statement: Presented interim report on Alaska Workers Compensation System.

PREVIOUS ACTION

HB 159 — No previous action. No action taken this date.

Statutory Reference: AS 18.80; AS 23.30.

ACTION NARRATIVE

Tape #006

Recording
Number 0081

The meeting was called to order by Chairman Martin at 1:36 p.m. Members present were Representatives Martin, Bylsma, and Randolph. Members absent were Representatives Gardiner and Rogers. This meeting was a joint meeting with the Senate Labor & Commerce Committee. Senate Committee members present were: Senators Fahrenkamp, Mulcahy, and Ziegler. Rep. Martin outlined the meeting.

Number 0109

Ed Holden, of North American Rehabilitation, New York, spoke about a man who became paraplegic and then decided to make a film about rehabilitating disabled people. Holden gave an introduction to the film, and then showed it to the committee. The film was about dealing with a disability. A bookle. that accompanied the film is available from the House Labor & Commerce Committee.

Number 0546

Zee Jackson, Rehabilitation Consultant, Anchorage, gave a summary of her previous day's presentation. She outlined problems with the system, and recommendations for correcting those problems.

Number 0587

John Lewis, Worker. Compensation Consultant, Miami, Florida, presented a report the defines critical areas. Lewis said Alaska must look at problems, decide philosophy, determine feasibility, and construct legislation. He said philosophy is an integral part of workers compensation, and that the legislature must determine the state's philosophy.

Number 0645

Lewis spoke about the "bunkhouse rule", which is the court's test of whether an injury is job-related. He said courts have decided that, if people are forced to live away from home at a remote site, broader concepts apply. Lewis said Alaska has the broadest rules of any state. He went over factors the legislature should consider regarding the bunkhouse rule.

Number 0732

Lewis said options are: 1) to limit compensable injuries to working hours; 2) to limit compensable injuries to on the premises; 3) to limit compensable injuries to working hours and the special hazards of

remote living; and, 4) to limit compensable injuries to everything except those injuries resulting from personal activities.

Number 0780

Lewis went over problems regarding medical benefits. He gave the pros and cons of various methods of doctor selection, and stated that alternatives are: 1) employee selection; 2) employer selection; 3) employer selects doctor; after 10 days, employee can switch; 4) employee selects doctor; after 10 days, employer can switch; 5) permit employer to pick from a panel of doctors selected by the insurer; and 6) Board establishes panel for workers compensation cases in Alaska and retains authority to remove people from the panel.

Number 0823

Lewis said the Second Injury Fund was set up to provide employers incentive (and to avoid disincentives) to hire physically impaired people. He said the fund is sometimes abused and reimbursement becomes more difficult. He felt guidelines need to be established to ensure that employers hired employees with knowledge of the employee's impairment, and to convince the employers that they are protected from a workers compensation claim by the employee with a method such as giving the employer a form certifying the employee's impairment, and insuring protection from the fund.

Number 0870

Lewis then addressed average weekly wage. He said that, after the pipeline, this became higher in Alaska. Lewis said average weekly wage needs to be compared to the existing employment situation. Other concerns he noted were room and board value and fringe benefits. He recommended that the legislature clarify the law as to whether benefits are included in average weekly wage determination.

Number 0971

Lewis went over the various types of disabilities--temporary total disability, temporary partial disability, permanent partial disability, permanent total disability--and problems in determining the type of disability suffered by the injured employee. (See pages 9-15 of Lewis's report.)

Lewis recommended procedural changes to the

second injury fund. He requested feedback from the committee, employers, and carriers for use in further reports.

Number 1178

There being no further business to come before the committee, the meeting was adjourned at 3:14 p.m.

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 27, 1982
1:36 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph

Members Absent: Rep. Rogers
Rep. Gardiner

COMMITTEE CALENDAR

HB 159 An Act relating to workers' compensation; and providing for an effective date.

WITNESS REGISTER

Ed Holden
North American Rehabilitation
100 E 46th
New York, New York
Position Statement: Presented film regarding rehabilitation.

Zee Jackson
Rehabilitation Consultant
PO Box 3130
Anchorage, Alaska 99510
264-2460
Position Statement: Summary of presentation (1/26) of her study.

John Lewis
Workers Compensation Consultant
PO Box 330550
Miami, Florida 33133
(305) 443-8111
Position Statement: Presented interim report on Alaska Workers Compensation System.

PREVIOUS ACTION

HB 159 No previous action. No action taken this date.

Statutory Reference: AS 18.80; AS 23.30.

ACTION NARRATIVE

Tape #006

Recording
Number 0081

The meeting was called to order by Chairman Martin at 1:36 p.m. Members present were Representatives Martin, Bylsma, and Randolph. Members absent were Representatives Gardiner and Rogers. This meeting was a joint meeting with the Senate Labor & Commerce Committee. Senate Committee members present were: Senators Fahrenkamp, Mulcahy, and Ziegler. Rep. Martin outlined the meeting.

Number 0109

Ed Holden, of North American Rehabilitation, New York, spoke about a man who became paraplegic and then decided to make a film about rehabilitating disabled people. Holden gave an introduction to the film, and then showed it to the committee. The film was about dealing with a disability. A booklet that accompanied the film is available from the House Labor & Commerce Committee.

Number 0546

Zee Jackson, Rehabilitation Consultant, Anchorage, gave a summary of her previous day's presentation. She outlined problems with the system, and recommendations for correcting those problems.

Number 0587

John Lewis, Workers Compensation Consultant, Miami, Florida, presented a report the defines critical areas. Lewis said Alaska must look at problems, decide philosophy, determine feasibility, and construct legislation. He said philosophy is an integral part of workers compensation, and that the legislature must decermine the state's philosophy.

Number 0645

Lewis spoke about the "bunkhouse rule", which is the court's test of whether an injury is job-related. He said courts have decided that, if people are forced to live away from home at a remote site, broader concepts apply. Lewis said Alaska has the broadest rules of any state. He went over factors the legislature should consider regarding the bunkhouse rule.

Number 0732

Lewis said options are: 1) to limit compensable injuries to working hours; 2) to limit compensable injuries to on the premises; 3) to limit compensable injuries to working hours and the special hazards of

remote living; and, 4) to limit compensable injuries to everything except those injuries resulting from personal activities.

Number 0780

Lewis went over problems regarding medical benefits. He gave the pros and cons of various methods of doctor selection, and stated that alternatives are: 1) employee selection; 2) employer selection; 3) employer selects doctor; after 10 days, employee can switch; 4) employee selects doctor; after 10 days, employer can switch; 5) permit employer to pick from a panel of doctors selected by the insurer; and 6) Board establishes panel for workers compensation cases in Alaska and retains authority to remove people from the panel.

Number 0823

Lewis said the Second Injury Fund was set up to provide employers incentive (and to avoid disincentives) to hire physically impaired people. He said the fund is sometimes abused and reimbursement becomes more difficult. He felt guidelines need to be established to ensure that employers hired employees with knowledge of the employee's impairment, and to convince the employers that they are protected from a workers compensation claim by the employee with a method such as giving the employer a form certifying the employee's impairment, and insuring protection from the fund.

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Lewis then addressed average weekly wage. He said that, after the pipeline, this became higher in Alaska. Lewis said average weekly wage needs to be compared to the existing employment situation. Other concerns he noted were room and board value and fringe benefits. He recommended that the legislature clarify the law as to whether benefits are included in average weekly wage determination.

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Lewis went over the various types of disabilities--temporary total disability, temporary partial disability, permanent partial disability, permanent total disability--and problems in determining the type of disability suffered by the injured employee. (See pages 9-15 of Lewis's report.)

Lewis recommended procedural changes to the

second injury fund. He requested feedback from the committee, employers, and carriers for use in further reports.

Number 1178

There being no further business to come before the committee, the meeting was adjourned at 3:14 p.m.

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Jim Robison	Box 899 ANLH.	W/C DISTRICT COUNCIL OF LABORERS ALASKA STATE - AFL-CIO		276-1640
Pat Young	Box E Juneau	Voc Rehab	?	586-6500
Don Rouleau	Box 4-2653 Anch.	ASDCL		344-5464
DON KOCH	POUCH D JUNEAU 99811	DIV. OF INSURANCE	OBSERVE	4652577
Kenneth Moore	— —	Div of Insurance	observe	— —
J A McLEAN	Box 1774 —	Ins. Cos.	—	6-3210
ED HITE	201 DANNER, #155, ANCH 99502	D.A. COOK CO	NO	349-6733
Sean Kline	134 Franklin Juneau	A.I.C.	—	6-1741
Ed Holden	100 E 46TH N.Y. N.Y	NORTH AMER RE	—	
Jack Thompson	2214 Post Road, Anch 99501	WCCA		272 0536
William Reeves	3201 Spenard Road Anch 99503	AGC	NO	276 5359
[illegible]	P.O. BOX 3130	Consulting		
John Lewis	Box 330550, Miami Fl	—	Yes	305-443-9111
Jackie McClintock	P.O. Box 1147 Juneau	c/c Div. Dept. of Labor	NO	465-2790
[illegible]	P.O. Box 1147 Juneau	W/C Board Mem.	NO	465-2790
Jim Johnson	214 N. Franklin Juneau	Local 302	No	586-3525
Richard Currington	306 Willoughby Juneau	Local 252 Teamsters	N	586-3222
Mike Morgan	9170 Glacierwood	Div Voc Rehab	NO	586 6500
J. Paul House	P.O. Box 1149 Juneau	W/C Div. 2nd Injury Fund	NO	465-2791
Mike Thomas	Box 1211 Juneau	Am Insurance Assn	No	586 3346

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 1-27-82

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
JAN MAAS	419 6th - Rm 316	Dev Disabled Protection & Advocacy		
DAVID KETZNER	R+A LABOR POB 1149		NO	x 27891
MICHAEL THILL	Rm 119 CAPITAL	SENATE LABOR & COMMERCE AIDE	NO	
GEO KRUSE	B10 2nd Juneau	AK State Of C	NO	6-2327
PAUL TRAEN	5921 Sunset	Self	NO	~~6-2524~~
DENNIS DEWITT	319 SEWARD ST	ALASKA STATE HOSPITAL ASSOC	NO	61790
DWIGHT PERKINS	154 S. FRANKLIN RM 103	PLUMBERS & P. FITTERS L.U. 262	NO	6-2874
Cliff				

XX HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 1-27-82

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 1/27/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:28	
Rep. D. Randolph	✓		1:28	
Rep. B. Rogers				
Rep. T. Gardiner				
Rep. T. Martin, Chair	✓		1:25	

Subject Matter:

House Bill No. _____ _____ _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

1-28-82

HB 159

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 28, 1982
1:13 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

HB 159 An Act relating to workers' compensation; and providing for an effective date.

WITNESS REGISTER

William Reeves
Alaska General Contractors
3201 Spenard Road
Anchorage, Alaska
276-5354
Position Statement: Gave recommendations.

Jack Thompson
WCCA
2216 Post Road
Anchorage, Alaska 99501
272-0536
Position Statement: Gave recommendations.

Don Koch, Chief
Market Surveillance Section
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2577
Position Statement: Gave testimony; promised written recommendations.

Jim Robison
W/C District Council of Laborers
and State AFL-CIO
Box 899
Anchorage, Alaska
276-1640
Position Statement: Gave recommendations.

Barbara Grisson
Pacific Marine Insurance

6253 East 41st Ct.
Anchorage, Alaska
800-426-4115
Position Statement: Comments.

Paul Troeh
administrative law procedures specialist
5921 Sunset
Juneau, Alaska 99801
586-6856
Position Statement: Gave suggestions.

PREVIOUS ACTION

HB 159	No previous action. No action taken this date.

Statutory Reference: AS 17.80; AS 23.30.

ACTION NARRATIVE

Tape #006 Recording Number 1180	The meeting was called to order by Vice Chairman Bylsma. Members present were: Representatives Martin (arrived late), Bylsma, Randolph, and Rogers. Representative Gardiner was absent. The purpose of this meeting was to take testimony on HB 159.
Number 1195	William Reeves, Alaska General Contractors (AGC), Anchorage, said incentives are needed for injured employees to return to work, and for employers to rehire them. He went over disincentives. Reeves recommended: 1) go to percent of spendable income based on current wages; 2) do not include fringe benefits in wages; and, 3) Workers Compensation Board should be given authority to determine the value of room and board. He wanted to avoid unnecessary legislation. Reeves then went over the workdraft committee substitute section by section with recommendations.
Number 1420	Jack Thompson, WCCA and Alaska Conference of Employers, Anchorage, gave the committee a list of membership of both organizations he represents, and referred to the ACE report. Referring to John Lewis's report (presented 1/27), Thompson discussed the bunkhouse rule

definition in the workdraft committee substitute (p. 10, "in the course of employment"). He said employers are willing to meet litigation head-on. Thompson felt, regarding AS 23.30.095, that the Workers Compensation Board should be given more authority. He prefered that the employee be allowed to select a health care provider for a period of time, with the employer having the option to change providers after that time period. He recommended the ACE report remedy for average weekly wage, and their suggestions regarding permanent partial and permanent total disabilities. (A copy of the ACE report is available for review from the Committee.) Regarding the use of alcohol (see AS 23.30.235), Thompson recommended reinserting strong language, and again referred to the ACE report. He believes a mandated reduction in premiums should be made if workers compensation claims are reduced.

Number 1528

Don Koch, Chief, Market Surveillance Section, Division of Insurance, said pricing changes could complicate matters. He said forms are filed by a national council, not the insurer. He felt language should be changed to allow revoking and fining. He said he would present typewritten recommended changes to the committee at a later date.

Number 1589

Jim Robison, W/C District Council of Laborers and Alaska State AFL-CIO, Anchorage, felt the Division of Vocational Rehabilitation should have had the opportunity to give rebuttal testimony. He then went over the workdraft committee substitute for HB 159 section by section, giving his comments. Regarding the proposed amendments to the workdraft, Robison said he agreed with AGC that none of the amendments should be accepted. He commented on a letter distributed by Rep. Martin dated 1/25/82. Robison felt more effort on the part of the system would almost eliminate the need for attorneys. He commented on the bunkhouse rule and selection of doctors. Robison thought wages should include fringe benefits. He felt determination of degree of disability needs more study before being changed. There was discussion among the committee, Robison, Thompson, and Reeves.

Number 1762	Barbara Grisson, Pacific Marine Insurance, Anchorage, spoke to the second injury fund. She had no problem with percentages and amounts, but felt wording was needed for the Department to give procedural relief allowing minimum payment forgiveness to the Department of Labor until it is cost effective to process small checks. There was discussion of this point among Rep. Martin, Grisson, and McClintock (Division of Workers Compensation). Grisson, on behalf of her company, agreed that problems should be resolved by agencies concerned.
Number 1800	Paul Troeh, administrative law procedures specialist, Juneau, said that AS 23.30.225 repeal would repeal half of the social security offset procedure, which would then not meet federal requirements. He suggested the committee take other action. John Lewis interjected that it should be left alone until further information is available. Troeh said the courts tend to give broad coverage under the bunkhouse rule. He pointed out several discrepancies not addressed.
Tape 7, Number 0325	As there was no further business to come before the committee, the meeting was adjourned at 2:59 p.m.

Sofo ✓✓✓
January 25, 1982

Original sponsor: Rules/Legislative Council

IN THE HOUSE BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 159 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to workers' compensation; and providing for an effective date."

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

Sec 66 P 44

* Section 1. AS 18.80.220(a)(4) is amended to read:

(4) an employer, labor organization or employment agency to discharge, expel or otherwise discriminate against a person because he has

(A) opposed any practices forbidden under AS 18.80.200 - 18.80.280; [OR BECAUSE HE HAS]

(B) filed a complaint, testified or assisted in a proceeding under this chapter; or

(C) filed a claim for workers' compensation benefits under AS 23.30;

Sec 13 P 13

* Sec. 2. AS 23.30.025 is amended by adding a new subsection to read:

(c) An insurer may issue a policy of insurance insuring the payment of benefits under this chapter which provides for a deductible amount to be paid by the employer. A policy with a deductible provision must be approved by the director of insurance and must provide that the deductible amount be paid by the insurer to the employee on behalf of the employer. After payment of the deductible by the insurer, the insurer may recover the deductible amount from the employer. The failure of an employer to reimburse an insurer for the deductible amount does not relieve the insurer from any other obligation it may have under the policy of insurance. An insurer is not required to apply for a deviation

under AS 21.39.070 in order to issue a policy under this subsection. This subsection does not apply to a policy of excess insurance purchased by a self-insurer.

Sec 17 P17

* Sec. 3. AS 23.30.045(c) is amended to read:

(c) For a person eligible for vocational rehabilitation service under this chapter or AS 23.15.080 [AND] who is placed with an employer for service [WITHOUT WAGES] at the request of the board or the division [OFFICE] of vocational rehabilitation to give him on the job training, work readiness, [OR] work therapy experience [,] or work sampling, the liability set out in (a) of this section applies to the state rather than to the employer.

Sec 26 P 22

* Sec. 4. AS 23.30.080 is amended by adding a new subsection to read:

(d) If an employer fails to insure or provide security as required by AS 23.30.075, the board may issue a stop order prohibiting the use of employee labor by the employer until the employer insures or provides security as required by AS 23.30.075. If an employer fails to comply with a stop order issued under this section, the board shall assess a civil penalty of at least $1,000 per day. The employer may not obtain a public contract with the state or any of its political subdivisions for one year following the violation of the stop order.

Sec 30 P 23

* Sec. 5. AS 23.30.095(a) is amended to read:

(a) The employer shall furnish medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires [, NOT EXCEEDING TWO YEARS FROM AND AFTER THE DATE OF INJURY TO THE EMPLOYEE. HOWEVER, IF THE CONDITION REQUIRING THE TREATMENT, APPARATUS, OR MEDICINE IS A LATENT ONE, THE TWO-YEAR PERIOD RUNS FROM THE TIME THE EMPLOYEE HAS KNOWLEDGE OF THE NATURE OF HIS DISABILITY AND ITS RELATIONSHIP TO HIS EMPLOYMENT AND AFTER-DISABLEMENT.

IT SHALL BE ADDITIONALLY PROVIDED THAT, IF CONTINUED TREATMENT OR CARE OR BOTH BEYOND THE TWO-YEAR PERIOD IS INDICATED, THE INJURED EMPLOYEE HAS THE RIGHT OF REVIEW BY THE BOARD. THE BOARD MAY AUTHORIZE CONTINUED TREATMENT OR CARE OR BOTH AS THE PROCESS OF RECOVERY MAY REQUIRE]. When medical care is required, the injured employee may designate a health care provider [LICENSED PHYSICIAN] inside the state to render the care except in cases where, in the judgment of the board, care or treatment or both can best be administered by the selection of another health care provider [PHYSICIAN]. Upon procuring the services of a health care provider [PHYSICIAN], the injured employee shall give proper notification of his selection to the employer within a reasonable time after first being treated. [IF FOR ANY REASON DURING THE PERIOD WHEN MEDICAL CARE IS REQUIRED THE EMPLOYEE WISHES TO CHANGE TO ANOTHER PHYSICIAN, HE MAY DO SO IN ACCORDANCE WITH RULES PRESCRIBED BY THE BOARD.]

* Sec. 6. AS 23.30.095(b) is amended to read:

(b) If the employee is unable to designate a health care provider [PHYSICIAN] and the emergency nature of the injury requires immediate medical care, or if he does not desire to designate a health care provider [PHYSICIAN] and so advises the employer, the employer shall designate the health care provider [PHYSICIAN]. Designation under this subsection, however, does not prevent the employee from subsequently designating a health care provider [PHYSICIAN] for continuance of required medical care.

→ Sec 31 P24+25

* Sec. 7. AS 23.30.095(c) is amended to read:

(c) No claim for medical or surgical treatment is valid and enforceable as against the employer unless, within 20 [TWENTY] days following the first treatment ~~and following the time set by the board for~~ notice of subsequent treatments, the ~~health care provider~~ [PHYSICIAN] giving the treatment or the employee receiving it furnishes to the

employer and the board notice of the injury and treatment, preferably on a form prescribed by the board. The board shall [MAY], however, excuse the failure to furnish notice within 20 days when it finds it to be in the interest of justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of the medical or surgical treatment so obtained by the employee.

Sec 32 P24

* Sec. 8. AS 23.30.095(e) is amended to read:

(e) The employee shall, after an injury, at reasonable times during the continuance of his disability if requested by his employer or, when ordered by the board, submit himself to an examination by a health care provider [PHYSICIAN OR SURGEON] authorized to practice [MEDICINE] under the laws of the state in which the employee may be found, furnished and paid for by the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR EXAMINATIONS.] No fact relative to the injury or claim communicated to or otherwise learned by a health care provider [PHYSICIAN OR SURGEON] who may have attended or examined the employee, or who may have been present at an examination is privileged, either in the hearings provided for in this chapter or an action to recover damages against an employer who is subject to the benefits [COMPENSATION] provisions of this chapter. If an employee refuses to submit himself to any examination provided for in this section [HEREIN], his rights to compensation shall be suspended until the obstruction or refusal ceases, and his compensation during the period of suspension may, in the discretion of the board or the court determining an action brought for the recovery of damages under this chapter [HEREUNDER], be forfeited. The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. No autopsy may be held without notice first being given to the widow or widower or next of kin if they reside in the

state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If no adequate notice is given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

Sec 36 P 26

* Sec. 9. AS 23.30.105(a) is amended to read:

(a) The right to benefits [COMPENSATION FOR DISABILITY] under this chapter is barred unless a claim for them [IT] is filed within two years after the employee has knowledge of the nature of his disability and its relation to his employment and after disablement. The [HOWEVER, THE MAXIMUM TIME FOR FILING THE CLAIM IN ANY EVENT OTHER THAN ARISING OUT OF AN OCCUPATIONAL DISEASE SHALL BE FOUR YEARS FROM THE DATE OF INJURY, AND THE] right to benefits [COMPENSATION] for death is barred unless a claim for benefits [THEREFORE] is filed within one year after the death. If [, EXCEPT THAT IF] payment of compensation has been made without an award on account of the injury or death, a claim may be filed within two years after the date of the last payment. It is additionally provided that, in the case of a latent injury [DEFECTS PERTINENT TO AND CAUSING COMPENSABLE DISABILITY], the injured employee has full right to claim as shall be determined by the board, time limitations notwithstanding.

Sec 40 P 30

* Sec. 10. AS 23.30.110(c) is amended to read:

(c) The board shall make the investigation which it considers necessary in respect of the claim, and upon application of an interested party shall order a hearing on it. If a hearing on a claim is ordered, the board shall give the claimant and other interested parties at least 10 days' notice of the hearing, served personally upon the claimant and other interested parties or sent by registered mail, and shall, within 30 [20] days after the hearing is held [HAD], by order, reject the claim

or make an award in respect to it. If a hearing is continued by the board, additional notice under this subsection is not required. [IF NO HEARING IS ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN RESPECT TO IT.]

Sec 45 P 33

* Sec. 11. AS 23.30.155(j) is amended to read:

(j) If an employer has made advance payments or overpayments of compensation, he is entitled to be reimbursed, after approval by the board, out of any unpaid installment or installments of compensation due.

Sec 46 P33

* Sec. 12. AS 23.30.155 is amended by adding new subsections to read:

(n) Compensation owed to an injured employee in the state shall be paid by a check or draft that may be cashed on the first banking day after it is received by the employee and on any succeeding banking day.

(o) If the board determines that it is in the interest of an injured employee and that a substantial hardship will not be imposed on the employer, the liability of the employer for all or part of compensation payable under AS 23.30.190 may be discharged by the payment of a lump sum.

Sec 51 P 36

* Sec. 13. AS 23.30.175(b) is repealed and reenacted to read:

(b) After June 30 and before December 1 of each year, the commissioner shall adopt and publish the average weekly wage for each jurisdiction for the preceding calendar year as published by the United States Secretary of Labor for the purposes of unemployment insurance. In determining the rate of compensation the commissioner shall use the average weekly wage figure for each jurisdiction, including Alaska, for which the Secretary of Labor computes an average weekly wage. These figures are the applicable average weekly wages for those jurisdictions for the following calendar year.

Sec 52 P 36&37

* Sec. 14. AS 23.30.175(c) is repealed and reenacted to read:

(c) The following rules apply to recipients who do not reside in Alaska:

(1) The weekly rate of compensation shall be calculated by multiplying the recipient's average weekly wage times the ratio of the average weekly wage of the jurisdiction in which the recipient resides to the average weekly wage of Alaska. The rate is based on the average weekly wages in effect when the recipient leaves Alaska and shall be adjusted annually upon publication of the average weekly wages for all jurisdictions.

(2) The calculation required by this subsection does not apply if the recipient is absent from Alaska for medical or rehabilitation services not reasonably available in Alaska.

(3) If the average weekly wage of the recipient and the resulting compensation rate is determined under AS 23.30.220(2) the calculation required by this subsection applies to only those wages earned in Alaska.

(4) Application of this subsection may not result in a reduction of the weekly compensation rate to less than $65 a week except as provided in (a) of this section.

Sec 63 P 37

* Sec. 15. AS 23.30.175(d) is repealed and reenacted to read:

(d) In a jurisdiction for which no average weekly wage is computed by the United States Secretary of Labor for the purposes of unemployment insurance, the average weekly wage shall be as determined by the commissioner.

Sec 55 P 38,39,40

* Sec. 16. AS 23.30.190(a)(20) is amended to read:

(20) in all other cases in this class of disability the compensation is 66-2/3 percent of the difference between his average weekly wages and his wage-earning capacity after the injury in the same

employment or otherwise, payable during the continuance of the partial disability, but subject to reconsideration of the degree of the impairment by the board on its own motion or upon application of a party in interest; [WHENEVER THE BOARD DETERMINES THAT IT IS IN THE INTEREST OF JUSTICE, THE LIABILITY OF THE EMPLOYER FOR COMPENSATION, OR ANY PART OF IT AS DETERMINED BY THE BOARD, MAY BE DISCHARGED BY THE PAYMENT OF A LUMP SUM;]

Sec 56 P40

* Sec. 17. AS 23.30.191 is repealed and reenacted to read:

Sec. 23.30.191. EXPENSES FOR REHABILITATING INJURED EMPLOYEES. An employee, who, as a result of injury, is or may be expected to be totally or partially incapacitated for his normal occupation and who, under the direction of the board, is being rehabilitated to engage in a remunerative occupation. may receive compensation necessary for his rehabilitation of 66-2/3 percent of his average weekly wage subject to the maximum payable under AS 23.30.175.

Sec 58 P41

* Sec. 18. AS 23.30.215(a)(1) is amended to read:

(1) reasonable and necessary funeral expenses not exceeding $\underline{\$2,500}$ [$1,000];

Sec 59 P41, 42

* Sec. 19. AS 23.30.220(2) is amended to read:

(2) the average weekly wage is [THAT MOST FAVORABLE TO THE EMPLOYEE] calculated by dividing $\underline{456}$ [52] into the total wages earned, including self-employment, in $\underline{\text{the highest paid three consecutive years out of}}$ [ANY ONE OF] the $\underline{\text{five}}$ [THREE] calendar years immediately preceding the injury;

Sec 63 P43

* Sec. 20. AS 23.30.250 is amended to read:

Sec. 23.30.250. PENALTY FOR MISREPRESENTATION. A person who willfully makes a false or misleading statement or representation for the purpose of obtaining a benefit or payment under this chapter is guilty of $\underline{\text{theft as defined in AS 11.46.100(3) and is punishable as provided in}}$

AS 11.46.120 - 11.46.150 [A MISDEMEANOR, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $1,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]. Sec 68 P 45

* Sec. 21. AS 23.30.265(16) is amended to read:

(16) "medical and related benefits" includes but is not limited to physicians' fees, nurses' charges, pain clinic services, hospital services, hospital supplies, medicine and prosthetic devices, physical rehabilitation, and treatment for the fitting and training for use of such devices as may reasonably be required which arises out of or is necessitated by an injury, and transportation charges to the nearest point where adequate medical facilities are available;

Sec 70 P 45,46

* Sec. 22. AS 23.30.265(20) is amended to read:

(20) "wages" means the money rate at which the service rendered is recompensed under the contract of hiring [IN FORCE AT THE TIME OF THE INJURY,] and includes the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer, and gratuities received in the course of employment from other [OTHERS] than the employer;

Sec 71. P 45,46

* Sec. 23. AS 23.30.265 is amended by adding new paragraphs to read:

(29) "benefits" means compensation and medical and related benefits;

(30) "health care provider" means a chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a physical therapist licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a psychologist and a psychological associate licensed under AS 08.86; and a hospital as defined in AS 18.20.130, including a governmentally owned

or operated hospital; a corporate entity covered under AS 21.88.050-(b)(12); an employee of a health care provider acting within the course and scope of his employment; and persons comparably licensed in other jurisdictions to provide health care;

(31) "in the course of employment" includes travel to and from a remote job site but does not include activities outside of working hours off a site provided by the employer that are not under the supervision or control of the employer.

Sec 72 P46

* Sec. 24. AS 23.30.095(g), 23.30.125(b), 23.30.175(e) and (f), and 23.30.225(b) are repealed.

Sec 72 P 46

* Sec. 25. This Act takes effect July 1, 1982.

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 28, 1982
1:13 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

HB 159 An Act relating to workers' compensation; and providing for an effective date.

WITNESS REGISTER

William Reeves
Alaska General Contractors
3201 Spenard Road
Anchorage, Alaska
276-5354
Position Statement: Gave recommendations.

Jack Thompson
WCCA
2216 Post Road
Anchorage, Alaska 99501
272-0536
Position Statement: Gave recommendations.

Don Koch, Chief
Market Surveillance Section
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2577
Position Statement: Gave testimony; promised written recommendations.

Jim Robison
W/C District Council of Laborers
and State AFL-CIO
Box 899
Anchorage, Alaska
276-1640
Position Statement: Gave recommendations.

Barbara Grisson
Pacific Marine Insurance

6253 East 41st Ct.
Anc rage, Alaska
800 .26-4115
Pos ion Statement: Comments.

Paul Troeh
administrative law procedures specialist
5921 Sunset
Juneau, Alaska 99801
586-6856
Position Statement: Gave suggestions.

PREVIOUS ACTION

HB 159	No previous action. No action taken this date.
Statutory Reference	AS 18.80; AS 23.30.

ACTION NARRATIVE

Tape #006 Recording Number 1180	The meeting was called to order by Vice Chairman Bylsma. Members present were: Representatives Martin (arrived late), Bylsma, Randolph, and Rogers. Representative Gardiner was absent. The purpose of this meeting was to take testimony on HB 159.
Number 1195	William Reeves, Alaska General Contractors (AGC), Anchorage, said incentives are needed for injured employees to return to work, and for employers to rehire them. He went over disincentives. Reeves recommended: 1) go to percent of spendable income based on current wages; 2) do not include fringe benefits in wages; and, 3) Workers Compensation Board should be given authority to determine the value of room and board. He wanted to avoid unnecessary legislation. Reeves then went over the workdraft committee substitute section by section with recommendations.
Number 1420	Jack Thompson, WCCA and Alaska Conference of Employers, Anchorage, gave the committee a list of membership of both organizations he represents, and referred to the ACE report. Referring to John Lewis's report (presented 1/27), Thompson discussed the bunkhouse rule

definition in the workdraft committee substitute (p. 10, "in the course of employment"). He said employers are willing to meet litigation head-on. Thompson felt, regarding AS 23.30.095, that the Workers Compensation Board should be given more authority. He prefered that the employee be allowed to select a health care provider for a period of time, with the employer having the option to change providers after that time period. He recommended the ACE report remedy for average weekly wage, and their suggestions regarding permanent partial and permanent total disabilities. (A copy of the ACE report is available for review from the Committee.) Regarding the use of alcohol (see AS 23.30.235), Thompson recommended reinserting strong language, and again referred to the ACE report. He believes a mandated reduction in premiums should be made if workers compensation claims are reduced.

Number 1528

Don Koch, Chief, Market Surveillance Section, Division of Insurance, said pricing changes could complicate matters. He said forms are filed by a national council, not the insurer. He felt language should be changed to allow revoking and fining. He said he would present typewritten recommended changes to the committee at a later date.

Number 1589

Jim Robison, W/C District Council of Laborers and Alaska State AFL-CIO, Anchorage, felt the Division of Vocational Rehabilitation should have had the opportunity to give rebuttal testimony. He then went over the workdraft committee substitute for HB 159 section by section, giving his comments. Regarding the proposed amendments to the workdraft, Robison said he agreed with AGC that none of the amendments should be accepted. He commented on a letter distributed by Rep. Martin dated 1/25/82. Robison felt more effort on the part of the system would almost eliminate the need for attorneys. He commented on the bunkhouse rule and selection of doctors. Robison thought wages should include fringe benefits. He felt determination of degree of disability needs more study before being changed. There was discussion among the committee, Robison, Thompson, and Reeves.

Number 1762	Barbara Grisson, Pacific Marine Insurance, Anchorage, spoke to the second injury fund. She had no problem with percentages and amounts, but felt wording was needed for the Department to give procedural relief allowing minimum payment forgiveness to the Department of Labor until it is cost effective to process small checks. There was discussion of this point among Rep. Martin, Grisson, and McClintock (Division of Workers Compensation). Grisson, on behalf of her company, agreed that problems should be resolved by agencies concerned.
Number 1800	Paul Troeh, administrative law procedures specialist, Juneau, said that AS 23.30.225 repeal would repeal half of the social security offset procedure, which would then not meet federal requirements. He suggested the committee take other action. John Lewis interjected that it should be left alone until further information is available. Troeh said the courts tend to give broad coverage under the bunkhouse rule. He pointed out several discrepancies not addressed.
Tape 7, Number 0325	As there was no further business to come before the committee, the meeting was adjourned at 2:59 p.m.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: _____ Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:00	
Rep. D. Randolph	✓		1:11	
Rep. B. Rogers	✓		1:06	
Rep. T. Gardiner		✓		
Rep. T. Martin, Chair	✓	✓	1:53	

Subject Matter:

House Bill No. 1579 _____ _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
WILLIAM REEVES	3201 Coenard Road	AGC	YES	276 5354
Jack Thompson	2216 Post Road, Anch 99501	WCCA	Yes	272 0536
Joe Jackson	P.O. Box 3130 Anch. 99510	Self	If Requested	264 2460
Jackie MacKinnon	P.O. Box 1149 Juneau	DOL-WC Div.	NO	465-2790
Jim Robison	Box 899 Anch.	W/C District Council of Laborers Alaska State AFL-CIO	Yes	276-1641
Don Roulleau	Box 899 ✓	"	NO	
John Lewis	Box 330550 Miami, FL		If needed	305-493-XXX
Beverly Ward	134 N Franklin	Arco	NO	586-3680
E. Gail Slater	Box 1149	Dept. Labor	NO	465-2700
Mike Thomas	Box 1211 Juneau	Am. Insurance Assn	No	586 3340
GARY C. JENKINS	P.O. Box 194, Anchorage	NFIB	NO	586-4100
DON KOCH	POUCH D JUNEAU	DIV. OF INSURANCE	IF NEEDED	465-2577
Barbara Gruen	6253 E 41st TCT Anchorage	Pacific Marine Dr.	If needed	800-426-411
Mike Budsall	9626 Eagle Juneau	DOR	If needed	586-1245
Pat Young	Route E	DOR	"	6-6500
Paul Traeger	5921 Sunset	SELF	Possibly	586-6056

HOUSE LABOR & COMMERCE COMMITTEE

HEARI

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
George Kruz	310 2nd St Juneau	Alc. State Cy. C	No	586-2323
Leo Coyner			NO	
Jim Wakefield		Laborers Local #942	NO	586-3880
Dee Richards	W/C Div. Dept. of Labor	W/C Board Member	NO	465-2790

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 1-18-82

2-1-82

HB 146

HB 303

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 1, 1982
1:05 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Randolph

Members Absent: Rep. Gardiner
Rep. Rogers

COMMITTEE CALENDAR

HB 303 — An act relating to employment preference for residents of depressed areas.

HB 146 — An act relating to payment procedures on certain public contracts.

WITNESS REGISTER

Jeff Barry
Committee Aide
House Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811
465-3669
Position Statement: Overview of HB 146 and proposed amendments.

Judy Knight, Special Assistant to the Commissioner
Department of Labor
PO Box 1149
Juneau, Alaska 99801
465-2700
Position Statement: Gave department's position and suggested amendments on both bills.

Al Gordon, Assistant Director
Wage & Hour Division
Department of Labor
PO Box 630
Juneau, Alaska 99811
465-4500
Position Statement: Testified with Knight regarding Department's position regarding HB 146.

Sharon Mackland, lobbyist
Utility Contractors Association
no phone or address given
Position Statement: Supported HB 146; gave suggested amendments.

Jean Kline
Alaska Chapter
Associated General Contractors (AGC)
586-1740
Position Statement: Questions and clarifications (HB 146).

Ginny Chitwood
Alaska Municipal League
no phone or address given
Position Statement: Various criticisms of HB 146; spoke from prepared testimony.

John Scribner
Department of Transportation & Public Facilities
Juneau, Alaska
Position Statement: Opposed to HB 146 as written.

PREVIOUS ACTION

HB 146

No previous action.

Statutory Reference: AS 36

Action Taken: Amendment #1: Rep. Randolph moved, on page 1 of the Committee Substitute for SSHB 146, to delete subsection (b) (lines 16-19), and insert language recommended in memo dated 5/19/81 to Committee from Department of Labor, which reads: "The state shall initiate payment to the contractor for the amount due under the public construction or public works contract within 15 days after the contractor submits to the state a bill for materials and services with a certification issued by the Department of Labor that all employees employed on the project by the contractor and by all subcontractors have been paid not less than the established prevailing rate of pay as determined and published by the Department of Labor." There being no objection, the motion passed.

Amendment #2: Rep. Bylsma moved to delete subsection (d), lines 25-28, page 1. There being no objection, the motion passed.

Amendment #3: Rep. Randolph moved, on page 1, line 29, to insert between the words "state" and "is", the following: "or a political subdivision of the state". There being no objection, the motion passed.

Rep. Randolph moved to rescind the committee's action in adopting Amendment #1. For: Randolph. Against: Martin, Bylsma. Motion failed.

Rep. Randolph moved to pass CSSSHB 146 (L&C) from committee with individual recommendations. There being no objection, the motion passed.

HB 303

No previous action.

Statutory Reference: AS 36.

Action Taken: Rep. Randolph moved to table bill; there being no objection, motion passed.

ACTION NARRATIVE

Tape #0[illegible]
Recor[illegible]
Numbe[illegible]326

The meeting was called to order by Chairman Martin at 1:05 p.m. Members present were: Representatives Martin, Bylsma, and Randolph. Members absent were: Representatives Gardiner and Rogers. First bill considered by the committee was HB 146.

Number 0343

Jeff Barry, Labor & Commerce Committee aide, gave an overview of the bill and proposed amendments.

Number 0410

Judy Knight, Special Assistant to the Commissioner of Labor, felt the committee substitute does not address the problem. Knight presented the committee with a position paper. Specifically, she felt the term "certified payroll" was unclear, and that 15 days is too short a time for state to pay. She referred to the paper she presented to the committee for a list of suggested amendments.

Number 0451

Al Gordon, Assistant Director of the Wage & Hour Division, joined Knight in presenting testimony. There was discussion about what is a reasonable time in which to expect the state to pay contractors.

Number 0482

Knight said there needs to be clarification between the terms "certified payroll" and "payroll certified by..."

Number 0492 — There was discussion about which branches of the state government the bill should address.

Number 0540 — Knight explained the state's normal procedure for payment of contractors.

Number 0559 — Barry said the intention of the bill was that "certified payroll" would mean sworn to or attested by the contractor that employees have been paid. Gordon said that, without certification, the Department of Labor cannot enforce paying prevailing wages; the employee would have to go through a lengthy process to get his money.

Number 0588 — Sharon Mackland, Utility Contractors Association, supported the bill. She was concerned with "retainage". She felt the definition of "state" needed to be expanded. Knight suggested using words, "contracting agency", to replace word "state". Barry said he had asked legal services for a definition; they said that "state", as used, means the state or any political subdivision. There was discussion.

Number 0666 — Jean Kline, Alaska Chapter, Associated General Contractors, also wanted "political subdivision" included in the definition of "state". She had several questions about the impact of the bill; there was discussion. Kline commended DOT's handling of contracts.

Number 0715 — Ginny Chitwood, Alaska Municipal League, said there was no objection by the municipalities to interest accruing, but felt that interest on retainage destroys the function of retainage and removes incentive to complete contracts on time. She said the definition doesn't differentiate between the various types of retainage. (Chitwood spoke from prepared testimony.) Rep. Martin asked why contractors should have to compensate money withheld; Chitwood responded that retainage is to ensure a contractor finishes the work. There was discussion of retainage and various methods which could be used.

Number 0811 — John Scribner, Department of Transportation and Public Facilities, opposed the bill as written. He said it increases the risk that the contractor will not complete the job.

He felt the increased risk would increase the cost of bonding, and that increased bonding would be difficult for small contractors to obtain. He felt adequate procedures exist--bidding, bonding, and mobilization costs are paid up front; materials payments are made when materials are delivered; and progress payments are currently being made. He said the total turnaround is two weeks. He said an analysis had been done, and it was found that most payments get out quickly, but a few take as long as 30-35 days. He noted that mail sometimes takes over a week. Scribner explained retainage as it is presently being used, and the costs of retainage.

Number 0898 — Rep. Randolph moved to delete, on page 1, lines 16-19, subsection (b) of the committee substitute, and replace with language recommended by the Department of Labor in the paper they presented to the committee. There being no objection, the motion passed.

Number 0921 — Rep. Bylsma moved to delete subsection (d), lines 25-28, page 1 of committee substitute. There being no objection, the motion passed.

Number 0936 — Rep. Randolph moved to insert "or a political subdivision of the state" between the words "state" and "is" on line 29 of page 1 of the committee substitute. There being no objection, the motion passed.

Number 0942 — Judy Knight said that, in the Department's preferred amendment, when the final billing occurs, the contracting agency would contact the Department of Labor, who would send a memo verifying that wages were paid. She gave a timeframe of a couple days at most if payrolls had been submitted throughout the project. There was discussion.

Number 0965 — Rep. Randolph said the issue of the bill is to speed the flow of money; he felt the amendment passed by the committee had the potential to be a problem. He moved to rescind the adoption of amendment #1. There was discussion. On the question, Rep. Randolph voted in favor of rescinding; Reps. Bylsma and Martin opposed rescinding. The motion failed.

Rep. Randolph moved to pass the committee substitute with individual recommendations. There being no objection, the motion passed, and the committee substitute was passed from committee with amendments.

Number 1014 — Rep. Martin gave an introduction to HB 303.

Number 1020 — Judy Knight, Special Assistant to the Commissioner of Labor, said the Department of Labor, the Attorney General, and the Governor would like to give employment preference to residents. She said they had attempted to do this constitutionally. Knight explained that there is a large amount of paperwork involved, and that it is difficult to determine residence and ensure the intention to stay in the state. She said she is not sure if the cost of the legislation justifies the intent. Knight noted that people outside the state are looking to Alaska for employment. The Department of Labor is concerned about this influx of people. She said the bill addresses the issues in a positive manner, but information needed to make the bill workable is not available. There was discussion.

Number 1128 — Rep. Randolph moved to table the bill. There being no objection, the motion passed.

Number 1135 — There being no further business to come before the committee, the meeting was adjourned at 2:20 p.m.

2/1/82

Meter

0346 Call to order by Ch. Martin

0330 CS SSHB 146 (intro)

0343 Jeff Barry - overview of bill + amendments

0410 ~~Judy~~ Knight - CS does not address problem. (handed out memo to explain their position) "certified payroll" unclear term. 15 days too short a time to pay. ~~suggested~~, see memo for suggested amendment.

0451 Al Gordon, Asst Dir, Wage + Hour Div joined Ms. Knight. Knight - Want method to ensure employees have been paid,

0467 Randolph - agree w/that, but need to be sure contractor is paid in timely fashion.

0472 Knight - agree, but bill needs changes.

0481 Martin - clarification

0482 Knight - CS says "certified payroll" rather than "payroll certified by".

~~0496 Martin~~ said

0490 Martin - Knight discussed definitions of "state"

Byloma — — in this definition, wd only apply to executive branch.

0535 Byloma - suggested as not (see memo) could undermine purpose of whole bill - Dept Labor cd hold up 30-60 days.

0540 Knight - wd not intentionally. ~~State~~ went through normal procedure.

0559 Barry - intention was that certified payroll means sworn to or attested by contractor that employees have been paid.

0575 Gordon – without certification, Dept of Labor cannot enforce paying prevailing wages; employee has to go through lengthy process & sue to get his money. This way, Department monitors

0588 Sharon Mackland, Utility Contractors Assoc – supports bill. Concerned w/ "retainage". Sec E says state is liable to contractor; original bill included political subdivisions (boroughs, cities) – this version needs definition, Sec d, of State expanded or made same as on pg 3, line 9, or including "political subdivision" on pg 1 definition.
Discussion Martin/MacKland re definition of "State".

0646 Knight – suggested "contracting agency" to replace word "state."

0647 Barry – asked lawyers for definition – they said "state" as used, means State or any political subdivision.
Discussion w/Knight.

0666 Joanne Kline, At Chap, Gen Assoc Contractors – also wanted "political subdivision" included in definition. Asks about administration – AGC Contracts administered through DOT – who has chng that? Knight said Labor has nothing to do w/DOT pymts – it just monitors them. Kline asked why adda was chngd fm Title 35 to 36. Barry said this just clarifies penalties for late pymt. Commended DOT's handling of Contracts.

0715 Ginny Chitwood, Alaska Municipal League — no objection by municipalities to interest accruing, but interest on retainage destroys function of retainage; removes incentive to complete contracts on time. Definition doesn't differentiate between various types of retainage. (read from prepared testimony.)

742 Martin — why shd contractors have to ~~pay about~~ compensate money withheld? Chitwood — retainage is to ensure contractor finishes work.. Martin — prob has been that smaller subdivisions of state have been holding money after job is done. Chief Clerk felt it shd be written into contract rather than law. Martin felt contractor wd be victim in that situ. They discussed retainage & various methods.

772 — Byloma said he had to study it further

778 — Kline re retainage — money retained is contractor's money — why shdn't he rec benefits, esp if it is bearing interest.

Barry — as written, extent to monies withheld + liened won't be pd; no monies "retained" are disputed

Kline — 90 day w/holding can make or break some small contractors

0811 John Scribner, DOTPF, opposed to bill as written — increases risk that contractor wd not complete job. ~~to~~ Increased risk wd incre ~~se~~ cost of bonding; increased bonding wd be difficult for small contractors to obtain bonding. They have adequate procedures — can pay bidding, bonding & mobilization costs up front; can make mat'ls pymt when delivery is made; & they currently make progress pymts. Total turn around (pay estimate to State mailing check) is 2 wks. Mail can take over a week. Did analysis — most pymts get out quickly, a few get hung up up to 30-35 days.

0861 ~~Retainage used~~ reduce Explained retainage as they use it. Explained costs of retainage.

Martin — went over possibilities of amending bill

0898 ~~[redacted]~~ —

Randolph — moved to delete ~~replace~~ sec ~~4~~ 6 w/ CS, brief w/ language recommended by Dept Labor (#1 in memo) 5/19/81
& insert

No objection, so passed.

0921 Rep Bylsma moved to delete sec d, lines 25-28.
No objection, motion passed

Randolph moved to add "or political subdivision" on pg ——, line ——.
No obj. - passed

942 Judy Knight - re preferred amdmt, when final billing occurred, contracting agency wd contact Dept Labor, who wd send memo verifying wages were pd. Gave timeframe of a couple days at most if payrolls had been submitted throughout project.
Randolph - questions.

0965 Randolph - issue of bill is to speed flow of money; amdmt passed has potential to be problem. Moved to rescind adoption of amdmt # 1.

discussion: Byloma ~~feels~~ supports using #1 ~~removes possibility of legal answers to~~

, Martin agrees w/ Rep. Byloma

Randolph - disagreed, explained his position
Thinks amdmt thwarts reason for bill.

~~Byloma~~

Randolph - for Rep Byloma Martin - no
Motion to rescind amdmt failed.
Randolph moved to pass w/ individual recommendations; no objections.
Bill passed for committee.

Chuck Hollwell

1014 HB 303 — Martin gave intro to bill.

1020 Judy Knight, Special Asst to Commissioner, Dept Labor — Dept, AG, & Governor wd like to give employment preference to residents. Tried to do this constitutionally. Large amt of paperwork involved; hard to determine residency, ensure intention to stay. Not sure, Cost of legislation justifies intent. People outside looking to Alaska for employment. Dept of Labor concerned about this influx of people. Bill addresses issues in positive manner, but info needed to make bill workable is not available. Not sure of intent of bill.

1111 Randolph — comment (good explanation); are we ready to seriously consider issue

Knight — believe in employment preference; no answer to how to do that constitutionally. Have not found workable solution.

Randolph — comments. Moved to table bill —

no objection, motion passed

Mtg adjourned 2:30 pm

meter 1135

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811
Ph: 465-2700

HB 146

May 19, 1981

Mr. Ken Spray
House Labor & Commerce Committee
Alaska House of Representative
Pouch V
Juneau, Alaska 99811

Dear Mr. ~~Spray~~ Ken:

My apologies for the confusion that has resulted from the hearings and conversations concerning a proposed committee substitute for House Bill 146, "An Act relating to payment procedures on certain public contracts." The confusion seems to relate to "certified" payroll as opposed to "certification." The following amendment is proposed to address the concerns expressed by members of the Department to provide security for the payment of wages to employees on public works projects.

Preferred Amendment: Delete subsection (b), lines 16-19, page 1.
Insert the following.

(b) The state shall initiate payment to the contractor for the amount due under the public construction or public works contract within 15 days after the contractor submits to the state a bill for materials and services with a certification issued by the Department of Labor that all employees employed on the project by the contractor and by all subcontractors have been paid not less than the established prevailing rate of pay as determined and published by the Department of Labor.

Alternative Amendment: Delete section (b), lines 16-19, page 1.
Insert the following.

#1

(b) The state shall initiate payment to the contractor for the amount due under the public construction or public works contract within 15 days after the contractor submits to the state a bill for materials and services and a sworn certification that all employees employed on the project by the contractor and by all subcontractors have been paid not less than the established prevailing rate of pay as determined and published by the Department of Labor.

07-G9LH

test of use of money - comp

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Eileen Roth	P.O. Box 1149	Dept. Labor	Yes	465-2700
Judy Knight	" "	" "	?	"
Chuck Caldwell	" "	" "		465-4500
Al Gordon	P.O. Box 630	" "	Yes	465-4870
[illegible]		AHC.	?	6-1740
Sharon Rockton				
Jimmy Chitwood	Municipality of Anch.			
John Strutmann	D.O.T. - opposed -			
	Risk that contractor could not complete bid			
	increase cost of bonding for small contractors			
	D.O.T. can give advances for equip. materials.			
	progress payments schedules are usually quick depending upon mail.			

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2/1/83

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 2/1/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:00	2:20
Rep. D. Randolph	✓		1:05 → 1:55 ← 1:35	2:20
Rep. B. Rogers				
Rep. T. Gardiner				
Rep. T. Martin, Chair	✓		1:00	2:20

Subject Matter:

House Bill No. 303 - tabled (SS)HB 146 - amended & passed _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

1

3 amendments.

amended passed

Original sponsor: Brown by request

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 146 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to payment procedures on certain public contracts."

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

* Section 1. AS 36 is amended by adding a new chapter to read:

CHAPTER 90. MISCELLANEOUS PROVISIONS.

Sec. 36.90.001. PUBLIC CONSTRUCTION CONTRACT PAYMENTS. (a) At the request of a contractor the state shall pay the contractor 20 percent of the amount of the contract on or before the date the state gives the contractor notice to proceed with the public construction or public work covered by the contract.

#1 (b) The state shall initiate payment to the contractor for the amount due under the public construction or public work contract within 15 days after the contractor submits a bill with a certified payroll to the state for materials or services.

(c) If the state fails to make a payment due under this section, it shall pay interest to the contractor under AS 45.45.010(a) on the amount due. If a failure to make a payment due under this section continues for 60 days or more, the state shall pay the contractor a penalty of 10 percent of the amount due plus interest.

#2 Delete — ~~(d) In this section "state" means a department, office, agency, or other organizational unit of the executive branch, except one expressly excluded by law, but does not include an agency in the judicial or legislative branches of the state government.~~ delete the section

(e) The state, or a political subdivision of the state, is liable to a contractor registered under AS 08.18

#3 Add

2-3-82
HCR 56

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 3, 1982
1:12 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Rogers
Rep. Randolph

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

HCR 56 — Relating to the policy of the legislature concerning telecommunications.

HB 146 — An Act relating to payment procedures on certain public contracts. NOTE: no testimony was taken today on this bill; committee rescinded action taken on 2/1/82. See today's "Previous Action", last motion.

WITNESS REGISTER

Alex Hills
Department of Administration
Pouch C
Juneau, Alaska 99811
465-2200
Position Statement: Gave administration's position.

Allen Blume
Telelink Communications, Inc.
PO Box 1648
Juneau, Alaska 99801
586-6228
Position Statement: Supported legislation.

Robert Gould
Alaska Cable Television Association
No address or phone given
Position Statement: Supported legislation.

PREVIOUS ACTION

HCR 56 — No previous action.

Statutory Reference: None.

Action taken: Rep. Rogers moved, page 1,

lines 8-12, to delete word "increasing"; Rep. Randolph seconded. Motion passed unanimously.

Rep. Rogers moved, page 1, line 15, to delete word "incentive" and replace with word "initiative". After discussion, the motion was withdrawn.

Rep. Rogers moved, page 1, line 20, to delete word "appropriations" and insert "issues". After discussion, Rep. Rogers amended his motion to insert word "legislation" rather than "issues". Motion passed by unanimous consent.

Rep. Rogers moved, page 1, line 22, to insert before the word "services", the words "cost-effective". Motion passed by unanimous consent.

Rep. Rogers moved, page 2, line 10, to insert "public and" before word "commercial". Rep. Randolph objected. Rep. Rogers withdrew his motion.

Rep. Rogers moved, page 2, lines 11-12, to delete everything after word "sessions". There was discussion; Rep. Randolph proposed amending motion to delete everything after word "basis" on line 9. Discussion. Question was called on Rep. Randolph's amendment: For: Randolph; Opposed: Martin, Rogers, Bylsma. Amendment failed. Question was called on Rep. Rogers' amendment: For: Rogers, Bylsma, Randolph; Opposed: Martin. Motion passed.

Rep. Rogers moved, Page 2, line 8, insert after word "stations" the language, "or to contract with the private sector for operation and maintenance of the stations". Motion passed unanimously.

Rep. Rogers moved, page 2, line 2, to delete first "and" and insert "or". Motion passed unanimously.

Rep. Rogers moved, page 2, line 10, insert "public and" before word "commercial"; Rep. Randolph objected. Question: for--Martin, Rogers, Bylsma; opposed--Randolph. Motion passed.

Rep. Randolph moved, page 1, line 25, delete "to the extent possible"; and on line 26, delete "reduce or"; objection by Rep. Rogers. Amendment was withdrawn by Rep. Randolph.

Rep. Randolph moved, page 1, line 28, delete word "unnecessary", and line 29, delete words "new and innovative". Rep. Rogers moved to divide motion; he withdrew this motion. Question on Rep. Randolph's motion: for--Randolph; opposed--Bylsma, Martin, Rogers. Motion failed.

Rep. Bylsma moved, page 1, line 26, delete words "reduce or". There being no objection, the motion passed.

Rep. Randolph moved, page 1, to delete all language on lines 15 and 16; Rep. Martin objected. Question: for--Rogers, Bylsma, Randolph; opposed--Martin. Motion passed.

HB 146

See minutes for 2/1/82.

Rep. Randolph moved to rescind action in adopting amendment #1 on HB 146, and to adopt the alternate language suggested by the Department of Labor, which reads: "The state shall initiate payment to the contractor for the amount due under the public construction or public works contract within 15 days after the contractor submits to the state a bill for materials and services and a sworn certification that all employees employed on the project by the contractor and by all subcontractors have been paid not less than the established prevailing rate of pay as determined and published by the Department of Labor."; and to move the bill from committee. Motion passed unanimously.

ACTION NARRATIVE

Tape #008
Recording
Number 0001

The meeting was called to order by Chairman Martin at 1:12 p.m. Members present were: Martin, Randolph, Bylsma, Rogers. Representative Gardiner was absent. Representative Martin explained HCR 56.

Number 0022 — Alex Hills, Department of Administration, said the administration sees no conflict with the resolution.

Number 0052 — Allen Blume, Telelink Communications, Inc., supported the resolution. (He spoke from prepared testimony, which is available from the committee.) There was discussion between Blume and Rogers about possible amendments.

Number 0180 — Representative Martin explained HB 506 and outlined the proposal of creating a commission or board of telecommunications, and asked Blume for his opinion. Blume felt the dangers would be that, 1) the commission would be a "toothless monster"; and 2) that it could lead to a proliferation of regulations. He supported generally the idea of a commission, but felt it should be tailored carefully, possibly sunsetted, and should work with other agencies. There was discussion.

Number 0246 — Rep. Randolph said legislation needed to define "free enterprise", "private sector", etc. Rep. Martin asked him to do that. Rep. Rogers expressed concern.

Number 0261 — Robert Gould, Alaska Cable Television Association, supported resolution. He was concerned that the private sector be given a fair chance to deliver services now performed by the public sector. He felt this would be cost-efficient for taxpayers. He was personally concerned whether Alaskan communities need a multiplicity of television stations provided by public appropriations. He wanted to see all communications entities cooperating and communicating with each other, with the legislature, and with the administration.

Number 0360 — Rep. Martin asked Gould's opinion of a commission on telecommunications. Gould said that, in principle, it is a good idea as it is a technical area. He felt the efforts the administration have made have good potential to date. He would not necessarily want to see that replaced, but incorporating that with a new commission may be a good idea. There was discussion of how such a commission would function.

Number 0433

Gould said, regarding legislative coverage, that CTA feels that getting constituents closer to the legislature is good. He said they plan an ACE band with live, unedited coverage of the legislature; local broadcast stations could add commentary. He said they have done preliminary cost proposals that show this could be done for under $1-million equipment costs. There was discussion.

Number 0567

Rep. Rogers moved, page 1, lines 8-12, to delete word "increasing"; Rep. Randolph seconded. Motion passed unanimously.

Rep. Rogers moved, page 1, line 15, to delete word "incentive" and replace with word "initiative". After discussion, he withdrew the motion.

Rep. Rogers moved, page 1, line 20, to delete the word "appropriations" and insert word "issues". Rep. Martin suggested adding the word "issues". Rep. Rogers changed his motion to insert the word "legislation" rather than "issues". Motion passed by unanimous consent.

Rep. Rogers moved, page 1, line 22, to insert words "cost-effective" before the word "services". Motion passed by unanimous consent.

Rep. Rogers moved, page 2, line 10, to insert the words "public and" before the word "commercial". There was objection by Rep. Randolph. Rep. Rogers withdrew the amendment.

Rep. Rogers moved, page 2, lines 11-12, to delete language "by making equipment, space, and satellite time available to the private sector." Rep. Randolph said the legislature had no business encouraging coverage, and moved to amend the motion to delete everything after the word "basis" on line 9. There was discussion among the committee. Rep. Martin asked Hill for an estimate of costs; Hill said about $5-million a year is spent total on the television demonstration project, and $5-million a year on Learn Alaska.

Question was called on the Randolph amendment: Randolph voted for; Bylsma,

Martin and Rogers were opposed; and the amendment failed.

Question was called on the Rogers amendment: Rogers, Randolph, and Bylsma voted for the amendment; Martin opposed; amendment passed. Rep. Rogers moved, page 2, line 6, after the word "stations", to insert the language, "or to contract with the private sector for operation and maintenance of the stations". Motion passed unanimously.

Rep. Rogers moved, page 2, line 2, to delete first "and" and insert "or". Motion passed unanimously.

Number 0800

Rep. Rogers moved, page 2, line 10, to insert words "public and" before the word "commercial"; Rep. Randolph objected. Rep. Martin felt there was no sense re-involving public stations. Rep. Rogers argued that the language is only encouraging coverage and that it didn't mean the state would pay for it. There was discussion. Vote: Rogers, Bylsma, Martin voted for the amendment; Randolph opposed; motion passed.

Rep. Randolph moved, page 1, line 25, to delete "to the extent possible"; and on line 26, delete "reduce or"; there was objection by Rep. Rogers. Discussion. Rep. Rogers felt this could bind the state to upgrading cable system. Rep. Randolph felt the amendment makes it clear that the Division of Telecommunications will clear their own. Hill said that Rep. Rogers is correct; the language allows flexibility, but the amendment would not be possible to carry out. Rep. Randolph withdrew the amendment.

Side B, Number 005

Rep. Randolph moved, page 1, line 28, to delete the word "unnecessary"; and on line 29, to delete the words "new and innovative". Rep. Rogers moved to divide the motion. There was discussion. Rep. Rogers withdrew his motion to divide the question. Question was called: Randolph for; Bylsma, Martin, and Rogers opposed; motion failed.

Rep. Bylsma moved, page 1, line 25, to delete "reduce or". There was no objection; motion passed unanimously.

Number 0060

Rep. Randolph moved, page 1, to delete all language on lines 15 and 16. Rep. Martin objected. There was discussion. Question was called: Bylsma, Rogers, Randolph for; Martin opposed. Amendment passed.

Number 116

Rep. Randolph requested that the bill be redrafted by legal services, incorporating amendments, for discussion the following day.

Rep. Randolph moved to rescind the committee's action on HB 146 in adopting the "preferred amendment" which was proposed by the Department of Labor, and to adopt the alternate language proposed in the same document; and to pass the amended bill from committee. Motion passed unanimously. New language reads, "The state shall initiate payment to the contractor for the amount due under the public construction or public works contract within 15 days after the contractor submits to the state a bill for materials and services and a sworn certification that all employees employed on the project by the contractor and by all subcontractors have been paid not less than the established prevailing rate of pay as determined and published by the Department of Labor."

There being no further business to come before the committee, the meeting adjourned at 2:26.

HOUSE LABOR AND COMMERCE COMMITTEE

FINAL INTERIM REPORT

December 17, 1981

The House Labor and Commerce Committee has completed its interim work. Most of the Committee's priority legislation is being drafted or redrafted and will be ready for further consideration early in the second session of the 12th Alaska Legislature.

Public participation during hearings in Anchorage and Fairbanks was excellent, particularly with regard to the Committee's three primarly areas of concern -- workers' compensation, statewide telecommunications and government permits.

Additionally, Chairman Terry Martin has reviewed some 30 pieces of legislation lodged in the Committee but which were not addressed in any detail during the interim. Chairman Martin is organizing these bills and resolutions by priority so they can be expedited early next session.

A status report of interim activities is as follows:

WORKERS' COMPENSATION

Tom Sofo of the legislative legal services arm currently is preparing the final redraft of House Bill 159 dealing with revision of state workers' compensation law.

The redraft will be ready for further Committee consideration early next session.

As the Committee's top priority during the interim, much time has been spent collecting public testimony from various concerns in an effort to reach consensus on resolving this lingering problem. The Committee has explored a multitude of proposals to reduce the escalating premium rates.

While the final interim bill will address various broad concerns of the Committee, specifics regarding insurance rates and self-insurance programs will be incorporated in a separate bill shortly after the start of the second session.

The Committee feels it must await results of an in-depth study being conducted by John Lewis of Florida, a workers' compensation expert on contract with the state Division of Workers' Compensation. Mr. Lewis's findings are necessary before revision of the complicated rate structure can be addressed in any detail.

However, the final interim redraft of House Bill 159 attempts to adjust the law in ways the Committee feels will help reduce the extremely high insurance premiums Alaska businesses pay out for workers' compensation.

For one, a significant reduction in premium rates can be assured through immediate response to the needs of employees injured on the job, so that these injured workers can be returned to the labor force in the shortest period of time.

This objective can be attained, in part, by requiring injured workers expected to be on workers compensation more than 90 days to be referred to rehabilitation or pain clinics within 30 days of injury. Public testimony from experts in the field reported that months and even years pass before an injured worker is referred to a clinic. Obviously, the quicker an injured worker is rehabilitated, the quicker he can be returned to the work force. This means less compensation is paid out which, in effect, would affect the rate structure.

In regard to workers' compensation-job training and placement programs, the cost, in many cases, should be borne by the appropriate agencies such as CETA, WIN, or other government sponsored groups directly responsible for an

employee injured while on the job.

Higher educational career training, skill centers and other post secondary educational opportunities such as college should be funded through a special state grant program.

It must be emphasized that retraining costs, when figured into insurance premiums borne by the employer, is ultimately passed on to the consumer. It is the consumer who picks up the tab for the increased cost of goods and services.

Following a recent meeting with the state Workers' Compensation Board, the Committee feels the Board must be given more authority in making final determination of workers' compensation cases, in order to avoid long and costly legal fights -- all of which is reflected in the rate structure.

A goal of six months from the time of injury to settlement will result in almost no need for expensive attorney and court fees. It is felt that a decrease of 50 percent in the time spent on litigation of cases could be attained if the law were more clear on the Board's authority. The Committee feels that the Board -- comprised of lay experts in the field --deals fairly with claimants and injured workers and give them every opportunity to air their grievances.

The Committee also feels that workers' compensation premiums could be further reduced in cases where an injured worker carries health insurance, or other insurance policies that cover personal injury.

The redraft of House Bill 159 also addresses the need to tighten up the so-called "Bunkhouse Rule," which essentially holds an employer responsible for an employee's safety when he is working more than 25 miles from his home.

While the Committee recognizes the right of workers to be protected when away from home, particularly in Alaska's remote regions, it also finds abuses in the system, especially during leisure-time activities and accidents caused by intoxication.

The Committee is of the opinion that an intoxicated or drugged worker who is injured is responsible for his actions and should not be entitled to collect workers' compensation benefits. Likewise, workers who become ill or contract social diseases due to intimate sexual activities away from home should not become the responsibility of the employer.

Likewise, if a worker is injured while racing motorcycles or playing sports during his leisure hours, it is highly questionable whether the employer should be responsible for his injury, particularly when other insurance programs carried by the worker may cover the injury.

The Committee also desires a clear and concise definition of the terms "benefit" and "compensation" as they appear in House Bill 159. In either case, the term should relate only to a worker's take-home pay and medical treatment. Workers' compensation was never meant to be an open-ended benefit system. The terms "compensation" and "benefit" appear so regularly throughout House Bill 159 that anything less than a concise definition will lead to misunderstanding and confusion.

GOVERNMENT PERMITS

The Committee has placed the redraft of Senate Bill 84 on hold until the beginning of the second session.

Testimony collected during the interim shows conclusively a real need for streamlining the government permitting process. However, it is equally clear that opinion on how to accomplish this goal varies widely.

On the one hand, the Alaska Oil and Gas Association (AOGA) and its membership believes Senate Bill 84 (Second Rules) does not go far enough in facilitating

the procedure for gas and oil permits. The association would like a stronger "lead agency" clause in Senate Bill 84 and a softening of language in the bill that guarantees "any individual, irrespective of his 'standing'otherwise granted under the law, to appeal a permitting decision, and further delay resolution of the application," according to the association.

On the other hand, environmental groups -- particularly Trustees for Alaska -- feel Senate Bill 84 and proposed administrative regulations do not adequately protect local community interest in the permitting procedure.

In the middle is the state Department of Law which, under direction of the Governor, has drafted new regulations governing classification of permits -- the reported purpose being to streamline the system.

Although the Committee feels there is strong support in both the House and Senate to clean up the system, it doesn't want to work hard to pass legislation only to have it vetoed by the Governor. This is why the Committee believes participation by the administration in this legislation is vital.

The Governor's chief executive, Jerry Reinwand, feels legislative participation in this issue is important and has reportedly held up implementing regulations until after the negotiation process. That process is underway, and hopefully an accord can be reached prior to the session.

STATEWIDE TELECOMMUNICATIONS

Legal services is currently drafting a House Concurrent Resolution that will spell out what the Committee feels should be the legislative policy regarding statewide telecommunications. The resolution will be sponsored by the House Labor and Commerce Committee.

The resolution is being drafted along the following lines:

-- Whereas a significant and increasing amount of public funds is being invested in telecommunications systems; and

-- Whereas it should be the role of state government to encourage and not compete with the private sector; and

-- Whereas the private sector which deals in Alaska telecommunications faces a crowding out by government in the wake of increasing state wealth; and

-- Whereas the private sector has been the foundation and vitality of the American Democratic and economic system; and

-- Whereas the Alaska State Legislature lacks a policy regarding the burgeoning telecommunications system;

Be it resolved that the Alaska State Legislature should take the following into account to serve as guidelines when considering telecommunications appropriations:

-- When and where possible, the state Divisions of Telecommunications should procure services from private enterprise or certified and franchised utilities and contract for the construction, management, operation and maintenance of telecommunications systems.

-- When and where possible, the state Divisions of Telecommunications should reduce or eliminate airwave interference of state owned or financed stations with privately owned and operated cable television stations.

-- Artificial regulatory and government barriers for growth and development of new and innovative services by the private sector should be removed.

-- In-state programming or Bush programming can be beneficial to sectors of the Alaskan community. However, the Divisions of Telecommunications should not only assure that such programs are cost effective, but production of these

programs should be available to the private sector on a contract or bid basis.

-- Alaska's villages should have the opportunity to own, operate and maintain their own satellite earth stations.

-- Companies owned and operated by Alaska residents and based in Alaska should be given a competitive edge over Outside interests.

-- No commercial advertisements shall be carried in state funded or state subsidized programs or in programs transmitted by state funded or state subsidized satellite channels.

-- The Legislature should encourage commercial radio and television news coverage of the legislative sessions by making equipment, space and satellite time available to the private sector. This would serve as a meaningful and efficient and non-controversial method of communicating legislative affairs to the public.

ARCHITECTURAL AND ENGINEERING SERVICES

House Bill 612, which relates to contracts for architectural, engineering and surveying services, has been redrafted and is ready for further Committee consideration upon convening of the legislative session.

House Bill 612 clarifies the conditions under which a state contract for professional services can be awarded. It requires the state and other subdivisions of the state to determine whether a bidding firm is "capable and qualified" to do the work, rather than issuing a contract strictly based on the lowest bid. A person who provides such professional services may annually submit to the department a statement of qualifications and performance data.

House Bill 600, which lays out contractual liability of architects, engineers, surveyors and the state of Alaska, is currently in a holding pattern until an equitable formula for liability can be worked out. A final redraft of House Bill 600 is expected prior to the beginning of the session.

COMPULSORY AUTOMOBILE INSURANCE

The Committee recommends the sponsors of House Bill 346 pursue other avenues to increase the number of insured drivers.

House Bill 346 has received little support during hearings held in Anchorage and Fairbanks during the interim.

It is generally felt that compulsory automobile insurance will not attain its primary goal -- to increase the number of insured drivers in Alaska. In fact, it is counter productive in that it is thought to be unenforceable and actually may result in higher insurance rates for the already insured driver. This is because the high risk factor of those who are generally uninsured under the current situation would be spread among drivers who already are insured.

The Committee understands that sponsors of the bill are currently exploring other alternatives including stronger state financial responsibility laws.

Introduced: 1/29/82
Referred: Labor & Commerce and Finance

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

HOUSE CONCURRENT RESOLUTION NO. 56

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

Relating to the policy of the legislature concerning telecommunications.

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

WHEREAS a significant ~~and increasing~~ amount of public money is being invested in telecommunications systems; and

WHEREAS the private sector that deals in Alaska telecommunications has faced increasing competition from government as a result of ~~increasing~~ state wealth and expenditures for telecommunications; and

WHEREAS the private sector is the foundation and vitality of the American economic system; and

~~WHEREAS state government should encourage private enterprise and incentive; and~~

WHEREAS the Alaska State Legislature has not adopted a policy regarding the burgeoning telecommunications system;

BE IT RESOLVED that the Alaska State Legislature shall consider the following guidelines when considering telecommunications ~~appropriations~~ legislation:

(1) to the extent possible, the divisions of telecommunications should procure cost-effective services from private enterprise or certified and franchised utilities and contract for the construction, management, operation, and maintenance of telecommunications systems;

(2) to the extent possible, the divisions of telecommunications should ~~reduce or~~ eliminate airwave interference of state-owned or financed stations with privately owned and operated cable television stations;

(3) unnecessary regulatory and government barriers which impede growth and development of new and innovative services by the private sector

should be removed;

(4) companies owned ~~and~~ or operated by residents of Alaska and based in Alaska should be considered before companies from other states when telecommunications goods or services are needed from the private sector;

(5) Alaska's villages should have the opportunity to own, operate, and maintain their own satellite earth stations, or to contract with the private sector for operation and maintenance of the stations;

(6) in-state programming beneficial to both urban and rural residents should be cost effective and the production of these programs should be available to the private sector on a contract or bid basis; and be it

FURTHER RESOLVED that the legislature encourages public and commercial radio and television news coverage of the legislative sessions. ~~by making equipment, space, and satellite time available to the private sector.~~

HCR 56

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
denise Zachary		T.G Tlingit	No	
Terry Otness		E.J HAUGEN	No	3712
Jon Dawson		Alascom	N/O	
Robert J. Gould		AK. CATV Assoc.	Yes	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2-3-82

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
ALLEN D. BLUITE	P.O. Box 1608 JUNEAU	TELELINK	YES	586-6228
Charles M. Northrip	Pouch CB Juneau	APBC	observe	465-2846
CLARK KING	1725 B DOUGLAS HWY	ACTA	NO	364-2452
Steve Plummer	Pouch C 99811	Dept Admin	Observe	2041
Alex Hills	"	"	Test re 06	2200
Roy PASCHAL	Box 929 Juneau 99802	B.C. Cable Co. (Acta)	2	586-3623
W.R. Clearman	Pouch G 99811	Leg Affairs	NO	465-3800
Walt Holeman	Pouch CB Juneau	APBC	NO	465-2846

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2-3-82

HCR 56

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Bob Scott		KIMC-TV	No	
Kathi Baltes		CAA/CTN	NO	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2-3-92

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 2/3/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:00	
Rep. D. Randolph	✓		1:13	
Rep. B. Rogers	✓		1:12	
Rep. T. Gardiner				
Rep. T. Martin, Chair	✓		1:00	

Subject Matter:

House Bill No. HCR 56 _____ _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

2/3/88

1:12 Call to order

0001 Call to order, explanation of resolution by Martin

022 Alex Hill - gave state's position (no conflict)

052 Allen Blume, Telelink Comm, Inc (read from written testimony) - support legislation.

106 Rogers - re sec. 1 - shd contract privately if costs more than if done by state?

112 Blume - judgmt shd be made on case by case basis; give private sector access to monies being spent

Rogers - sec unclear in inconsistency - if state does construction, private enterprise will be operating state-owned facilities

Blume compared to federal Dept of Defense contracts (esp aerospace program)

Rogers - sec. 3 - any objection to deleting words "new & innovative"?

Blume - none

discussion on "new & innovative"

159 Martin explained HB 506 & outlined proposal of Commission or board of telecommunications

180 Blume - danger wd be 1) toothless monster 2) cd lead to proliferation of regulations. Support generally idea of commission, but shd be tailored carefully, possibly sunsetted, & work w/ other agencies.

Discussion

211 Blume – hard to get complete grasp; if creating new structures, must be done carefully.
Martin – ~~of~~ commission cd be advising group, but hard for legislators

246 Randolph – need to define free enterprise, private sector, etc. Martin asked him to do that. Rogers expressed concern.

361 Robert Gruth (?), Alk Cable TV Assoc. – support resolution. Concerned that private sector be given fair chance to deliver services now performed by public sector. Cost-efficient for taxpayers. Personally concerned whether Alaskan communities need "multiplicity" of TV stas provided by ~~sta~~ public appropriations. Wants to see all communications entities cooperating & communicating w/each other, legislature, & administration.
Martin – ~~wha~~ how do you feel obi bd or comm to address these issues &

360 Gruth – in addn to Div of Comm? In principle, good idea – technical area. Efforts admin has made have good ~~pot~~ potential to date. Wd not necessarily want to see that replaced, but incorporating that w/new comm. may be good idea.
Martin – div is at pleasure of governor; comm or bd more permanent; they don't have final authority. Comm cd be similar to wkrs comp, private/public
Gruth – cd be create more cooperative environment, wd allow private input.

433 Gruth - re legis. coverage - CTA (double V proc) feels that getting constituents closer to legis is good - they plan ABE band w/ live unedited coverage of legis; local broadcast stns cd add commentary. Have done prelim cost proposals - cd be done for under $1M (eqpt)

494 Martin explained inclusion of legis org in bill

Randolph - gstn

Gruth - put cameras in place in both houses & committee rms, manned to rec eqpt, no reporting, info superimposed (bio?, vote), fed live for pool to all comm. by avail distn. -

Randolph - several houses fed, & each processor cd comment?

Gruth - xmtd live or tape delayed

Randolph - can't believe anyone wd watch it for hours

Gruth - explain. - used Don Young & D2 hrgs as example

567 Rogers, line 8-12 delete "increasing" to fall w/in budget guidelines

Randolph seconded ~~Rec'd~~

line 8 - no passed unan.

Rogers

line 15, delete incentive, replace w/ initiative

w/drew amdmt.

Rogers line 20 delete "approprns" & insert "issues"
Martin - perhaps add word "issues"
Rogers - "legislation" instead of appropriations
Passed by unan. consent

Rogers line 22 insert "cost-effective" before "svcs"
Asked for unan. consent; passed

Rogers - p. 2, line 10 - insert "public and" before commercial
Objection by Randolph
Rogers w/drew amdmt

Rogers, lines 11-12 - delete "by making eqpt ... private sector" (delete everything after "sessions"). Gave explanation - incurring costs. Randolph - what does encourage mean? no business encouraging them. Proposed amending amdmt to delete everything after line 9, word "basis".
Martin - without encouraging private, with large appns to public sys, by allowing for discussion.
Rogers - eqpt already purchased costs nothing, but providing space & satellite time increases fiscal note.
Randolph - if constituents interested, will pay private sys to cover legis. Agrees shd be addressed in other legis.
Martin asked for costs fm Hill.
790 Hill - abt $5M/yr total JV demons. & $5M/yr for Seam Alaska

Martin, Randolph discussion - ~~shall be made~~ as
Byloma - favors Rogers orig'l amdmt

Randolph amdmt, delete everything after "basis", line 9
Aye Rand Opp - M, Rog, Byls — failed

Rogers amdmt - in opposed, Rog Ran Byls favor - passed

Rogers, line 6, p. 2, after "stns"
" or to contract w/ the private sector for operation
& maintenance of the stns". Passed unan.

Rogers p2 line 2 delete 1st "and," insert "or"
passed unan

p. 2

0880 Rogers line 10, insert "public and" before
commercial; Randolph objected. Martin - no
sense re-involving public stns. Rogers - only
encouraging coverage; doesn't mean we'll pay
for it at all; Discussion between Martin & Rogers.
~~Ay~~ for: 3 Opp'd - Randolph.

Randolph – p1 line 25 delete "to the extent possible"; line 26, delete "reduce or"; objection ~~by~~ by Rogers. Discussion by Randolph & Rogers.
Rogers – ~~not all~~ some interference coming fm private sector; cd bind state to upgrading cable system.
Randolph – amdmt makes clear that Div of
955 Telecomm. will clear their own. Martin discussion
966 Rogers – eg, getting interference on ch 8 & 3, which are local – ~~eg~~ cable interference. Technologically impossible.
981 Hill – Rep Rogers is correct. Language allows flexibility, but amdmt wd not be possible to carry out, wd have to cut svc.
003 Bylsma – just delete "reduce or"
~~Martin – some cable TV stns found they were~~
Randolph w/drew amdmt

Rand – elim line 28, word "unnecessary"
elim "new & innovative", line 29. Rogers moved to divide motion. Discussion. Rogers w/drew motion to divide qstn. Discussion. Randolph – for others – against failed

Bylsma – line 26, elim "reduce or"; Rogers asked unan consent; no objection, passed.

delete
060 Randolph moved to ~~clean~~ all lang, lines 15+16, p. 1;
Martin objected. Discussion.
passed, Martin no; everyone else, yes

amended
116 Randolph asked for ~~by~~ tomorrow's hearing.

Adjourned 5:26

HB3 156 (?)
Randolph moved to rescind action on ~~3rd~~ consent
last mtg & insert other ~~motion~~ /
amendment & no to pass bill passed unan

TELELINK
COMMUNICATIONS INC.

INFOCOM DIVISION

February 3, 1982

The Hon. Terry Martin
Chairman
House Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Mr. Chairman:

My name is Allen Blume, and I represent TELELINK Communications Inc., a new, Alaska-based firm that specializes in teleconference service delivery and general telecommunications consulting. The principals in TELELINK have better than twenty years experience in technical, economic, regulatory and user applications of telecommunications.

We strongly support the provisions of HCR56, especially sections (1), (3), (4) and the legislative coverage provision. Our testimony today will focus on these points, and what we feel are competitive trade barriers that we have met in attempting to do business with the state.

Item 1: The state should secure services from private enterprise or certified and franchised utilities and contract for system operations.

We agree. In the six months that TELELINK has been operational, we have contacted at least eighty of the divisions, sections, boards and commissions of the state to offer demonstrations of our Conference Message Exchange (CMX) teleconference service.

Our service provides:

- Moderated teleconferences
- On-line user training
- Optional automated teleconferencing
- Direct-dial access from any standard telephone
- Digital facsimile, computer text and slow-scan television interconnects
- Complete interconnectability with the Legislative Teleconference Network and Learn/Alaska.

By providing working demonstrations and free half-hour blocks of time to potential users we thought to encourage examination of our product, and stimulate innovation in problem solving by the agencies.

Mr. Chairman, it is no secret that the cost of state government has gone off the map, because of increased demand for services by the public. It is also no secret that one of the greatest single costs of government, in a state as large as Alaska, is travel in support of government operations.

This year the Governor and the Alaska Legislature have made public pronouncements about their intent to "hold the line" or "cut" this runaway spending. Yet, in none of these statements is there an offer or demand to look for efficiencies that will avoid impairing the necessary delivery of programs.

It is small businesses such as TELELINK, the growing mini-computer industry and other direct providers of telecommunications goods and services that will make the budget cuts feasible, without damaging essential programs.

Sec. 1 of HCR56 is a vital first step, but it must be carried out with enthusiasm and commitment. Agencies of the executive, legislative and judicial branch should be encouraged to use contemporary communications technology and providers to evaluate their existing medium with an eye towards improvement; and where they insist on traditionally inefficient techniques - be appropriately penalized.

In this same light, and although the measure is not before this committee today, we support HB 506 appropriating $40 million to a telecommunications revolving loan fund, with some changes.

Item 3: Regulatory and government barriers should be removed.

We agree. Yesterday we requested of the Director of Legislative Affairs Agency a memoranda outlining the applicability of provisions of Executive Order 50 realigning state telecommunications services, to the operations of the Legislative Teleconference Network.

While we recognize that the legislature is an entity unto itself for certain purposes, it seems inconsistent that some levels of government would be bound by standards of fairness and economic equity, while others are not.

We would hope that the provisions of Sec. 3 would be equally applied to all branches of government.

Item 4: Alaskan firms should receive first consideration.

Again, we agree. We would not rule out use of other qualified firms, but obviously it is in the state's economic and social interest to promote local enterprise.

Legislative Coverage: In this we also concur, but would suggest that this scope of activity be broadened to encourage other technologies to enhance the operations of legislative reporting services; individual newspapers and other related community information programs.

Sincerely,

Allen D. Blume
Marketing Associate

TELELINK
COMMUNICATIONS INC.

CONFERENCE MESSAGE EXCHANGE (CMX)

TELELINK's new CMX service is an innovative approach to providing business and government with a cost-effective alternative to escalating travel expenses and lost executive productivity. CMX is a teleconferencing system reached by dialing from any standard telephone set, and, does not require the use of operator handled calling, eliminating special charges and delays. Besides helping managers to save on tight travel budgets, CMX may actually increase office productivity because of it's time saving nature.

TELELINK's CMX services are tailored to assist both large and small organizations in an easy to use, affordable manner. Our on-line telemoderator assists the customer in teleconference set-up, monitors line quality, and assures a successful conference. With TELELINK's CMX service, access to a world of new and timely methods for conducting business are as close as your telephone.

SERVICES

CONFER-CALL -- CONFER-CALL is used for general teleconferencing. It is oriented towards staff, board, committee, sales, or field office meetings needing fast, economical connections from multiple locations. CONFER-CALL is also ideally suited for special applications such as; new product promotions, political caucuses, workshops, seminars, and training sessions.

AUTO-CALL -- AUTO-CALL provides CMX users with cost saving teleconferencing during off peak hours. AUTO-CALL is for CMX users who do not require a telemoderator. Associations, professional groups or others not needing teleconferencing during the normal working day can use the fully automated CMX AUTO-CALL service.

DATA-CALL -- DATA-CALL is used to enhance an audio teleconference with computer graphics, visual materials and is especially use ful for conference notes, agendas, and records. Customers use their own data terminals, word processors or facsimile machines. DATA-CALL can be used in conjunction with other CMX services providing the hard copy needed during meetings.

RATES

CONFER-CALL -- $.380 per minute, per location with 1/2 hour minimum. Reservations are required at least 72 hours in advance. A $50 fee will be charged for cancellations within 24 hours of scheduled times.

AUTO-CALL -- $.275 per minute/per location with a maximum of 16 participants. AUTO-CALL is available from 8:00 pm PST until 6:00 am PST. Reservations are required.

DATA-CALL -- Prices for DATA-CALL are quoted separately and may vary according to the type of data equipment used.

OTHER CMX SERVICES AND RATES

RECORDING AND CONFERENCE TRANSCRIPTION -- TELELINK will provide users of CMX services with a master cassette tape or type transcriptions of teleconferences. $12 per cassette or $10 per transcribed page.

CALL-OUT CONFERENCE REMINDERS -- Teleconference reminders or conferee additions can be handled by our CALL-OUT service. $2 per call and any long distance charges.

CUSTOM TELECONFERENCE INSTALLATIONS -- TELELINK will install customized, in-house teleconference equipment selected from several types of equipment and systems. Lease or purchase options are available.

TELEPHONE COMPANY CHARGES -- TELELINK is not responsible for telephone company local or long distance charges. TELELINK has made every possible effort to configure it's CMX service so that customers telephone calling charges are minimized. On request, TELELINK will make arrangements for customers with special billing requirements.

JUNEAU EMP

"The Voice of Alaska's Capital City"

75 NO. 246 JUNEAU, ALASKA, THURSDAY, DECEMBER 17, 1981

Firm sets up phone conferences

By Empire Staff

Stuart Browne and Allen Blume say they are selling a "mechanism of efficiency" in the form of a new, direct-dial teleconferencing service for Alaska and the Pacific Northwest.

The Conference Message Exchange provided by Telelink "is specifically designed for busy executives, agency directors or citizen participants who find themselves on the road to meetings and conferences, when they need to stay at their desk doing work," Browne said.

Telelink provides a teleconferencing bridge capable of linking up to 13 separate locations into a common conversation by simply placing a direct-dial long distance or local call, said Blume. When the system is fully operational, it will have the capability to tie in 23 locations at once.

No special equipment, just a telephone is required, to be connected into the system for a teleconference call. It can work "any place in the world there's a telephone," said Blume.

The service is "not absolutely replacing travel. ... You still need eyeball-to-eyeball contact," said Blume. Use of the system, however, can greatly reduce travel time, expenses and intangibles such as employee fatigue, said Blume.

The system works much like the Legislature's teleconference system, but it does not require individual teleconference locations — just a telephone

Estimates of a teleconference cost per-port, per-hour is generally between $60 and $75 based on the long-distance tolls for the points connected. Thus, a teleconference including Anchorage, Fairbanks, Kodiak, Bethel, Kotzebue, Barrow and Juneau would cost roughly $310 in long distance tolls, plus $159.60 for Telelink's service, said Blume.

Contrast that with travel expenses that include round-trip airfare, ground transportation, hotel accomodations, meals, entertainment and factors such as lost performance in the office, missed travel connections and last minute changes in meeting locations or agendas, says Blume.

Telelink's office in the Assembly Building acts as a nerve center for the teleconferencing.

Participants call Telelink and then carry the long-distance charges themselves, said Blume.

There are limitations to the use of the teleconference system, Blume added. Those include the loss of visual cues, the need for agendas to be prepared and circulated in advance, and a need for the person presiding over the meeting to be sensitive to the participants. Blume and Browne advise that one-way presentations not exceed five minutes without some inquiry for questions and comments.

Demonstrations to state agencies and private business have been met with a "very enthusiastic response," said Blume. "We're looking at shrinking the distance in Alaska through this kind of medium."

Browne, who is president of Telelink, is a former telecommunications planner with the Department of Transportation and Public Facilities. Blume is a former legislative employee.

Special phone conference comes to Ak

Stuart Browne, president of TELELINK Communications Inc. has announced the inauguration of a direct-dial teleconferencing service for Alaska and the Pacific Northwest.

"Our new Conference Message Exchange service is specifically designed for busy executives, directors or citizens who find they need to stay at their desk doing work," Browne said.

Telelink's CMX is a state-of-the-art teleconferencing bridge capable of linking up to 25 separate locations into a common meeting point by simply placing a direct-dial long distance or local call.

"In normal use, we can offer four separate and simultaneous conferences using either voice or data as the communications medium," Brown said. "The equipment automatically compensates for low signal levels, and gives the impression that teleconferees are not hundreds of miles away but in the next room."

The firm said the service has been demonstrated to a variety of state and private sector users with favorable reactions.

"A lot of people tend to see teleconferencing as a threatening, complicated process, when it is not," Brown said.

He describes the CMX as an extension of the telephone "a most essential tool in the office.

"Instead of placing one call at a time, we offer the opportunity for you to talk to many people simultaneously, saving time, confusion and money."

Browne said the firm will continue to offer free half-hour working demonstrations of the service. He said requests should be directed to him or Allen Blume of the firm.

"We've demonstrated the service to a wide variety of state [illegible] users, and [illegible] ing one call at a time, w[illegible] the opportunity for you [illegible] to many people simulta[illegible] g time, confusi[illegible] Browne conclu[illegible] LINK is offerir[illegible] r working demo[illegible] the CMX servic[illegible] further inform[illegible] s and other T[illegible] programs, Inter[illegible] s may call Brow[illegible] Blume at 586-6[illegible]

Anchorage Daily News Wednesday, November 25, 1981 C3

business notebook

Conference system links 25 stations

TELELINK Communications Inc., of Juneau has inaugurated direct-dial teleconferencing services for Alaska and the Pacific Northwest. TELELINK's Conference Message Exchange (CMX©) service is a state-of-the-art teleconferencing bridge capable of linking up to 25 separate locations into a common meeting point by placing a direct-dial long distance or local telephone call.

Alaska gets teleconference service

Direct-dial teleconferencing service for Alaska and the Pacific Northwest has been inaugurated by Telelink Communications Inc. of Juneau.

Stuart Browne, president, said the new Conference Message Exchange (CMX) service is designed for executives, agency directors or citizens who find themselves on the road to meetings and conferences "when they need to stay at their desk doing work."

The service, he said, is capable of linking 25 separate locations to a common meeting point by placing a direct-dial long distance or local call.

"In normal use, we can offer four [illegible] for Ata[illegible] become [illegible] allers: joysticks, paddles and keyboards, a spokesman said.

"With the number of Atari VCS owners growing daily, we need more service centers in more places across the U.S.," said Michael J. Moone, president of the consumer electronics division.

"By recruiting and training [illegible] to service

[illegible] ftwar[illegible]

[illegible] ckage can also be[illegible] luate wraparound[illegible] complex value of[illegible] and ownership [illegible] sale-leaseback decisions.

The package is availal[illegible] disk for the Apple wit[illegible] and Applesoft. The retail[illegible] is $150.

For further informa[illegible] Howard Software Ser[illegible] 8713 Vista del Mar, La[illegible] CA 92037; (714) 454-5070

[illegible] ECORDER™

Teleconference gets messages out quickly

by Martin Merzer
Knight-Ridder Newspapers

How can you reach a lot of people, in many cities, all at the same time and in a memorable manner?

By satellite, that's how.

The same technology that has made it possible to laugh with the Chicago Cubs and cry over the New York Mets in the privacy of your own home now offers public relations and marketing types a new vehicle for reaching thousands of people simultaneously in scores of cities.

Called "teleconferences," these closed-circuit, satellite-beamed affairs are being used by companies of all descriptions to transmit their sales-motivational sessions and promotional messages.

The programs can originate in virtually any city. Then, they are bounced off satellites (the same satellites that transmit programming to cable-TV companies) and are received in any other large or medium-sized city in the United States.

"This is the coming thing," says Steve Sinsheimer, satellite network coordinator for Jim Sant'Andrea Inc. of New York City. "It's growing and growing every day."

Sinsheimer's company, one of several that now specialize in producing these affairs, last fall handled a 59-city extravaganza for Norwegian Caribbean Lines.

The company was interested in promoting its 1982 cruise schedule and marketing programs, and more than 6,000 travel agents throughout the United States were exposed to that information simultaneously and in high style, according to Fran Sevcik, an NCL spokeswoman.

"Traditionally, a lot of cruise lines, including NCL, have done road shows, but to hit so many places would have taken months," she says. "This way, we not only were able to broadcast the information, but we also had a phone-in system so we could get questions and other feedback."

A similar two-way system was used by the Ford Motor Co. to link up 102 cities for a press conference that promoted the company's 1982 automobiles. An estimated 700 reporters attended the sessions, which were broadcast over a hook-up operated by Hi-Net Communications, a division of Holiday Inns Inc.

"This is a new technology, a new way of doing business," says Mike Davis, a Ford spokesman. "It costs a good bit of money, but we get to a lot of people."

Sinsheimer says costs vary, depending on the scope and nature of the program, but a simple show, beamed to 20 cities, can be bought for about $100,000.

In fact, he says, almost any company can afford it.

670
KDLG
5000 Watts
Public Radio

December 21, 1981

Mr. Ray Tyson
House Labor and Commerce Committee
921 West 6th Avenue, Suite 250
Anchorage, Alaska 99501

RE: Memorandum of proposals for draft resolution concerning committee policy on statewide telecommunications.

Dear Mr. Tyson:

In the memorandum dated December 14, 1981, one guideline of resolution says that no commercial advertisements shall be carried in state funded or state subsidised programs. The following guideline says the state should encourage commercial coverage of the legislative sessions by making equipment, space and satellite time available to commercial radio and television. The two guidelines appear to contradict each other. To my way of thinking making equipment, space and satellite time available is a form of subsidizing which would then prohibit commercial operations from broadcasting advertisements and thus remove their method of funding.

On another matter, as a bush resident, I find the proposal to delete commercial advertisements from programs transmitted by state funded or state subsidized programs questionable. In many bush communities, such advertising is the only way people have to learn of available goods and services, and new products. Further, the removal of the advertisements could cause the owners of the programs to charge the state more for their use and this should be weighed. It is also interesting to note that in Dillingham for the past two years residents have had major network programs broadcast both by the state project with commercials, and by the military system with out commercials. My observation has been that most people prefer watching the programs with commercials.

I hope these thoughts will be of assistance to you.

Sincerely,

Les Robinson

Les Robinson
General Manager
KDLG Radio Station

LR:kc
CC:file, Supt.

Sent copy of resolution
2.1.18

2-4-82

HCR-56

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 4, 1982
1:12 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Randolph

Members Absent: Rep. Gardiner
Rep. Rogers

COMMITTEE CALENDAR

HCR 56 — Relating to the policy of the legislature concerning telecommunications.

WITNESS REGISTER

Roy Paschal
BC Cable Co.
Box 929
Juneau, Alaska 99801
586-3187
Position Statement: Recommendations.

Charles Northrip, Executive Director
Alaska Public Broadcasting Commission
Pouch CB
Juneau, Alaska 99811
465-2846
Position Statement: Options to reduce interference between cable and locally-broadcast television.

Alex Hills
Department of Administration
Pouch C
Juneau, Alaska 99811
465-2200
Position Statement: Spoke of Division of Telecommunications.

PREVIOUS ACTION

HCR 56 — See previous day's minutes (2/3/82) for action taken on resolution. No formal action taken this date due to lack of quorum by the end of the meeting.

ACTION NARRATIVE

Tape #009
Recording
Number 0000

Meeting was called to order by Chairman Martin at 1:12 p.m. Members present were: Representatives Martin, Bylsma, and Randolph. Members absent were: Representatives Gardiner and Rogers. Representative Martin left the meeting approximately five minutes after the call to order. HCR 56, relating to the legislature's policy regarding tele communications, was before the committee, being held over from the previous day.

Number 0014

Roy Paschal, BC Cable Company, Juneau, spoke about interference between cable and local television stations. He said that, historically, UHF channels are used, but the FCC made an exception for Alaska because the lower channels were not being used. He explained local interference problems. Paschal said he wants KTOO (Juneau's public television station) to go to UHF so as not to interfere with his cable stations. After discussion by the committee of UHF and VHF channels, Paschal said that there is objection to BC Cable going to UHF. He said that if cable has to convert to UHF, it will be costly for the consumer. Rep. Bylsma asked Paschal if he would like all public television to get off the VHF channels and move to UHF. Paschal agreed.

Number 0139

Charles Northrip, Executive Director of the Alaska Public Broadcasting Commission and former general manager of KTOO in Juneau, said the specific instances Paschal spoke of in Juneau are related to the local public television station, but not to all telecommunications. He said that, elsewhere in the state, the Learn Alaska and Television Demonstration Project directly relate to the telecommunications division. Northrip pointed out that public stations in the Lower 48 are not relegated to UHF; he said approximately 50% are VHF. Northrip said these channels are assigned by the FCC. He explained that the FCC assigned certain channels to each community, making sure that the same or adjacent channels were not assigned to the same community. Certain channels were set aside for public broadcasting. For a long time in Alaska,

UHF was used for the troposcatter system (telephone); but are now available for public use. Northrip said it takes more power to get the same coverage with UHF--a main UHF transmitter for KTOO would cost about $100,000; it would use more electricity and have a higher operating expense.

Number 0230 — Northrip said that, as the channels are assigned by the FCC, it would be impossible for the Division of Telecommunications to force an independent entity to change frequency, as this is under federal jurisdiction. He explained the local situation between KTOO and the cable transmissions. Northrip said that, as long as cable and transmitters exist on the same channels, there will be interference.

Number 0285 — There was discussion between Northrip and Rep. Randolph about the practicality of switching to UHF.

Number 0300 — Rep. Bylsma asked how a compromise could be reached. Northrip suggested that the cable could carry the public station on UHF free to any consumer, except for the charges for deposits and converter box. Objections to this are a poor signal; cable doesn't reach to all areas; and, as public stations are partially state-funded, all people should have access. Northrip did not feel it was possible to completely eliminate the problem.

Number 0360 — Alex Hills, state Administration, reiterated the distinction between state-operated programs and separate entities receiving state funds. He said they have resolved interference situations in several communities. Hills said that phase locking and co-channel assignment have been used as solutions rather than UHF. Hills felt that, even without the resolution (HCR 56), the Division of Telecommunications would continue to work on these areas.

Number 0435 — As there was not a quorum, and no one else wished to testify, the meeting was adjourned by Vice-Chairman Bylsma at 1:43 p.m.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 2/4/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		12:55	
Rep. D. Randolph	✓		1:10	
Rep. B. Rogers				
Rep. T. Gardiner				
Rep. T. Martin, Chair	✓		1:00	

Subject Matter:

House Bill No. HCR 56 _____ _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

2/4/82 1:12

0000 Call to order

014 Roy Pascal, re line 23, p. 1; spoke about interference bet. cable & local stns.

040 Randolph – need stronger language

045 Pascal – historically (cable?) goes on UHF channels; exception made by FCC for Alaska because lower local channels not being used. Explained interference problems

06? Randolph asked expense of switching; Pascal – $2-3,000. This change wd eliminate all interference. Wants KTOO (public stn) to go to UHF.

089 Byloma & Randolph discussed possible rewording.

100 Pascal – there is objection to going to UHF. If cable has to convert to UHF, will be costly for consumer.

128 Byloma – you wd like all public TV to get off lower & move to higher channels. Pascal agreed.

139 Charles Northrip, Exec Dir, Ak Pub Broadcasting Comm., former gen mgr KTOO, Juneau. Specific instances Pascal speaks of in June are related to local pub. TV stn, but not all telecomm. Elsewhere in state, (Kodiak, Ak, TV demons. proj.) directly relate to telecomm. div. Pub stns in lower 48 are not relegated to UHF; approx 50% are VHF. These channels are assigned by FCC; certain channels were assigned to each community – same or adjacent channels not assigned to same comm.

Certain
~~Some~~ channels were set aside for public broadcasting. For a long time in ak, UHF was used for tropospheric system (telephone); but now available for public use. Takes more pwr to get same coverage w/UHF; main xmtr for UHF for KTOO wd cost ~~as~~ abt $100,000. More electricity, higher operating expenses.

230 ~~Suggestion~~ ~~clear~~ These channels are assigned by FCC; wd be impossible for Dir of Telecomm to force independent entity to chng freq. when assigned by FCC (federal jurisdiction). Explained local situ between KTOO & cable transmissions. As long as cable & xmtrs must, on same channels there will be interference.

285 Randolph – correct that switching to UHF wd solve prob? (Yes) But difficult to get FCC appl? Northrup – yes; also expensive (at least $100,000) Not practical.

300 Byloma – how cd compromise be reached? Northrup – ~~Sec. communities, cable failed petn to do~~ cable cd carry public stn (on UHF) free to any consumer, except deposit on converter box. Objections – poor signal, some people can't hook up (cable doesn't reach); state funds for pub TV, so all shd have access.

355 Not possible to completely eliminate problem;

360 Alex Hills ~~Alec Hill~~ – ~~eg [illegible] [illegible]~~ reiterated distinction between state operated progs & ~~[illegible]~~ separate entities receiving st. funds. Have resolved interference prbs in several communities. Phase locking & co-channel assignment have been used as solutions rather than UHF. ~~[illegible]~~ Even w/o resolution, Div of Telecomm. Sv. will continue to work on these areas.

435 As there was no quorum, mtg was adjourned. 1:43.

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Charles Northrip	Pouch C B Juneau 99811	APBC	observe	465-2846
denise zachary		Cordova	No	424-5151
Roy PASCHAL	Box 929 Juneau 99802	B.C. Cable Co.	Yes	586-3187
Kathi Baltes	Room 30, Capitol Bldg	LAA / Leg Teleconference Asst	NO	465-3836
Heidi Hoffman	Pouch C Juneau	APBC	NO	465-2846

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

CSHCR 56 (L&C)

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
ALEX HILLS	POUCH C	ADMIN	NO	2200
SONYA Plummer	"	"	NO	2041
Nancy Cook		Rep. Rogers	No	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2-4-PM

2-8-82

HCR 56

HB 630

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 8, 1982
1:08 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Rogers
Rep. Randolph
Rep. Gardiner

Members Absent: No members absent.

COMMITTEE CALENDAR

HCR 56 — Relating to the policy of the legislature concerning telecommunications.

HB 630 — An Act relating to state loan programs; and providing for an effective date.

WITNESS REGISTER

Representative Ray Metcalfe
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-4947
Position Statement: Prime sponsor of HB 360.

Tom Sofo
LAA Legal Services
Pouch Y
Juneau, Alaska 99811
465-3867
Position Statement: Reviewed HB 630.

Don Hostak, Director
Division of Business Loans and Veterans Affairs
Department of Commerce & Economic Development
Pouch D
Juneau, Alaska 99811
465-2510
Position Statement: Impact of HB 630 on Division's budget.

Rod Moran, Director
Division of Administrative Service
Department of Community & Regional Affairs
Pouch B
Juneau, Alaska 99811
465-4709
Position Statement: Comments on impact of HB 630.

Gary Jenkins, President
Specialized Professional Services
no phone or address given
Position Statement: Comments on inconsistencies and areas not being addressed by HB 630.

Thomas K. Williams, Commissioner
Department of Revenue
Pouch S
Juneau, Alaska 99811
465-2300
Position Statement: Comments and suggestions regarding HB 630.

PREVIOUS ACTION

HCR 56

See minutes of meetings on 2/3/82 and 2/4/82.

Action taken this date: Chairman Martin moved to rescind action in deleting language, p. 2, lines 11-12, "by making equipment, space, and satellite time available to the private sector." Rep. Rogers objected. Rep. Rogers withdrew his objection. Motion passed with no objection.

Rep. Randolph moved to add language, p. 2, line 11, "by making equipment and satellite time, which has already been purchased by the state, available to the private sector."

Rep. Gardiner moved to amend Rep. Randolph's amendment by inserting, after the word "to", the language, "all members of", so amendment would read "by making equipment and satellite time, which has already been purchased by the state, available to all members of the private sector". Motion passed without objection.

Rep. Randolph's amendment passed with no objection.

Rep. Rogers moved to incorporate amendments into a new committee substitute as amended, and to report bill out of committee with individual recommendations. There being no objection, motion passed.

HB 630

No previous action.

Statutory reference: AS 44; AS 18.54.070; AS 18.56.090; AS 45.89; and various loans

under AS 03; AS 16; AS 18; AS 26; AS 44; AS 34; AS 37.

Action taken: Rep. Rogers moved to refer HB 630 to Special Committee on Banking; Rep. Gardiner requested a letter be attached to referral. Motion passed without objection. Representatives Bylsma and Rogers were appointed to work with Banking Committee.

ACTION NARRATIVE

Tape #010
Recording
Number 0000

The meeting was called to order by Chairman Martin at 1:08 p.m. Members present were: Representatives Martin, Bylsma, Gardiner, Randolph, and Rogers. There were no members absent. Representative Metcalfe was present to give testimony on HB 630.

Number 0010

Chairman Martin brought HCR 56 before the committee. He moved to rescind the committee's action of 2/3/82 in deleting language, page 2, lines 11-12, "by making equipment, space, and satellite time available to the private sector." Rep. Rogers objected. There was discussion of the motion. Rep. Bylsma suggested amending to allow the private sector to use available equipment. Rep. Rogers withdrew his objection to Rep. Martin's motion; motion passed without objection.

Number 0120

Rep. Randolph moved, page 2, line 11, to amend language to read, "by making equipment and satellite time, which has already been purchased by the state, available to the private sector." Rep. Rogers asked unanimous consent. There was discussion of the motion. Rep. Randolph said it was his intention to make available only that equipment and time which has already been purchased by the state.

Rep. Gardiner moved to amend Rep. Randolph's motion by adding, on page 2, line 12, after the word "to", the language, "all members of the private sector", so language would read, "by making equipment and satellite time, which has already been purchased by the state, available to all members of the private sector." There was discussion.

On the question, Rep. Gardiner's amendment to Rep. Randolph's motion passed without objection. Rep. Randolph's motion passed without objection.

Number 0164

Rep. Rogers moved to incorporate the amendments into a committee substitute and to report CSHCR 56 from committee with individual recommendations. Motion passed without objection.

Number 0176

Chairman Martin then brought HB 630 before the committee. He went over the fiscal note and backup material.

Number 0201

Tom Sofo, LAA Legal Services, went over Commonwealth North's suggestions. There was discussion. It was noted in discussion that the bill did not cover all state loan programs.

Number 0395

Don Hostak, Director, Division of Loans and Veterans Affairs, said the bill as written would reduce their budget by over $500,000. There was discussion of how loans are obtained. Rep. Rogers questioned the need for the second step in AHFC loans (which would be added by the bill); Hostak saw no reason for it.

Number 0473

Rod Moran, Director, Administrative Services, Community & Regional Affairs, said the Loan Authority created by HB 630 would affect his department's loans. He felt the bill might confuse the public. He wasn't certain the Alaska Housing Loan Authority is the correct approach to take in consolidating loans. He felt the Authority didn't give the administration enough strength. He said HB 630 repeals the direct loan authority of the division. There were questions by the committee. When questioned by Rep. Rogers, Moran responded that there were no lending institutions who would provide interim financing on non-conforming loans.

Number 0610

Gary Jenkins, President, Specialized Professional Services, said he had compiled a guide to state loan programs. He said he also represented the National Federation of Independent Business. He said that many loan programs were not being addressed at all in the bill. He also found

inconsistencies; eg, Section 23 includes some loans that don't exist or that will not exist under the bill, such as CFAB and ARRC. He felt that the Alaska Housing Loan Authority adds another layer of bureaucracy.

Side 2, Number 001 — Jenkins commented on problems with AIDA business loans.

Number 0049 — Tom Williams, Commissioner, Department of Revenue, said there were problems with how the bill works. He felt consistent goals and purposes are needed in loan programs. He thought the bill attempted to do this, but there were problems in the method. He recommended referral to a subcommittee for further work. The committee spent some time discussing CFAB.

Number 0138 — Williams said there are also problems with housing authority programs. He said there are two types of housing--urban and rural--and unconventional situations, such as water sources, foundations, and waste disposal. He said these factors affect how the market in the Lower 48 views mortgages. He was afraid that, rather than eliminating redundancy in loan programs, the bill would create another layer of redundancy.

Number 0194 — Rep. Rogers moved to refer the bill to the Special Committee on Banking. Rep. Metcalfe had no objection. Rep. Gardiner felt the committee should draft a letter requesting the Banking Committee consider other loan programs that are not addressed in the bill, including the Alaska Power authority.

Number 0244 — Rep. Rogers felt four things should be considered: 1) including all loan programs; 2) tying loose ends on those programs being eliminated; 3) not adding another layer of bureaucracy; and, 4) consolidating social loan programs.

On the question, the motion passed without objection. Representatives Bylsma and Rogers were appointed to work with the Special Committee on Banking on HB 630.

Number 0263 — There being no further business to come before the committee, the meeting was adjourned.

HB 630 - Relating to Loan Programs

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Ed Enoch		Dept Comm & Econ Dev.	No	2500
Don Hostak		Div of Lnds & Vets Affrs	Yes	2510
Rod Mourant		Community & Regional Affairs	Yes	4709
Tom Williams		Revenue	Yes	2300
Carl Nelson		Loan Comm	No	4937
Richard Aks		DCRA	No	4700
Gary Jenkins			Yes	586-4100

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2-8-82

0000 Call to order 1:08 All members present

010 GCSHCR56 Ch. Martin moved rescinding action deleting making eqpt, satellite, etc; Rogers objected.

Ch. Martin gave reasons for his motion

030 Rogers felt including language wd indicate state wd pay for session coverage by commercial broadcasters (besides Capital 82). Rogers & Martin discussed costs.

050 Randolph gave his position; discussion

078 Bylsma suggested amending to allow private sector to use available eqpt. Discussion.

091 Rogers - felt there is no unused space avail; ~~was said suggested~~ amdmt giving eqpt on hand & satellite time already purchased available on lottery basis. Discussion.

115 Rogers w/drew objection to rescinding no;

180 Motion to delete: Rogers w/drew no to delete. ~~moved, for using HCR 56, to say "by making~~ "(by making eqpt +) satellite time, which has already been purchased by the st avail to the private sector." Randolph

Rep Rogers asked unan consent.

Gardiner, amdmt to amdmt, line 12, after word "to" - "all members of the private sector" Discussion re equal access

Amdmt to amdmt passed. (no objection)

Amdmt - no objections - passed

164 Rogers moved to incorporate amdmts into new CC as amended & pass on unan'l recommend'n.

176 HB 630. Ch Martin went over fiscal note & backup mat'l.

201 Sofo, LAA Legal Svcs

Went over Commonwealth North's suggestions.

Explained how they went about looking at amdmts to bill.

Said "social" loan progms not addressed.

263 Rogers - so we're repealing low/moderate income housing, child care, veterans, ~~loans~~ AHFC housing dev't, economic disasters - why are we shutting these down?

Sofo - only ones repealed were those w/no activity at all. Attempt of bill is to put categories left into some kind of framework.

310 also changed area dealing w/housing loans.

363 Did not address all points raised by Commonwealth North

Gardiner - did this address every state loan progm?

Sofo - no Gardiner - mining loans? Sofo - some consolidated w/AIDA, some still out there. ~~Gardiner - want exclus~~

/Sofo - cd get more info after recvg notes

→ 395 Don Hostak (Hostak) Holstad - Dir, Sm Loans & Veterans Affairs

Bill as written wd decrease their budget over $500,000.

Banks won't service some loans (e.g., limited entry loans).

Gardiner gave explanation of limited entry permits as used.

Difficult to allow anyone but state to hold mortgage (in order to avoid corps & others from gaining control of permit holders).

Rogers - why add 2d step in AHFC loans? Hostak - sees no reason.

473 Rod Moran, CoRA (Dir, Admin Svcs) — 630 creates Ak Housing loan Auth; his depts loans wd be affected. Bill may confuse public. Not certain Ak Housing Auth is correct approach to take in consolidating loans.
authority; 1) doesn't give admin enough strength
2) CoRA can't rep'd on committee
HB 630 repeals direct loan authority of division.

546 Randolph - gotcha

564 Rogers, re direct origination — Non conforming housing loans — banks won't provide interim financing; are there banks who'do give interim financing for addns to non-conforming loans? Moran — no, no interim financing. Randolph - no way to get interim money? No.

610 Gary Jenkins, Pres, Specialized Proff'l Svcs — compiled & published guide to state loan progms; also rep's Nat'l Fed'n of Independent Businesses. Many loan progms not being addressed at all.

678 Inconsistencies — Sec 23 includes some loans that don't exist or won't exist under bill. (Seafab, ARRC)

709 Ak Housing Loan Auth adds another layer of bureaucracy.

side 2 commented on
0001 AIDA business loans — problems, difficulty of getting loans, esp to small businesses.

049 Tom Williams, Comm, Revenue; on board of AHFC, AIDA & other agencies. Problems w/ how bill works. Need consistent goals & purposes in loan progs; bill attempts to do this, but probs in method. Recommends referral to subcommittee for further work. Need to address probms of eliminating progms like ~~Sea~~ ARRC & Seafab. ~~or those~~ Gardiner (101) - gotns as stockholders in Seafab; Williams said these are issues that need to be addressed. Discussion - Gardiner, Williams re ~~Seafab~~ CFAB.

138 also prob w/ housing authority programs. 2 types of ~~loans~~ housing - urban & rural; unconventional sites - water sources, foundations, waste disposal. These factors affect how market in towns 48 views mortgages. ~~Afraid it~~ afraid that, rather than eliminating redundancy in loan progms, will create another layer of redundancy.

194 Rogers - gotn re fiscal note. Rogers thought bill shd perhaps be ~~heard before~~ referred to Banking committee before being dealt w/ by L&C. He moved to refer to Spec Comm on Banking

214 Metcalfe - no objection

216 Martin ~~moved~~ reiterated motion
Gardiner said we shd request draft ltr Banking Comm to consider other loan programs that aren't addressed in bill, inc. Ak Pwr Auth

244 Rogers - 4 things shd be considered 1) inc all loan progms 2) tie loose ends on those eliminated; 3) not add another layer of bureaucracy 4) consolidate social loan pgms.

Mo passed; Bylsma & Rogers appointed to wk w/ Comm on Banking.

263 adjourned.

HB630

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Sherry Rhoads	SEA Box 2040-C Anch.	Seef	No	272 8743
JEFF DAY		JOE HAYES	No	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2-4-82

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 2/8/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:04	
Rep. D. Randolph	✓		1:00	2:00
Rep. B. Rogers	✓		1:05	
Rep. T. Gardiner	✓		1:14	
Rep. T. Martin, Chair	✓		12:55	

Subject Matter:

House Bill No. 630 HCR 56 _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

To: Russ Meekins, Chairman
Special Banking Committee

From: Terry Martin, Chairman
House Labor & Commerce Committee

Date: February 8, 1982

Subject: HB 630 referral

Pursuant to hearing and discussion by this committee, the members have agreed that the Special Banking Committee should review HB 630 before action by the Labor & Commerce Committee. Areas we request your committee review are:

1) to include all state loan programs under the proposed Alaska Business Loan and Industrial Development Authority:

a) consolidation of social loan programs;

b) include the Alaska Power Authority in the loans being addressed by this legislation;

2) review contractual and constitutional rights of loan participants under those loan programs being eliminated; and,

3) evaluate the bureaucracy potentially created by this legislation.

Labor & Commerce Committee members Bylsma and Rogers have been appointed by the committee chairman to work with your committee on reviewing HB 630. After review by the Special Committee on Banking, we request HB 630 be returned to the House Labor & Commerce Committee for expedited consideration.

Terry Martin by

Original sponsor: Labor & Commerce Committee

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE CONCURRENT RESOLUTION NO. 56 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

Relating to the policy of the legislature concerning telecommunications.

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

WHEREAS a significant amount of public money is being invested in telecommunications systems; and

WHEREAS the private sector that deals in Alaska telecommunications has faced increasing competition from government as a result of state wealth and expenditures for telecommunications; and

WHEREAS the private sector is the foundation and vitality of the American economic system; and

WHEREAS the Alaska State Legislature has not adopted a policy regarding the burgeoning telecommunications system;

BE IT RESOLVED that the Alaska State Legislature shall consider the following guidelines when considering telecommunications legislation:

(1) to the extent possible, the divisions of telecommunications should procure cost-effective services from private enterprise or certified and franchised utilities and contract for the construction, management, operation, and maintenance of telecommunications systems;

(2) to the extent possible, the divisions of telecommunications should eliminate airwave interference of state-owned or financed stations with privately owned and operated cable television stations;

(3) unnecessary regulatory and government barriers which impede growth and development of new and innovative services by the private sector should be removed;

(4) companies owned or operated by residents of Alaska and based

in Alaska should be considered before companies from other states when telecommunications goods or services are needed from the private sector;

(5) Alaska's villages should have the opportunity to own, operate, and maintain their own satellite earth stations or to contract with the private sector for operation and maintenance of the stations;

(6) in-state programming beneficial to both urban and rural residents should be cost effective and the production of these programs should be available to the private sector on a contract or bid basis; and be it

FURTHER RESOLVED that the legislature encourages public and commercial radio and television news coverage of the legislative sessions." by making equipment and satellite time, which has already been purchased by the state, available to all members of the private sector."

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 630
Title An Act relating to state loan programs; and providing for an effective date.

Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Economic Development
BRU, Program, Or Subprogram(s) Affected Division of Loans and Veterans' Affairs
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		(434.6)	(434.6)	(434.6)	(434.6)	(434.6)
200 TRAVEL		(56.0)	(56.0)	(56.0)	(56.0)	(56.0)
300 CONTRACTUAL		(48.6)	(48.6)	(48.6)	(48.6)	(48.6)
400 COMMODITIES		(8.5)	(8.5)	(8.5)	(8.5)	(8.5)
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		(547.7)	(547.7)	(547.7)	(547.7)	(547.7)

FUNDING (Thousands of Dollars)

GENERAL FUND		(547.7)	(547.7)	(547.7)	(547.7)	(547.7)
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		(12)	(12)	(12)	(12)	(12)
PART TIME						
TEMPORARY						

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

Space Rental and ASHA payments not included in these figures.

IV. DATE 2/8/82

PREPARED BY Don Hostak, Director
AGENCY Department of Commerce & Economic Development
PHONE 465-2555 or 465-2510 Division of Loans and Veterans' Affairs

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

33-001 (Rev. 12/81)

2-9-82

HB 597

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 9, 1982
1:11 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Rogers
Rep. Gardiner
Rep. Randolph

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 597 An Act relating to the sale of bread.

WITNESS REGISTER

Representative Ernie Haugen
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-3712
Position Statement: Prime sponsor of HB 597; gave reasons for introducing legislation.

Jess Garcia
Associated Grocers
3301 S. Norfolk
Seattle, Washington 98124
762-2100
Position Statement: Supported bill.

Peter Froehlich
Assistant Attorney General
Juneau, Alaska 99811
465-3600
Position Statement: Said Attorney General's office has no position on bill.

Art Hammer
Hammer & Wikan
200 K Street
Petersburg, Alaska
772-4524
Position Statement: Supported bill.

Ralph Woll
Sunrise Bakery
95 Chain of Rocks Road
Eagle River, Alaska

277-3548
Position Statement: Opposed bill.

Jeff Barry
Committee Aide
House Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811
465-3669
Position Statement: Gave results of research.

PREVIOUS ACTION

HB 597

No previous action.

Statutory Reference: AS 45.75

Action Taken During Meeting: Rep. Rogers moved, line 6, to delete word "bread" and insert word "food"; and insert, on line 11, statutes repealed, the following statutes: "AS 45.75.190(4), AS 45.75.250, AS 45.75.260, AS 45.75.270, AS 45.75.310". Representatives Martin and Bylsma objected. There was discussion of the amendment. Question was called: for--Gardiner, Rogers; opposed--Martin, Bylsma (Rep. Randolph had left the meeting at 1:30). Motion failed.

Rep. Gardiner moved to report bill from committee with individual recommendations. Motion passed unanimously.

ACTION NARRATIVE

Tape #011
Recording
Number 000

The meeting was called to order by Vice-Chairman Bylsma. Members present were: Representatives Bylsma, Randolph, Rogers, and Gardiner. Rep. Martin was absent when the meeting convened, but joined the meeting at 1:40. Rep. Randolph left the meeting at 1:30. Under consideration by the committee was HB 597 relating to the sale of bread.

Number 005

Representative Ernie Haugen, prime sponsor of HB 597, gave the reasons he felt the legislation was needed. There was discussion by the committee and Rep. Haugen of the current law and changes proposed. Rep. Bylsma asked how one could mark bread

which was unwrapped; Rep. Rogers responded.

Number 102 — Jess Garcia, Associated Grocers, Seattle, testified about why he felt the law should be repealed. (Garcia submitted written testimony in the form of a letter to the committee; this is available from the committee.) Rep. Rogers asked Garcia his opinion of repealing the law in regard to other products, such as dairy products. Garcia had no objection to that.

Number 162 — Peter Froehlich, Assistant Attorney General, on behalf of the Department of Law, said the Department had no position on the bill. He said the Law Department and Consumer Protection Agency have no problems with the repeal of the bill as long as labeling requirements are maintained. Rep. Rogers asked if consumers would still be protected if the practice of marking products is maintained. Froehlich said that was all that is necessary to protect the consumer. There was discussion among the committee. Rep. Rogers asked Rep. Haugen if he objected to extending the bill to include other sections (covering other foods); Rep. Haugen did not object.

Number 245 — Art Hammer, owner of a store in Petersburg and member of Associated Grocers, supported the bill. He said he could buy bread from one supplier if that supplier complied with Alaska law; at present, he has to buy from several suppliers. He said under the present law, he could not purchase holiday breads, as they come in various weights. Upon questioning by Rep. Bylsma, Hammer said that Washington bakers have to switch pans to conform to Alaska laws; consequently, only a few bakers supply Alaska bread. He felt the bill would open the market to other suppliers. There was discussion.

Number 333 — Ralph Woll, General Manager of Sunrise Bakery, Eagle River, opposed the bill. He said cheap bread would be the result, such as "balloon bread"--bread which has much more air in it. He said that normally, bread is made with a ratio of 9 pounds of yeast to 100 pounds of flour; but balloon bread is made with 44 pounds of yeast to 100 pounds of flour. He said this would cause the price to drop, and Alaskan bakers could

not compete. He noted that consumers get less bread for the money in such a situation, and that this would not be good for Alaska. There was discussion.

Number 385

Rep. Gardiner asked if people weren't aware of this situation (balloon bread containing a lot of air) if the weight was marked. Woll said that consumers tend to look at price, not weight. After further discussion, Woll said that Washington and Oregon are the only states which don't have laws regulating bread, and went on to say that balloon bread is illegal in Washington. Garcia, who spoke previously, pointed out that balloon bread is normally labeled differently, eg, "giant", "large", etc. He was sure Alaska consumer protection laws would protect against this. Rep. Gardiner wanted a sample of balloon bread.

Number 474

Jeff Barry, committee aide, said his research showed that current Alaska law is based on national law. He said it was tied into the Consumer Price Index. In Washington, weights dropped, but prices remained the same. He felt this could affect the Alaskan Consumer Price Index. He said the committee should also consider the effect on the Alaskan market, as they will need new sizes of bread pans, considerable cash outlay to compete.

Number 534

Rep. Rogers said he did not see how the public is served by regulating bread.

Number 555

Rep. Rogers moved to amend the bill on line 6 by deleting the word "bread" and inserting the word "food"; and to add further sections to be repealed on line 11 by inserting "AS 45.75.109(4), AS 45.75.250, AS 45.75.260, AS 45.75.270, AS 45.75.310". He said this would repeal the restriction of bread weights and butter and dairy product units. Representatives Martin and Bylsma objected.

Number 625

There was discussion on the proposed amendment. Rep. Byslma felt the amendment would require more research for people shopping for food, and would deceive the public. Rep. Martin said he objected because the amendment would make a fairly simple bill complex. There was discussion about packaging in sizes misleading to the

public.

The question was called. Voting for the amendment were Representatives Gardiner and Rogers; voting against the amendment were Representatives Martin and Bylsma. The amendment failed.

Side B, Number 010 Rep. Gardiner moved to report the bill from committee with individual recommendations. The motion passed without objection.

As there was no further business to come before the committee, the meeting was adjourned at 2:00 p.m.

Introduced: 5/29/81
Referred: Labor & Commerce

IN THE HOUSE BY HAUGEN AND ROGERS

HOUSE BILL NO. 597

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the sale of bread."

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

* Section 1. AS 45.75.200 is amended by adding a new subsection to read:

(d) The marking provisions of this section do not apply to unwrapped loaves of food.

* Sec. 2. AS 45.75.250 is repealed.

AS 45.75.190(4), AS 45.75.250, AS 45.75.260, .270, .310

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
RALPH WOLL	95- CHAIN OF ROCKS RD EAGLE, RIVER ALASKA	SUNRISE BAKERY	NO	277-3548
RANDAL L. HAMES	307 MARINE ST. SITKA, ALASKA 99835	PORT WEST INC SEA MART STORES	NO	225-4183
JESS L. GARCIA	3301 S. NORFOLK SEATTLE, WA 98124	ASSOCIATED GROCERS	YES	762-2100
ART HAMMER	200 15" ~~Ewd~~ PETERSBURG ALASKA	HAMMER & WILKAN	YES	772-4524
PETER FROEHLICH	AGO Juneau	AGO	YES if Q's	465-3600
Edward Enoch		Dept. Comm. & Econ Dev	Yes	465-2500

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

HB 597 -

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Lloyd Hamos	330 x 397 Sitka	Hamos Corp		907-747-6044
DON MAGNUSSON	310 2ND JUNEAU	AK RETAIL ASS'N	NO	586-6706

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2-9-82

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 2/9/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:03	
Rep. D. Randolph	✓		1:10	1:30
Rep. B. Rogers	✓		1:03	
Rep. T. Gardiner	✓		1:11	
Rep. T. Martin, Chair	✓		1:40	

Subject Matter:

House Bill No. 597 _____ _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

Rep. Haugen attending.

Randolph
aft 1:30

2/9/82

000 Call to order by Bylsma (Martin absent)

005 Haugen, bill sponsor – gave reasons legislation is needed.

080 Rogers – read through law

094 Bylsma – gstn abt marking unwrapped bread
Rogers – answd

102 Jess Garcia, Assc'd Grocers – submitted ltr ~~from~~ gave reasons he feels law needs to be repealed.

145 Rogers – wondered if law shd be repealed applying to other products (dairy, etc). Garcia saw no problem w/ that.

162 Peter Fraelich, asst AG, on behalf of Dept of Law. No posn on bill; said Law Dept & Consumer Protection have no probs w/ repeal of bill as long as labeling reqmts maintained

Rogers – consumers wd still be protected if marking product is maintained? Fraelich – yes, that's all that's necessary to protect consumer.

207 Haugen - comments

Rogers - "

Bylsma - how do you label unmarked bread; is

225 it pre-weighed? Fraelich - sub (d) eliminates this issue

Rogers asked Haugen if he objected to extending to include other sections; Haugen didn't object.

245 _____ Hammer, owner of store in Petersburg & of Assoc. Grocers. Cd buy bread fm 1 supplier if complied w/ state law. Can't get holiday breads under present law. Supports bill, ~~intending an~~

276 Bylsma - goes abt how it wd affect bread on the shelf

Hammer - Wash. bakers have to switch pans to conform to Alaska laws; only a few bakers supply Alaska bread. Wd open market to other suppliers.

Bylsma - why make 15 or 16 oz loaves except to make people believe it's 16 oz.

Haugen - response

Discussion

333 Ralph Wall, Gen Mgr, Sunrise Bakery (part of ITT) - biggest bakery in Alaska. Opposes bill; eg, "balloon bread" - cheaper bread, alot of air (44# yeast to 100# flour; normal 9#: 100#). Price drops, Alaskan bakers can't compete. Less bread for the money. Not good for Alaska.

Discussion.

385 Gardiner - aren't people aware of the weight is marked?

Wall - they look at the price, not the weight.

Hanger - people can tell by looking at content.

Local bakers can't supply needs.

418 Rogers - this wdn't affect marketing balloon bread.

Cd do this under current statutes.

Wall - response; Wash & Oregon only state w/o law.

balloon bread illegal in Wash.

444 Garcia - balloon bread normally labeled as something different ("giant" "large" > etc). Sure Ak. consumer protection laws wd protect against this. Wd market same bread as sold in Wash.

Gardiner wanted sample of balloon bread.

474 Barry - results of research. Ak law based on nat'l law. Tied into CPI. In Wash, weights dropped, but prices remained the same. Cd affect Ak CPI. Shd consider affect on Alaskan market (new sizes bread pans, inability to compete).

534 Rogers - doesn't see how public is served by regulating bread, or any of the other restrictions

555 Amdmt line 6, delete bread, ins "food"

line 11 AS. 45.75.190 (4), 45.75.250, 260 .270, .3.0 are repealed. Wd repeal restriction of bread weights, butter & dairy product units

Martin & Byrsma objected.

Bylsma – this wd require more research for shopping, wd deceive the public.

625 ~~Reg~~ Discussion on amdmt.

Martin – object because will make, fairly simple bill complex. Agrees w/ idea of amdmt. Deception in pkging. Likes intent of amdmt, but feels we shd stick to bread.

~~Gardiner con~~

Discussion on packaging in sizes that wd mislead

Bylsma felt amdmt bears looking into

Vote on amdmt
2 for, 2 against
Gord Martin
Rogers Bylsma

Side 2

Gardiner moved to pass bill out of committee.

010 Passed. w/ individual recommendations

2:00

Brian Rogers
Terry Bakhaus } DO PASS

Martin
Bylsma } NO REC.

Stuffed Shrimp

DATE	PRICE/LB.	WEIGHT/LB.	TOTAL PRICE
2 982	$ 6.98	027	$ 188

FRESH GROUND BEEF

DATE	PRICE/LB.	WEIGHT/LB.	TOTAL PRICE
2 982	$ 179	099	$ 177

Monterey Supreme

DATE	PRICE/LB.	WEIGHT/LB.	TOTAL PRICE
2 982	$		$ 129

LEAN GROUND BEEF

DATE	PRICE/LB.	WEIGHT/LB.	TOTAL PRICE
2 982	$ 219	148	$ 324

BARBECUED PORK RIBS

DATE	PRICE/LB.	WEIGHT/LB.	TOTAL PRICE
2 982	$ 3.15	0.71	$ 224

SWEET N SOUR PORK

DATE	PRICE/LB.	WEIGHT/LB.	TOTAL PRICE
2 982	$ 359	067	$ 241

BARBECUED CHICKEN

DATE	PRICE/LB.	WEIGHT/LB.	TOTAL PRICE
2 982	$ 250	056	$ 140

GOURMET JUMBO POOR BOY

DATE	PRICE/LB.	WEIGHT/LB.	TOTAL PRICE
2 982	$		$ 1098

COUNTRY SAUSAGE

DATE	PRICE/LB.	WEIGHT/LB.	TOTAL PRICE
	$ 129	149	$ 192

FRESH GROUND BEEF

DATE	PRICE/LB.	WEIGHT/LB.	TOTAL PRICE
2 982	$ 179	146	$ 261

JARLSBERG SWISS

DATE	PRICE/LB.	WEIGHT/LB.	TOTAL PRICE
	$ 3.69	144	$ 531

ort Wine Cheese

DATE	PRICE/LB.	WEIGHT/LB.	TOTAL PRICE
	$ 3.49	059	$ 206

2-10-82

HB 386

HB 169

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 10, 1982
1:12 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Randolph
Rep. Rogers

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

HB 169 — An Act relating to motor carriers.

HB 586 — An Act relating to permits for overweight vehicles.

WITNESS REGISTER

Andrew Hoge, Attorney
Alaska Trucking Association
437 E Street
Anchorage, Alaska
276-1726
Position Statement: Comments on HB 169.

Jeff Barry, Committee Aide
House Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811
465-3669
Position Statement: Results of research on HB 169.

Harry Carpenter, Chairman
Interior Energy Corporation
no address or phone given
Position Statement: Commented on HB 169

John Longmire
Alaska Trucking Association
800 Warehouse Avenue
Anchorage, Alaska
478-3531
Position Statement: Opposed HB 169.

Jean Kline
Associated General Contractors
134 Franklin Street
Juneau, Alaska 99801
586-1740

Position Statement: Comments on HB 586.

PREVIOUS ACTION

HB 169

No previous action.

Statutory Reference: AS 42.10.420(7).

Action Taken: Rep. Randolph moved to accept the proposed committee substitute for HB 169 for discussion. As there was no objection, the motion passed.

Rep. Randolph moved to report bill from committee. Rep. Bylsma moved to amend motion to refer bill to another committee. Rep. Martin amended motion to recommend referral to Transportation committee with a letter requesting the committee to expedite the bill and to take teleconference testimony from Anchorage and Fairbanks. Rep. Rogers objected. On the question (motion to amend): for--Martin, Bylsma; opposed--Rogers, Randolph. The motion failed. On the question (main motion to report bill from committee), for--Rogers, Randolph; opposed--Martin, Bylsma. The motion failed.

Rep. Randolph moved to report bill from committee with recommendation of referral to Transportation Committee. Motion passed without objection.

HB 586

No previous action.

Statutory Reference: AS 19.10.060.

Action Taken: Rep. Rogers moved to amend bill to add an effective date clause of July 1, 1982; seconded by Randolph. Rep. Rogers withdrew his amendment and moved to amend bill to add effective date clause of January 1, 1983. There being no objection, the motion passed.

Rep. Rogers moved to report committee substitute for HB 586, as amended, from committee. There being no objection, the motion passed.

ACTION NARRATIVE

Tape #12
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:12 p.m. Members present were: Representatives Martin, Rogers, Randolph, and Bylsma. Representative Gardiner was absent. Rep. Martin brought HB 169 before the committee for consideration.

Rep. Randolph moved to accept the committee substitute for discussion; as there was no objection, the motion passed. Rep. Randolph explained the intent of the bill: to allow a person to lease his truck to an organization, and to work for that organization as driver of the truck leased.

Number 045

Andrew Hoge, counsel for Alaska Trucking Association, said that the definition of "private carrier" prohibits what the committee substitute does. He said the bill is inconsistent with the effect of "common carrier". He spoke of complications, such as insurance and safety requirements. He commented that the bill "rips the guts out of the motor carrier act."

Number 111

Rep. Randolph said he didn't see how leasing a truck would relieve the employer of the requirements Hoge spoke of, and asked Hoge for an example. Hoge responded that a common carrier is responsible for safety and insurance. If one is talking about a common carrier, there is no need for the bill, it is provided for. He asked clarification of the intent of the bill. There was discussion. Hoge said, in response to a question by Rep. Bylsma, that the bill seems to say that a private carrier could automatically become a common carrier, without a permit. He said there is a conflict in the language, that the bill creates a class of private carriers, which may not be the intent. He asked for time to submit specific comments. He was concerned that the bill does away with the effect of a common carrier.

Number 231

Rep. Rogers introduced HB 586, of which he is prime sponsor. He gave background and the effect of the bill. He said there are inconsistencies in the manner in which the Department of Public Safety issues permits (for overweight vehicles). He referred to

letters from contractors setting out their problems. (Copies of these letters were given to the committee members, and are available from the committee.) Rep. Bylsma felt the Department of Transportation would be likely to do the same thing. Rep. Rogers responded that the Department of Transportation understands contractors' difficulties better. He said the Dept. of Public Safety seems more nit-picky. He said the bill was submitted, in part, to draw attention to the problem. There was discussion.

Number 304 — The committee took up HB 169 again for further discussion.

Number 332 — Jeff Barry, committee aide, gave the historical aspect of HB 169. He said a common carrier or contract carrier could lease a vehicle from its employees, but a private carrier could not. He said the bill was not intended to give authority for a private carrier to expand into contract carriage, but was solely for an employer/employee situation. He went over protections (insurance, etc.) and situations where the bill would apply. He suggested including a letter of legislative intent to clarify what the bill should do.

Number 412 — Larry Carpenter, Chairman of Interior Energy Corporation and a private carrier, gave his personal situation as an example. He said the bill should eliminate discrimination against a private carrier. There was discussion.

Number 652 — John Longmire, Alaska Trucking Association, said under the bill, any owner/operator would become a private carrier. He gave an example of how the bill could be abused. He said a situation could result that would create unfair competition to the common carriers. There was discussion about possible abuses and insurance problems. Carpenter said the statutes set stringent guidelines, and suggested talking to someone from the Alaska Transportation Commission regarding the likelihood of a private carrier becoming a common carrier without a permit. There was further discussion.

Side B, Number 162 — Rep. Randolph moved to pass the bill. Rep.

Bylsma asked to hear the Alaska Transportation Commission's opinion; Rep. Rogers agreed, as Labor & Commerce is the last committee of referral. He noted that he had received requests for a teleconference. Rep. Martin agreed that further testimony should be taken. He said that he was going to recommend another committee referral.

Rep. Bylsma moved to amend the motion pass the bill by requesting another committee referral. Rep. Rogers felt Labor & Commerce should take further testimony rather than requesting another committee referral. Rep. Martin said he had spoken with Rep. Cato (chairman of House Transportation Committee), who deals regularly with the ATC; he felt the Transportation Committee would have a better opportunity to take further testimony.

Rep. Martin amended the motion to recommend referral to Transportation Committee, with a letter requesting they expedite the bill and take teleconference testimony from Anchorage and Fairbanks. Rep. Rogers objected. On the question, for--Martin, Bylsma; opposed--Rogers, Randolph. The amendment failed. On the question of reporting the bill from committee, for--Randolph, Rogers; opposed--Martin, Bylsma. The motion failed.

Rep. Randolph moved to report the bill from committee with a recommendation of referral to the Transportation Committee. The motion passed without objection.

Number 252

The committee returned to consideration of HB 586.

Jean Kline, Alaska Chapter, Associated General Contractors, said HB 586 addresses a considerable problem in the construction industry. She gave background and examples of past difficulties. Kline felt that Department of Transportation has a better knowledge of the industry than the Department of Public Safety. There was discussion.

Number 356

Rep. Bylsma questioned why one department would do better than another. He pointed out that employees of the Dept. of Public

Safety are trained in law enforcement. He felt transferring powers to the Dept. of Transportation would create another enforcement entity, and he expressed concern about giving another agency that kind of power.

Number 370

Kline responded that Dept. of Commerce has enforcement powers, as do other agencies. She said the Dept. of Transportation is concerned with safety, and they set restrictions on roads and bridges. There was discussion. Rep. Bylsma said the Commissioner of Public Safety had asked the committee to take no action on the bill until his agency could testify. Rep. Rogers said the committee had the Dept. of Public Safety's testimony on a similar senate bill.

Number 452

Jeff Barry, committee aide, said that, in most other states, there is a separate division within the department of public safety which is responsible for weights and measures.

Number 493

Rep. Rogers moved to amend HB 586 to add an effective date clause of July 1, 1982; motion was seconded by Rep. Randolph. After discussion, Rep. Rogers withdrew his amendment, and moved to add an effective date clause of January 1, 1983. There being no objection, the motion passed. Rep. Rogers then moved to report the committee substitute for HB 586, as amended, from committee. Being no objection, the motion passed.

Number 523

There being no further business to come before the committee, the meeting was adjourned.

HB 586
HB 169

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Nina Anderson Davis	800 Warehouse Ave Anchorage	Alaska Trucking Assn.	NO	278-3531
* John W. Longmire	" "	" "	NO	278-3531
Andrew Hoge	437 "E" St Anchorage	Alaska Trucking Assn	Yes	276-1726
Jean Klein	134 Franklin - Juneau	A.G.C.	No.	6-1740
Larry Carpenter				

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3/10/82

HB169
HB 586

House Labor & Commerce

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
ROBERT LEDMAN	P.O. BOX 1103 ANC	ATA CONSOLIDATED FRT.	NO	688 3155
H. Russell Painter	3027 Rampart Drive Anc	ATA Lynden Transport	No	276-4800
Leo A. Schoepfer	3356 Fairbanks	Sourdough Exp	no	452-1189
Lou James	5066 Buckingham	Denali Transp	no	276-5737
Bill James	2510 POST Road	Denali transp	NO	276-5737
H Thrasher	3443 Minnesota	Alaska Trucking		
Jim Jansen	3027 Rampart	Lynden Transport	No	276-4800
JOHN ORCHARD	PO BOX 6589 ANC	4 STAR TERMINALS	NO	349 4473
David G Fauske	2103 Sorbus Way Anch	ALASKA WEST	NO	272-7697

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2-10-82

2/10/82

000 1:12 Call to order by Martin

HB 169

009 Randolph re HB 169 & comm. sub.
Moved to accept CS for discussion; no objection
Explained intent of bill - person can lease vehicle & work driving the truck leased.

045 Andrew Hoge, Counsel for Ak Trucking Assoc.
Spoke of definition of "private carrier." Definition of "common carriers" prohibits what CS does. Bill nullifies effect of "common carrier" - inconsistent.
Spoke of complications - insurance & safety reqmts, etc.
"Rips the guts out of the motor carriers act."

111 Randolph - doesn't see how leasing truck wd relieve employer of reqmts Hoge spoke of. Asked for examples of problems described by Hoge.

132 Hoge - common carriers to resp for safety, insurance, ~~under this provision~~ If talking abt common carriers, no need for bill, it's provided for. If applied to any employer (not common carrier), - asked clarification.
Discussion - Randolph, Hoge

189 Bycam ~~do~~ wd bill let ~~person as~~ private carriers automatically become common carriers w/o permit?
Hoge - seems to say that. There's a conflict in language. Creates class of private carriers, which may not be intent of bill. Asked for time to submit specific comments. Concerned that bill does away with effect of common carrier.

231 HB 586 – Intro by Rogers, effect of bill. Background. Inconsistencies in way Dept Pub Safety issues permits. Referenced ltrs (~~has been to~~ given to committee) from contractors setting out their problems.

259 Bylsma – wdn't Dept of Trans be likely to do same thing

Rogers – Trans understands contractors difficulties better. Pub Safety seems more nit-picky. May not change, but existing enforcement leaves something to be desired. Bill submitted in part to draw attn. to prob

Bylsma – Trans already overburdened.

Rogers – DOT wd be less likely to nit-pick.

Discussion.

304 HB 169 Hoge – wd like to discuss w/ Assocn board; ~~wd like time~~ asked for to study bill.

Discussion.

Martin asked for Barry's comments

332 Barry – gave historical aspect of bill. Common carrier, or contract carrier cd serve for employees, but private carrier cd not. Not to give authority for private carrier to expand into contract carriage, but solely for employer/employee situ. Went over protections (ins., etc) & uses. Suggested including legislative intent w/ bill to clarify.

HB 169

412 Larry Carpenter, Clima, Interior Energy Corp – private carrier. Gave personal situ as example. Bill shd eliminate discrimination against private carrier

530 Rogers – gen – might allow private owner/operator to become common carrier by leasing/driving for different outfits.

Carpenter – suppose he could quit & go to another employer, but doesn't see what difference that wd make.

Discussion.

~~528~~ ~~Big time gotcha~~

600 Carpenter – went over points again

Randolph – reiterated reasons for bill.

Discussion.

652 John Longmayer, ——— Motor Freight, – under bill, any owner/operator will become private carrier. Gave example of how private carrier cd approach companies & offer svcs ~~Attact~~ that wd normally be obtained fm a common carrier at lower cost; unfair competition. Liability gotcha also. Not remote possibility, but very likely.

780 Rogers – agree w/ intent to solve prob raised by Carpenter; wd it be possible to limit times this cd be done;

Side 2
000 Randolph – comments (wdn't affect anything.)

Discussion – abuse, insurance

082 Carpenter – Statutes set stringent guidelines. Suggest talking to someone fm ATC regarding ~~whether~~ likelihood of private carrier becoming common carrier w/o permit.

Discussion.

108 Barry - construction industry, there is an exemption.
Bill clearly establishes that indiv'l must be legit.
employee; re ~~[illegible]~~ going fm job to job - that occurs now.

164 Randolph moved to pass bill
Bylsma asked to hear ATC's opinion; Rogers agreed as C&C is last comm. of referral; also has had requests for telecons.
Martin was going to ask for another referral & also saw need for telecons. also wd be able to have ATC testimony at that time.
Bylsma moved to amend mo to refer bill to another comm.
Rogers felt C&C shd hold telecons & not refer bill
~~Randolph~~ ~~Discussion~~. Randolph concerned abt C&C calendar.
Martin has spoken w/Cate, who has less heavy calendar & deals regly w/ATC. Felt Trans. comm wd have better opportunity.
Rogers said comm cd recommend referral.
Martin amended mo to recommend referral to Trans w/ ltr requesting expedited hrg & taking telecons test.
fm Hinc & Fox

expedite telecons Atc 714

~~Martin~~ Rogers objected

Opposed - Rogers Randolph
favor - Martin Bylsma

100 to pass bill
favor - Rogers R
opp'd Martin - Bylsma

Randolph moved to ~~refer bill~~ pass bill with recommendation of referral to Trans comm. by unan consent.

HB 586

252 Jan Cline - At Chap ATC - bicc addresses consideroc pub in const industry Have background & examples of past difficulties. DOT has better knowledge of industry than Dept PS

350 Randolph - comments

Bylsma - gotns why one dept wd do better than another - put safety trained in law enforcement; creating another enforcent entity, which gives pwr; why wd one be better than another.

310 Cline - Commerce has enforcement pwrs, as do other agencies. Trans is concerned w/safety & they set ~~axle weight~~ / ~~gross weight~~ restrictions on roads & bridges. ~~Troopers don't have~~ Discussion.

Bylsma - Comm Pub Safety has asked Comm to take no action until they can testify

Rogers - have their testimony on a similar senate bill

452 Barry - appears concerns justified - most other states, there is separate depts w/in pub safety, for weights & measures. ~~idea of splitting functions~~ ~~currently~~ ~~be~~

493 Rogers moved amdmt to add eff date clause 7/1/82; second Randolph, w/drew, & removed w/ eff 7/1/83

~~No~~ No obj, mo passed

Rogers moved to ~~pass~~ report out CS for HB 586, as amended No obj, mo passed.

523 Mtg adjourned.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 2/10/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:02	
Rep. D. Randolph	✓		1:10	
Rep. B. Rogers	✓		1:01	
Rep. T. Gardiner				
Rep. T. Martin, Chair	✓		1:00	

Subject Matter:

House Bill No. 169 586 _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

2-11-82
HB697

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 11, 1982
1:07 p.m.

Members Present:	Rep. Martin, Chairman Rep. Bylsma, Vice-Chairman Rep. Rogers
Members Absent:	Rep. Randolph Rep. Gardiner

COMMITTEE CALENDAR

HB 697	An Act relating to appointment of nonpermanent employees for certain work assignments; and providing for an effective date.
HB 557	An Act relating to telephone cooperatives.

WITNESS REGISTER

Beverly Rayon
Department of Fish & Game
Juneau, Alaska 99811
Position Statement: Distributed report; discussed HB 697.

Andrew Hoge, counsel
Matanuska Telephone Association
437 E Street
Anchorage, Alaska
276-1726
Position Statement: Spoke in support of HB 557.

Sharon Macklin, lobbyist
Matanuska Telephone Association
no address or phone given
Position Statement: Spoke in support of HB 557.

Allen Blume
Telelink Communications, Inc.
PO Box 1608
Juneau, Alaska 99801
586-9685
Position Statement: Comments on HB 557.

PREVIOUS ACTION

HB 697	No previous action.

Statutory Reference: AS 39.25.

Action tal Rep. Bylsma moved to report SSHB 697 from committee. There being no objection, motion passed.

HB 557

No previous action.

Statutory Reference: AS 10.25.640(4).

Action Taken: No action taken. Mention was made of rescheduling bill for hearing at a later date.

ACTION NARRATIVE

Tape #13
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:07 p.m. Members present were: Representatives Martin, Bylsma, and Rogers. Members absent were: Representatives Randolph and Gardiner. Rep. Martin brought SSHB 697 before the committee.

Number 011

Rep. Bylsma, prime sponsor of HB 697, explained the intent of the bill.

Number 019

Beverly Rayon, Fish & Game, distributed a report. She spoke of problems hiring short-term, seasonal employees. She went over the high costs of benefits and of recruiting.

Number 108

Rep. Rogers said there were concerns about abuses in the Department of Fish & Game. Rayon said there had been abuses. She said longer-term positions should not come under this, but shorter-term positions should.

Number 134

Jeff Barry, committee aide, said the sponsor substitute addresses the historical context. He explained how concerns are addressed in the sponsor substitute. There was discussion. Rep. Rogers asked whether the APEA were notified; Mary Isaacs, committee aide, thought not. There was further discussion. Rayon said the APEA was represented at a hearing on the similar senate bill and offered no comment at that time.

Rep. Bylsma moved to report SSHB 697 from committee. There being no

objection, the motion passed.

Number 166 — House Bill 166 was brought before the committee. Rep. Rogers explained the bill. He said it would allow telephone cooperatives to get loans.

Number 179 — Andrew Hoge, attorney for Matanuska Electric Association, said the bill updates the definition of telecommunications. He said that REA funding was being cut by $1-billion. There was discussion about the scope of the bill.

Number 238 — Rep. Martin had questions about cable television in relation to telephone cooperatives like MTA, and possible APUC or FCC conflicts. There was discussion. Rep. Martin pointed out that the legislature is planning to pick up a good portion of the REA funding.

Number 305 — Rep. Bylsma felt the definition would mean cooperatives can control all media--radio, etc. Hoge said this is presently done.

Number 317 — Sharon Macklin, on behalf of Matanuska Telephone Association, said the bill updates the statutes to reflect processes the APUC has already certificated cooperatives to provide. She said it is also for purposes of obtaining loans. She said it does not supersede going through the APUC, and said this is the same definition APUC uses for telephone service. There was discussion. Macklin said the bill does not give monopolistic authority to cooperatives, as everyone goes through the APUC. She said it also gives corporate authority for use in applying for loans. There was discussion.

Number 456 — Barry referenced AS 10.25.010, and asked Macklin whether changing the definition will bring coops into competition with private telecommunications providers. He said it may change the full effect of the entire statute as worded.

Number 507 — Hoge explained deregulation of terminal equipment and how it interconnects with the telephone system. He said they need the capability, as common carrier, to carry various transmissions. There was discussion of the purpose of the bill, and of eminent

domain.

Number 705 — Allen Blume, Telelink Communications, Inc., had no difficulties with the definition proposed for his own needs. He asked if the service provider agency which is the end point provider would be classified as a telephone provider. Hoge said it would only affect cooperatives. There was discussion.

Side B, Number 011 — Rep. Martin said he would notify the participants of the next meeting on HB 557. He requested Jeff Barry to contact the Attorney General for further information. He predicted the first week of March as the earliest possible date of next hearing. As there was no further business to come before the committee, the meeting was adjourned at 1:5_ p.m.

!mDOCID!xhlc 0211821307
!mHLC!x
February 11, 1982
1:07 p.m.

!mMP1!xRep. Martin, Chairman
!mMP2!xRep. Bylsma, Vice-Chairman
!mMP2!xRep. Rogers

!mMA1!xRep. Randolph
!mMA2!xRep. Gardiner

!mCAL!x
HB 697 An Act relating to appointment of nonpermanent employees for certain work assignments; and providing for an effective date.

HB 557 An Act relating to telephone cooperatives.

!mREG!x
!mWI!xBeverly Rayon
Department of Fish & Game
Juneau, Alaska 99811
!mPS!xDistributed report; discussed HB 697.

!mWI!xAndrew Hoge, counsel
Matanuska Telephone Association
437 E Street
Anchorage, Alaska
276-1726
!mPS!xSpoke in support of HB 557.

!mWI!xSharon Macklin, lobbyist
Matanuska Telephone Association
no address or phone given
!mPS!xSpoke in support of HB 557.

!mWI!xAllen Blume
TeleiInk Communications, Inc.
PO Box 1608
Juneau, Alaska 99801
586-9685
!mPS!xComments on HB 557.

!mPA!x
HB 697 No previous action.

Statutory Reference: AS 39.25.

Action taken: Rep. Bylsma moved to report SSHB 697 from committee. There being no objection, motion passed.

HB 557 No previous action.

Statutory Reference: AS 10.25.640(4).

Action Taken: No action taken. Mention was made of rescheduling bill for hearing at a later date.

!mAN!x

Tape #13
Recording
!mPAR1!x
Number 000 The meeting was called to order by Chairman Martin at 1:07 p.m. Members present were: Representatives Martin, Bylsma, and Rogers. Members absent were: Representatives Randolph and Gardiner. Rep. Martin brought SSHB 697 before the committee.

Number 011 Rep. Bylsma, prime sponsor of HB 697, explained the intent of the bill.

Number 019 Beverly Rayon, Fish & Game, distributed a report. She spoke of problems hiring short-term, seasonal employees. She went over the high costs of benefits and of recruiting.

Number 108 Rep. Rogers said there were concerns about abuses in the Department of Fish & Game. Rayon said there had been abuses. She said longer-term positions should not come under this, but shorter-term positions should.

Number 134 Jeff Barry, committee aide, said the sponsor substitute addresses the historical context. He explained how concerns are addressed in the sponsor substitute. There was discussion. Rep. Rogers asked whether the APEA were notified; Mary Isaacs, committee aide, thought not. There was further discussion. Rayon said the APEA was represented at a hearing on the similar senate bill and offered no comment at that time.

!mPAR2!x Rep. Bylsma moved to report SSHB 697 from committee. There being no objection, the motion passed.

!mPAR1!x
Number 166 House Bill 166 was brought before the committee. Rep. Rogers explained the bill. He said it would allow telephone cooperatives to get loans.

Number 179 Andrew Hoge, attorney for Matanuska Electric Association, said the bill updates the definition of telecommunications. He said that REA funding was being cut by $1-billion. There was discussion about the scope of the bill.

Number 238 Rep. Martin had questions about cable television in relation to telephone cooperatives like MTA, and possible APUC or FCC conflicts. There was discussion. Rep. Martin pointed out that the legislature is planning to pick up a good portion of the REA funding.

Number 305 Rep. Bylsma felt the definition would mean cooperatives can control all media--radio, etc. Hoge said this is presently done.

Number 317 Sharon Macklin, on behalf of Matanuska Telephone Association, said the bill updates the statutes to reflect processes the APUC has already certificated cooperatives to provide. She said it is also for purposes of obtaining loans. She said it does not supersede going through the APUC, and said this is the same definition APUC uses for telephone service. There was discussion. Macklin said the bill does not give monopolistic authority to cooperatives, as everyone goes through the APUC. She said it also gives corporate authority for use in applying for loans. There was discussion.

Number 456 Barry referenced AS 10.25.010, and asked Macklin

whether changing the definition will bring coops into competition with private telecommunications providers. He said it may change the full effect of the entire statute as worded.

Number 507 Hoge explained deregulation of terminal equipment and how it interconnects with the telephone system. He said they need the capability, as common carrier, to carry various transmissions. There was discussion of the purpose of the bill, and of eminent domain.

Number 705 Allen Blume, Telelink Communications, Inc., had no difficulties with the definition proposed for his own needs. He asked if the service provider agency which is the end point provider would be classified as a telephone provider. Hoge said it would only affect cooperatives. There was discussion.

Side B, Number 011 Rep. Martin said he would notify the participants of the next meeting on HB 557. He requested Jeff Barry to contact the Attorney General for further information. He predicted the first week of March as the earliest possible date of next hea . As there was no further business to come before the committee, meeting was adjourned at 1:55 p.m.
!mEND!x

Corrections

02 11821307

p. 3 #166 HB 557

(says 166)

1:07

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 3/11 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:05	
Rep. D. Randolph		✓		
Rep. B. Rogers	✓			
Rep. T. Gardiner		✓	1:00	
Rep. T. Martin, Chair	✓			
			1:00	

Subject Matter:

House Bill No. 697(SS) HB 557 _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

HB-557

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Ted McIntyire	Dept of Admin.	Telecom Services Div	NO	2041
ALLEN D. BLUME	P.O. Box 1608	TELELINK	~~NO~~ YES	6-9685

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2-10-85

2/11/82

1:07 order + intro to
000 HB 697 (sponsor sub) by Bylsma
011 Bylsma - reason for bill
019 Beverly Rayon, Fish & Game - distributed report.
Spoke of problems hiring short-term (seasonal) employees.
High cost of benefits & of recruiting
108 Rogers There were concerns abt abuses in Dept of F & G
Rayon - there were abuses; longer-term posns shd not be
come under this, but shorter-term posns shd
discussion.
134 Barry - sponsor sub addresses hist. context. Explained
how concerns addressed in SS.
Discussion; Rogers asked if APEA were notified, M. Davis
thought not. Discussion. Rayon said APEA was
represented at hrg on similar Senate bill. & offered no
comment then.
Bylsma moved to pass SS HB 697
passed by unan consent

166 HB 557 Rogers explained bill - allow coops to get
loans.
179 Andrew Hoge, atty, MTA - updates defn of telecomm.
REA fndg being cut @ 18.
Discussion; Martin concerned about broader scope of defn.
Explan by Hoge.

Rogers left 1:26

238 Martin - gotus abt cable TV in relation to telephone coops (MTA) + possible APUC or FCC ~~conflicts~~ conflicts.
Discussion. Martin pointed out legis planning to pick up a good portion of REA fndg.

305 Byloma - this means coops can control all media - radio etc.
Hoge said this is presently done - using radio, etc -

317 Sharon Macklin, MTA - bill allows processes APUC has already certificated coops to provide svcs; updates statutes. Also for loans. Does not supersede going through APUC; same definition as APUC uses.
Discussion Martin elaborated on plans for telecomm. policy for state.
Macklin said bill doesn't give monopolistic authority to coops, everyone goes th/APUC; also gives corporate authority for use in applying for loans

406 Hoge - presented a newspaper clipping re REA fndg.
Discussion.

456 Barry - AS referenced 10.25.010; question of whether changing definition will bring coops into competition w/ private telecomm. providers. May change ~~end~~ full effect of entire statute as worded.

507 Hoge - explained de-regulation of terminal eqpt + how it interconnects w/telephone system. Need capability as common carriers to carry various xmsns.
Less revenue if these don't go through local coops.

560 Martin - changing meaning of word to rationalize why REA funds being decreased; quasi-monopoly enables co ops to become greater risk to lending institutions consumers will pay price.

~~Hogg~~ - Discussion.

617 Barry - w/defn in bill, gotn may come up as to eminent domain.

Discussion.

705 Allen Blume - Telelink Comm Inc - no ~~pro~~ difficulties w/ defn as propd for his needs. asked if svc provider agency which is end point provider, wd be classified as telephone provider

aide 2
000 Hogg - no, wd only affect coops.

Blume asked implications for non-coop telph svcs; does it chng defn

Hogg - no.

Martin said wd notify participants of next mtg

Requested Barry to contact ALT for further info.

Predicted 1st wk of March earliest for next hrg.

Adj 1:55

2-12-82
SB84

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 12, 1982
1:15 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Gardiner
Rep. Rogers

Members Absent: Rep. Randolph

COMMITTEE CALENDAR

SB 84 An Act relating to processing of permits by state agencies, and to administration of the Alaska Coastal Management program.

WITNESS REGISTER

Wilson Condon
Attorney General
Pouch K
Juneau, Alaska 99811
465-3600
Position Statement: Went over draft bill and proposed amendments.

Representative Tony Vaska
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-4914
Position Statement: Expressed concerns.

O.K. "Easy" Gilbreth
Manager, Exploration & Production
AOGA
Anchorage, Alaska
272-1481
Position Statement: AOGA members endorse draft bill.

Jay Nelson
4111 East 65th
Anchorage, Alaska
276-6653
Position Statement: Supports permit reform, but opposes draft bill.

Dave Allison
Alaska Environmental Lobby
3140 Norwell Avenue

Juneau, Alaska 99801
586-2345
Position Statement: Commented on bill.

Mollie Dent
Alaska League of Women Voters
419 6th Street, #321
Juneau, Alaska 99801
586-2751
Position Statement: Commented on bill.

Joyce Munson
Resource Development Council
Baranof Hotel
586-1383
Position Statement: Supported passage of SB 84.

Larry Edwards
Southeast Alaska Conservation Council
Box 2158
Sitka, Alaska
586-2345
Position Statement: Requested committee to listen to Clark testimony on behalf of Alaska Logger's Association.

PREVIOUS ACTION

SB 84

Senate Action: First reading 1/15/81. Reported from Resources Committee 4/14/81. Moved from Finance to Rules by unanimous consent 4/20/81. Reported from Rules 5/5/81; taken up immediately. Resources Committee Substitute adopted by unanimous consent in second reading 5/5/81; advanced to third reading by unanimous consent. Passed in third reading with effective date vote same as passage on 5/5/81.

House Action: First reading 5/6/81. Moved from Judiciary to Finance by unanimous consent 6/21/81. Reported from Finance 6/21/81. Reported from Rules 6/22/81. Second reading 6/22/81; bill was recommitted to Rules by unanimous consent. Reported from Rules 6/23/81. Read again second time 6/23/81; postponed until 6/24/81 by unanimous consent. Read again second time 6/24/81; 2nd Rules Committee Substitute adopted; amended on floor. Failed to advance to third reading 6/24/81. Recommitted to Labor & Commerce by unanimous consent 1/11/82.

Statutory Reference: AS 44.62.

Action Taken: Rep. Bylsma moved that HCS CSSB 84 be replaced by 2d HCS CSSB 84 (L&C). There was objection by Rep. Gardiner. Rep. Bylsma withdrew the motion. No further action taken during this meeting.

ACTION NARRATIVE

Tape #14 and 15
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:15 p.m. Members present were: Representatives Martin, Bylsma, and Gardiner. Rep. Rogers arrived a few minutes after the call to order. Rep. Randolph was absent.

Number 007

Rep. Martin brought HCS CSSB 84 (2d Rls) before the committee. Rep. Bylsma moved that HCS CSSB 84 (2d Rls) be replaced by 2d HCS CSSB 84 (L&C). There was objection by Rep. Gardiner. After Rep. Rogers arrived, Rep. Bylsma withdrew the motion.

Number 068

Rep. Martin asked that, for clarity, the committee refer to the Labor & Commerce draft committee substitute.

Number 079

Wilson Condon, Attorney General, testified on behalf of the administration on the draft bill. He went over the administration's efforts to work with other groups on the bill. He said they had not been too successful with AOGA, and that AOGA members had not dealt in good faith. He went over problems they had encountered. Condon said the draft bill is the "AOGA bill". He said the governor has policy objections to the bill, and that he expects the governor to veto the bill as written.

Number 140

Condon handed out copies of eleven amendments proposed by the administration, and went over each proposed amendment in detail.

Number 620

There was discussion about the relationship between the bill and regulations. Rep. Rogers asked Condon what the administration would do in the absence of a bill at the end of session. Condon didn't know. He said

the administrative agencies had decided to work something out, not adopting regulations, but dealing directly with AOGA, as there were no problems with other industries. He said this method had not worked; hence, AOGA went to the legislature. There was further discussion.

Side B, Number 027 — Rep. Vaska expressed concern about shortening processing times, as rural areas need longer to digest and respond to the types of documents required. Condon said the administration felt it needed 85 days, rather than 65. He said the oil industry is pushing for as few days as possible, and that the administration doesn't think they can process all permits within 65 days. He said consideration of other interests is another reason to lengthen process time. Condon said he expects the legislature to consider other groups.

Number 066 — Rep. Vaska said there has to be balance in giving local governments discretion, and asked how this would be addressed. Condon referred to proposed amendment #3, which deals with how local coastal resource districts can take disagreements to court. He said that the Commissioner would have to find that consistency or inconsistency was supported by a preponderance of evidence in the record. There was discussion.

Number 103 — Rep. Gardiner asked the administration's position on the 2d Rls bill. Condon said they supported it. There was discussion of various phrases in the bill.

Number 175 — O.K. Gilbreth, Manager of Exploration and Production, AOGA, said there has been no significant change in problems obtaining permits since he gave testimony last year, but that permit approval times reduced slightly in 1981. He passed out a chart showing permit approval times, and noted that it takes up to a year for most approvals to be processed. He said that AOGA members endorse the L&C draft bill.

Number 230 — Gilbreth said the problems that the bill would alleviate are: 1) too much time required for permit approval; 2) duplication in handling of permits; 3) interlocking web of agency jurisdiction that can entangle

project; 4) employees' attitudes must reflect state policy; 5) many small problems add up to big problems; a lead agency could reduce or eliminate this; 6) state agencies are trying to design projects and set standards; 7) added costs, lost time, and lost effort mean nothing to some regulators; 8) regulators demand zero risk, which cannot be done; 9) operators are forced to accept stipulations that are unfounded, invalid, and not in the bets interests of the state. He went on to say that, philosophically, the industry needs predictability in timing in the process. The bill will determine how agencies operate. Gilbreth recommended accepting the draft committee substitute. There was discussion.

Number 329

Rep. Gardiner asked if last year's bill (the Rules committee substitute) would be better than the existing situation. Gilbreth said that several member companies felt they could live with the bill, but that, after study, most want no bill at all rather than that bill. There was discussion of the impact of the draft bill.

Number 390

Jay Nelson of Anchorage, representing himself, said he supports permit reform, but opposes the draft bill. He felt the draft was worse than the original bill. He said the point of permits is to protect the public's good, and he felt the draft bill does the reverse. He elaborated on why he felt this way. Nelson felt that uniform permit regulations was a better approach than the bill. There was discussion.

Number 500

Dave Allison, Alaska Environmental Lobby; former legislator in Indiana; lawyer; and member of the Alaska Miners Association, said that he represents a coalition of environmental groups--Sierra Club, Friends of the Earth, Southeast Alaska Conservation Council, and others.

Number 526

Allison said the environmental community takes the definite position that they favor sound and responsible development. He said the draft bill guarantees constitutional and statutory litigation. He felt the result of the bill would be delay. He criticized the oil industry's position. He said the bill disregards the interests of citizens of

local communities. He commented on the lack of notice of hearing. Allison said he would like to see administrative regulations with legislative review. He recommended trying the administrative process. There ensued a discussion of administrative policy and the power of the legislature.

Number 700 — Allison said that, if the bill is not improved, it should not be passed out of committee. He said there is not enough time for processing permits. He felt that each type of permit should have time requirements. Allison said he agreed with most of Condon's comments, but felt that, if all the proposed amendments were adopted, the bill would be worse than last year's bill.

Tape 2, Number 018 — Allison said the position of the Alaska Environmental Lobby is that the bill is unacceptable to their constituency. At Rep. Gardiner's request, Allison said he would provide the committee with a list of suggestions.

Number 100 — Rep. Gardiner felt the Department of Natural Resources' budget should be looked over as several positions involved with permit issuance are slated to be cut.

Number 140 — Mollie Dent, Alaska League of Women Voters, listed the League's concern about the permit process. (She submitted her testimony to the committee; this is available for inspection.)

Number 205 — Joyce Munson said she represented the Resource Development Council, which is a public interest group which attracts a wide range of people. She said she supports passage of SB 84. Permits are to protect the public, but are also to protect the public requesting the permit; that they have a right not to wait forever. She said that, without time limits, the waiting time depends on the efficiency of the department. She said the legislature is often at fault when developing legislation that does not give final authority to any agency. There was discussion about timeframes.

Number 428 — Mollie Dent, League of Women Voters, said that the League requested a teleconference

hearing to take additional testimony before the committee acts on the bill.

Number 465 — Larry Edwards, Southeast Alaska Conservation Council, Sitka, requested the committee listen to Clark testimony on behalf of Alaska Loggers Association. A man from the audience said that Clark doesn't speak for the Alaska Loggers Association.

Number 496 — As there was no further testimony or business to come before the committee, the meeting was adjourned at 3:25 p.m.

SB 84

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
LARRY VAVRA	1401 MARTIN Rd	UNION OIL	?	586-2391
Tim Horstkoetter		AOGA	No	
* O.K. "EASY" GILBRETH	Anchorage	AOGA	Yes	272-1481
Marc Bond	1007 W. 3rd Ave, Anchorage	Chevron USA Inc.	?	279-3581
Bob STRAUB	2400 HASTINGS LANE	Sohio	?	263-5535
Jim Barnett	SRA 240 J 99507	Sohio	?	263-5432
* DAVE Allison	3140 Norvell Ave	Alaska Environmental	Yes	586-2345
LARRY EDWARDS	BX 2158 SITKA	SEACC	~~YES~~	586-2345
* Jay Nelson	4111 E 65th Anch.	self	Yes	276-6653
Mollie J. Dent	4196 TH St. #321 Juneau	Alaska League of Women Voters; Sierra Club Legal Defense Fund	Yes	586-2751
Beverly Ward	134 N FRANKLIN	Arco	No	586 3680

HOUSE LABOR & COMMERCE COMMITTEE

HEARING

SB 84

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Kathy Fuelt	240 Main	Leg. Reg. Services	NO	586-6622
DEENA J. HENKINS	POUCH O JUNEAU	DEC	NO	465-2609
E. O. BRACKEN	Box 1098 Juneau 99802	Self	No	789-7341
Robin Foster	Box 655 Douglas		NO	4-3203
Wilson L. Condon	Box K Juneau	Attorney General	YES	3600

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2-12-82

SB 84

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
MARY HALLORAN		DNR	NO	465-2400

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2-12-82

SB 84

SIGN-IN SHEET

Name (please prin)	Address	Representing	Testify? (YES or NO)	Phone Number
Phil Holdsworth	326 - 4th St #1009	Self	Yes *	586-1383
Joyce Munson	Board of Hotel	Resource Development Council	Yes *	586-2660
Wags Shelby	2740 Douglas Hwy	Mobile	NO	364-2458
Ellen Ch...	Dept. En...	Self	No	465-2601
Terry Dal...	1726 Glacier Ave	Self	No	
Karen Pindell	2231 David	/	NO	
Jamie Klein	134 Franklin - Juno	Assoc. Gen. Contractors	NO	6-1740
Tony Vaska	Pouch V	Legislature	yes *	
Diana Runde	Box 1357 Sitka	Sitka Tanner PAC	NO	747-8996
Ken Hamm	2721 John St, Juneau	Rep. Vaska	NO	465-4130
Raymond R. Menaker	Box 118 Haines, AK	Self	No	766-2360
Clifford J...	Pouch V Juneau	State	No	5-4644

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2-12-82

2/12/82

1:15 Call to order

007 Intro of members, HCSCSSB 54 (dd rls); referred to packet from governor - appointments - to be on next wks calendar

017 Byforma moved HCSESSB 54 be replaced by 2d HCS CSSB 54 (~~2d rls~~ 2 & C); objection by Gardiner; asked that committee wait for Rogers, waiting (035 - 052) (Rogers arrived)

064 Byforma w/drew motion

068 Martin - ~~Afforact to~~ will refer to draft rather than CS at this time

079 Wilson Condon, AG, on behalf of admin re draft bill; went over administration's efforts to work w/ other groups ~~Re~~ on bill. AOGA - have not, not too successful w/ acronyms, dealt in good faith. ~~Great~~ Gave overview of problems. Draft is "AOGA bill". Can live with it w/ changes. ~~Policy~~ Gov has policy objections to bill. Expects gov to veto bill as written

140 Gave + elaborated on Administration changes wanted: (11 prop'd amdmts) (copy drawn out)

(REF. DRAFT BILL) #1 p 2, lines 8-12

#2 p 2 " 26-28

#3 p 4 " 6-29

#4 p 5 " 1-2

#5 p 5 3-5

#6 5 16-17 - (not satisfied w/ this amdmt; want to redraft it)

#7 5 22-23

#8 5 24

#9 6 11-13

#10 6 15-17

#11 7 12

620 feet 2 amdts wd be cont'l – dealing findings re CZM consistency ~~w~~ times & local CZM plan

661 Rogers – asked abt relationship between bill & regs – what wd admin do in absence of bill at end of session

London didn't know; debate among admin agencies – decided to try & work out something; not adopt regs & deal directly w/ AOGA (no probs w/ other industries). Didn't work – AOGA went to legislature.

715 (side 2 000) Discussion – Rogers / London

~~###~~

005 Martin – ps amdts 6 & 7 – feels amdts are redundant

019 London – bill doesn't apply to occupational licensing; gave reasons for wanting amdts

037 Uraska – local governing entities abilities to deal ~~w/~~ w/ & control development – how much time willing to give areas for response? Wants more than 30, 45 or 65 days. Rural areas take longer to digest & respond to these types of documents.

043 London – re class II permits – policy call by legislature. Admin thinks they need 85 rather than 65 days. Ori ind. pushing for as few days as possible; admin doesn't think they can do it in 65 days; consideration of other interests is another reason to go this way. Main consideration is can it be done; expect legis. to consider other ggs

066 Uraska – has to be balance in giving local govt discretion; what defn included in giving weight to local govts.

074 London - ref 1 amdt 3: ~~deals~~ deals w/how of local coastal resource district can take assgmt to court. Comm wd have to find that consistency or inconsist wd have to be supported by preponderance of evidence in record.

093 Martin - admin have regs revs & codes coming up; considerable determination that local entities have priority in considering permits

103 Gardiner - what is admin's posn on 2d res bill?

London - support it

G - p. 2, line 21 "unusually complex issues" — ~~who interprets?~~ interpreted or defined?

C - Interpreted

G - can't this be defined so no controversy arises?

C - ~~not~~ open to definition

134 G - findings of head of agency ... can be appealed by applicant Can it be/shd it be appealed by someon else?

DZ Discussion Gardiner/London whether this shd be appealable by ggs other than applicant/agency.

Discussion

164 Vaska - ~~long~~ q. re: def'n of "resource agency" def'n. ~~for resource agency.~~

175 OK Galbreth, Exploration & Production rep. AOGA — ~~recently~~ no signif chng in probs obtaining permits (since testimony last yr); however permit approval times reduced slightly in 1981. Passed out w/graph/ on permit approval time. — minimum times; noted that appl times go up to a yr

212 Members endorse draft bills

225 Agencies have lately been rejecting applications.

230 Major problems that bill wd alleviate:

1) too much time required for permit appl
2) duplicatn in handling of permits
3) interlocking web of agency jurisdiction that can endanger project
4) employees attitudes must reflect state policy
5) many small probs add up to big probs; lead agency cd reduce or eliminate this
6) all agencies trying to design projects to suit standards
7) added costs lost time lost effort mean nothing to some regulators
8) regulators demand 0 risk - can't be done
9) operators forced to accept stipns unfounded, invalid, & not in best interests of st

~~Expert bill to st~~ philosophical comment problems:

~~a)~~ industry needs predictability in timing in process

Bill will determine how agencies operate. ~~Agencies com~~ members concerned w/bill but unan agreed to back bill as compromise; recommend accepting draft.

298 Martin asked for cy of test.

301 Rogers — ~~will~~ cd time reqmts chng w/head of agency?

Hilbrecht - yes, cd.

Discussion

213 Gardiner - any reason for chng in # permits in 1977

Galbraith - corresponds w/ chngs of commissioners or directors

329 Gard - wd last yrs bill be better than existing situ

Galb - gov members cos felt they cd live w/bill, but most after study want no bill rather than that bill

Discussion

347 Gard - one thing being considered is reduction in opl budget - removing 100 posns in DNR - wd that make difference?

Galb - Wd depend on dir of div + his emphasis

367 Martin - admin doesn't know yet where cuts will be

Discussion

378 Rogers - dk w/ other industries in wkg up draft?

Galb - No substantial contact w/ other industries

390 J. Nelson, for self - Anc - supports permit reform, but opposes draft; worse than original bill. Point of permits to protect public's good; this does reverse. Spec, p 2 class I + II permits, 30 + 65 days is too rigid an approach for processing permits, not enough time

p 2 + 3 - time period extension - agrees w/ this - jointly processing permits is good, but last part of sentence eliminates this. Uniform permit regs better approach than this bill. Gave example. Wants more admin. approach.

452 Discussion abt notice of (this) mtg

469 Discussion of regulations

481 Gardiner – asked opinion of 2d reg CS

488 Nelson – latest draft worse; SB84 wrong approach.

500 Dave Allison, AK Envil Lobby, former legislator in Indiana, lawyer, member AK Miners Assoc, wkd in fisheries and dept. Represents coalition of env. grps - Sierra Clb Friends of Earth SE AK Cons. Council, & others.

526 1) Envil community takes definite posn that they favor sound & responsible dvpt. If comm wants to stop issuance of permits, ~~not effective~~ then pass bill. Bill guarantees const'l & statutory litigation. Intent is to expedite permit process, but to honest ind. person approaching permit process it's almost impossible. Result of bill will be delay. ~~Every industry~~ Criticized oil industry's position. If bill passed, disregards interests of citizens of local communities. Must determine who's going to run things. & Commented on lack of notice of hrg. Would like to see admin. regns w/ legislative review. ~~Says~~ Recommends trying administrative process.

570 Discussion of admin policy & pros of legis (Martin & Allison).

700 Allison – if bill not improved, shd not pass out of committee. If not done, wd agree that bill shd be killed.

Not enough time for processing permits. In each case, Tape 2 000 ~~did not~~ each type of permit, shd determine time needed.

Agreed w/most of London's comments but if all amdmts adopted, bill wd be worse than last yrs bill.

~~Martin – why shd admin~~

Discussion – Martin, Allison, re notification of mtgs

047 Rogers – qstn as to committee process; discussion

055 Allison, re Gilbreth stmt – other side is protection of public interest. Can't have protection w/o some restriction on people's ability to act.

068 Rep of Ak Envtl Lobby that bill is unacceptable to their constituency.

072 Gardiner – asked posn on SB 84 (2d rsr)

084 Allison – said they'd provide comm. w/ list of suggestions; suggests using codification of regulations wkd out by admin. Will send list of concerns.

100 Gardiner requested admin regulations alluded to.

Gardiner said he has analysis of effect of budget cuts in DNR – sev'l posns to be cut are people issuing permits (water permits & others). Suggested looking at those budget items. (referring to memo fm Comm. to H. Finance Comm). Wants to look at issue of permits (subcomm. recomndns) before comm. finalizes budget.

140 Molly Dent, At League of Women Voters o ~~Sierra Club Legal Defense Fund~~ – ~~presenting League testimony today.~~
League submitted test to Senate Resources, & H Cs @ last yr in Ans.
re permit reform process – concerns
1) adequate public notice
2) adequate opportunity for input by local land use authority
League has adopted progs on land use & land disposal.
Urge more flexible time network
Oppose automatic permit iss

see bill test. →

Showed comm. gov's permit reform regns that Sanders (?) requested; also offered list of kinds of permits affected by legislation. Also ~~offered~~ said she'd submit written comments.

205 Joyce Munson – for Resource Devpt Council (pub interest gp) – rep miners fishermen, homeowners, corps – wide rang of propes. Testified on SB 54 last yr as it came fm Senate; testified against gov's uniform permit procedures. Spoke of a telecons she attended last yr on gov's regns. Her committee found it had nothing to do w/ reform; wd create more st. jobs & cost more money. Actual procedure cd be stopped by a person who objected to any permit.

252 For passage of SB 84. Not talking abt prod oil co. permits.
Permits are to protect public; also to ~~not~~ protect public asking for permit – have a right not to wait forever. Without time limit, depends on efficiency of dept.
Legislature often at fault when developing legislation that does not give final authority to any agency. Someone has to be responsible.

312 Rogers asked if she'd looked at gov's amdmts
She hadn't – ~~comments~~ listened to Conlon testimony. Doesn't like idea of opening liberals (specific time w/exceptions)
Discussion, Rogers/Munson, re timeframes

Rogers – any prob w/ amdmt #9?
Munson – no problem

400 Barry informed

428 Molly (?) – on behalf of league, requested tele conf before comm. takes action;
Re notice – had requested notice in Anc + never got any.
Martin said entire state had notification of tele conf.
not possible before April, WS be deliberately delaying action

465 R. Edwards, Sitka, SE Alt Coms Council –
Requested comm. listen to Clark testimony, Alt Loggers Assoc.
Man fm audience said Clark does not speak for Alt loggers assoc.

496 adj. 3:05

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 2/12/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:05	
Rep. D. Randolph				
Rep. B. Rogers	✓		1:18	
Rep. T. Gardiner	✓		1:12	
Rep. T. Martin, Chair	✓		1:00	

Subject Matter:

House Bill No. & HCS CSSB 84 (2d RLS) _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

Rep. Vaska attending

Amended - see pages 2, 5, 6

Original sponsors: Bennett, Parr and Fahrenkamp

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

2d HOUSE CS FOR CS FOR SENATE BILL NO. 84 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to processing of permits by state agencies, and to administration of the Alaska Coastal Management program."

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

* Section 1. FINDINGS. The legislature finds that

(1) the orderly development of state resources is being unnecessarily delayed by the length of time required to obtain permits from state agencies, by the complexity of the permitting process, and by the number of agencies involved in the permitting process;

(2) the uncertainties created by the lack of specific time limits, the proliferation of agency reviews, the number of agencies involved in the permit process, and unjustified agency requirements upon the processing of permit applications have cost Alaskans millions of dollars in lost employment and higher prices;

(3) the public interest has not been advanced by protracted delay in the processing of permit applications by state agencies;

(4) by reducing the number of agencies and agency reviews involved in the permit process, and by requiring state agencies to process permit applications in an expeditious manner, the social, economic, and environmental health and well-being of Alaska citizens will be promoted; and

(5) there are many administrative orders and similar documents that have been promulgated by the executive branch relating to interagency review that conflict and overlap, retarding the permit issuing process.

* Sec. 2. AS 44.62 is amended by adding new sections to read:

ARTICLE 84. PERMIT PROCESSING.

Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource agency shall by regulation classify each of the permits issued by that agency within one of the two following categories:

(1) class I permits, for which the state agency must issue a final decision within 30 days after the date of receipt of a completed permit application; and

(2) class II permits, for which, because of a necessary public notice or interagency review period, a final decision cannot be issued within 30 days. A final decision on a class II permit must be issued within 65 days after the date of receipt of a completed permit application, unless a public hearing is held on the application, in which case a final decision must be issued within 75 days after the date of receipt.

(b) Final regulations classifying its permits, and uniform procedural regulations providing for the processing of these permits, shall be adopted by each state resource agency by October 1, 1982, following appropriate notice and hearing. Permits applied for after October 1, 1982 must be issued in accordance with the time periods specified in (a) of this section, and the provisions of the implementing regulations.

Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESSING. (a) Upon a finding by the head of a resource agency that a permit being considered involves unusually complex issues so that the agency cannot render a final decision within the time period specified in AS 44.62.632(a), the head of the agency may prescribe a time period within which the final decision will be made. The finding of the head of the agency may be appealed by the applicant to the superior court under the Appellate Rules of Procedure. The time period may not be extended more than 120 days beyond the time period specified in AS 44.62.632(a), unless the applicant otherwise agrees.

(b) The time period specified in AS 44.62.632(a) may be extended

if necessary to facilitate joint processing of a permit application by state and federal agencies, but only if adherence to the time periods established in AS 44.62.632(a) would cause an irreconcilable conflict with a federal statute or regulation.

(c) Subject to (a) and (b) of this section and AS 44.62.634, failure of a resource agency to make a final decision within 30 days after the receipt of a completed permit application for a class I permit, or within 65 days after the receipt of a completed permit application for a class II permit, is approval of the application. In an appeal of a permit issued by operation of this subsection, the record shall be considered in the light most favorable to the applicant, and the permit shall be accorded a presumption of regularity.

(d) A state agency may not condition the issuance of a permit upon the issuance of a permit from another governmental agency.

Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agency receives a completed permit application that does not contain sufficient information concerning the project's compliance with the agency's statutes and regulations, the agency shall notify the applicant within 15 days after receipt of a completed permit application for a class I permit, and within 30 days after receipt for a class II permit.

(b) The notification must specify those particular facts or issues concerning the proposal upon which the agency requires additional information in order to determine whether the project will conform to the agency's statutes and regulations.

(c) If a timely request under (a) and (b) of this section is made, the time period specified in AS 44.62.632 is suspended from the date of request to the date of full compliance with the request. Subsequent requests for additional information may be made, but must relate only to new issues raised by the response to the initial noti-

fication. Subsequent requests do not extend the time periods specified in AS 44.62.632.

(d) Nothing in this section grants a resource agency the authority to request information beyond the authority given to it by other statutes.

Sec. 44.62.635. LEAD AGENCY. (a) There is established a lead agency that is solely responsible for issuing coastal management consistency determinations under AS 46.40 and for preparing and submitting state comments on federal permit applications. The lead agency is that resource agency that has principal responsibility for authorizing the overall activity, including instances where an activity requires permits from more than one resource agency. For classes of activities for which no agency with principal responsibility exists the governor shall designate a resource agency to be a lead agency for each class by administrative order no later than October 1, 1982. In performing its functions under this section, the lead agency shall consult with other resource agencies and with coastal resource districts under AS 46.40.

(b) Substantive consideration shall be given to the documented factual statements or data submitted by resource agencies and to the office of coastal management within their primary areas of expertise, and to the documented factual statements or data submitted by coastal resource districts made under an approved district coastal management program. The lead agency shall consider opinions, conclusions or recommendations submitted by the commenting agency, but may, in its discretion, reach contrary opinions, conclusions or recommendations according to the evidence received. The lead agency shall then balance competing factors in reaching its final decision. No resource agency other than the lead agency has primary expertise in the balancing of competing factors.

Except as otherwise required by federal law,

(c) No state agency other than the lead agency may comment to a federal permitting agency.

delete this subsection; replace with attached *(entitled Amendment 5)

~~(d) An agency's completion of a review under sec. 401 of the Clean Water Act (33 U.S.C. sec. 1341) does not constitute that agency as a lead agency under this section.~~

Sec. 44.62.636. COMMENT PERIOD. A coastal resource district or state agency that receives a request for comment in connection with a permit application or plan review being processed by a resource agency shall submit these comments in accordance with the following schedule:

(1) comments on class I permits shall be submitted within 15 days after the agency's receipt of the request;

(2) comments on class II permits and federal permits shall be submitted within 30 days after the agency's receipt of the request;

(3) when under AS 44.62.633, the requesting agency has extended the time periods specified in AS 44.62.632, that agency may extend the time period specified in this section, ~~for up to an additional 30 days.~~ However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the lead agency must issue a final decision.

Sec. 44.62.637. ADMINISTRATIVE APPEALS. (a) The uniform procedural regulations adopted under AS 44.62.632(b) must provide for an administrative appeal from a final decision on a permit application. The administrative appeal is to the head of the resource agency involved. Except as provided in this section the procedure is conducted under AS 44.62.330 - 44.62.630.

(b) The administrative appeal must be resolved within 45 days after the final decision on a permit application, or, if a hearing is held on the administrative appeal, within 65 days after the final decision on the permit application.

(c) An appeal taken from a decision granting a permit may, but need not, stay the issuance of the permit.

(d) The head of the agency may summarily dismiss an appeal before the time established in this section, and the dismissal is the final agency action on the matter.

(e) In an appeal from the denial or conditioning of a permit the head of the agency may, if he determines that the public interest would be served, grant the permit or remove conditions of the permit until the appeal is determined.

Sec. 44.62.638. REVIEW BY THE SUPERIOR COURT. (a) Judicial review by the superior court of a final decision issued under AS 44.-62.632 - 44.62.637 may be had by filing a notice of appeal in the superior court in accordance with the applicable Rules of Appellate Procedure. [The right to appeal is not affected by the failure to seek further review under AS 44.62.637.] The review is governed by the provisions of AS 44.62.560(b) - (e) and AS 44.62.570.

(b) An appeal taken under this section ~~has~~ should have preference on the calendar of civil actions before the court and ~~shall~~ should be decided without unnecessary delay.

* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

(c) As used in AS 44.62.632 - 44.62.638,

(1) "date of receipt" means the date on which a state agency actually receives a completed application filed in accordance with agency regulations and at a place identified as appropriate for filing in the agency's regulations;

(2) "permit" means a permit, license, certification, consistency determination, or other authorization or approval issued by a resource agency as a written document that is required to be obtained or is solicited from a state agency before the construction or operation of a project; "permit"

(A) does not include the approval of a unit agreement,

a unit development plan, or a unit exploration plan, or conveyances of interest in state land or water;

(B) does include all authorizations and approvals, whether proprietary or regulatory, necessary to undertake a project under a previously conveyed property interest;

(3) "project" means a new activity or expansion or addition to an existing activity for which permits are required before construction or operation; "project" does not include pursuing a trade or profession, providing public health service, or operating a financial institution;

(4) "resource agency" includes the Department of Natural Resources, the Department of Environmental Conservation, and the Department of Fish and Game with respect to permits issued for the protection of fish habitat or the regulation of state sanctuaries, refuges, and critical habitat areas.

2-16-82
HB 477

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 16, 1982
1:04 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Gardiner
Rep. Randolph

Members Absent: Rep. Rogers

COMMITTEE CALENDAR

HB 477 — An Act relating to the conduct of activities by labor unions in the state.

WITNESS REGISTER

Jeff Barry, Committee Aide
House Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811
465-3669
Position Statement: Presented results of research.

PREVIOUS ACTION

HB 477 — No previous action.

Statutory Reference: AS 23.40

Action Taken: Rep. Gardiner moved to [illegible]le HB 477. There being no objection, mo[illegible] passed.

ACTION NARRATIVE

Tape #16
Recording
Number 000 — The meeting was called to order by Chairman Martin at 1:04 p.m. Members present were Representatives Martin, Gardiner, Bylsma, and Randolph. Rep. Rogers was absent. Before the committee was HB 477, relating to the conduct of activities by labor unions in the state.

Number 013 — Jeff Barry presented results of research on the bill. He said the bill does not do what

is intended. He gave examples of conflicts with federal law. He said similar bills have been struck down as illegal. Barry said that the Commissioner of Labor said the case of Hinckley v. Orbeck was decided on the same issue.

Number 033 — Rep. Martin said the bill is intended to solve a problem that Local 302 has in desiring a local chapter. He said they feel that the Seattle office is not giving them fair treatment regarding job placement. There was discussion.

Number 049 — Rep. Bylsma referenced a similar Kentucky law which was upheld in court as constitutional. Barry commented that the law Bylsma referred to could not have dealt with interstate commerce. There was a discussion of legality.

Number 070 — Rep. Gardiner asked if anyone had expressed interest in the bill. Rep. Martin said Local 302 had with regard to autonomy. There followed a discussion about which bills should be brought before the committee, and a discussion of HB 477.

Number 091 — Rep. Gardiner moved to table the bill. There being no objection, the motion passed.

Number 096 — As there was no further business to come before the committee, the meeting was adjourned at 1:11 p.m.

2/16/82 Tape #16

1:04 Call to order - Rogers absent
003 HB 477

013 Barry - results of research; bill doesn't do what's intended. Gave examples of conflict w/ federal law. Similar bills have been struck down as illegal. Comm. Labor exp Hinckley v. Orbeck was decided on same issue.

033 Martin - int'd to solve prob that Local 302 has; want local chapter; feel Seattle Ofc not giving fair treatment re job placement.
Discussion.

049 Bylsma - ref'd similar Kentucky law which was upheld in Ct as constitl.
Barry - cdn't deal w/ interstate commerce
Discussion of legality.

070 Gardiner asked if anyone had expressed interest
Martin - 302 w/ regard to autonomy
Discussion on which bills shd be brought before committees.
Discussion abt bill.

091 Gard moved to table bill; there being no objection, ~~motion~~ bill tabled.

096 Mtg adjourned 1:11

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 2/16/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:00	
Rep. D. Randolph	✓		1:00	
Rep. B. Rogers				
Rep. T. Gardiner	✓			
Rep. T. Martin, Chair	✓		1:00	12:55

Subject Matter:

House Bill No. 477

Senate Bill No. _____

Special Orders:

2-17-82
HB159

NOTE REGARDING THE FOLLOWING FRAME ON MICROFILM:

COMPLETE DOCUMENT IS AVAILABLE IN ORIGINAL FILES IN ALASKA STATE ARCHIVES. TITLE PAGE ONLY HAS BEEN FILMED.

RECOMMENDED CHANGES TO THE ALASKAN WORKERS' COMPENSATION ACT

PREPARED FOR

THE ALASKA CONFERENCE OF EMPLOYERS, INC.

% Jack Thompson

Air Van Lines

2216 Post Road

Anchorage, Alaska 99501

REPRODUCED BY THE

WORKERS' COMPENSATION COMMITTEE OF ALASKA, INC.

WITH THE PERMISSION OF THE

ALASKA CONFERENCE OF EMPLOYERS, INC.

Box 1647

Anchorage, Alaska 99501

PREPARED BY:

Edward L. Hite, Vice President
Daryl A. Cody Company
201 Danner Avenue
Suite 155
Anchorage, Alaska 99502

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 2/17/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:00	1:28
Rep. D. Randolph	✓		1:12	1:28
Rep. B. Rogers	✓		1:03	1:28
Rep. T. Gardiner				
Rep. T. Martin, Chair	✓	~~1:55~~	12:55	

Subject Matter:

House Bill No. 159

Senate Bill No. _____

Special Orders:

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 17, 1982
1:05 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Randolph
Rep. Rogers

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

HB 159 An Act relating to workers' compensation; and providing for an effective date.

WITNESS REGISTER

Richard Cattanach
Vice President, Finance
Unit Company
8101 Old Seward Highway
Anchorage, Alaska 99502
349-4568
Position Statement: Suggestions for better approach to Workers Compensation.

Jim Robison
W/C District Council of Laborers
Alaska State AFL-CIO
Box 899
Anchorage, Alaska
276-1640
Position Statement: Spoke of results of meeting of local union offices.

Bill Reeves
Associated General Contractors
Anchorage, Alaska
276-5354
Position Statement: Submitted a proposed committee substitute.

Jacquelyn McClintock, Director
Division of Workers Compensation
Department of Labor
PO Box 1149
Juneau, Alaska 99811
465-2790
Position Statement: Responded to questions.

John Lewis, consultant

Box 330550
Miami, Florida
305-443-8111
Position Statement: Commented on problems with workers compensation.

Zeo Jackson, consultant
PO Box 3130
Anchorage, Alaska 99510
264-2460
Position Statement: Commented on problems with workers compensation.

Don Koch
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2577
Position Statement: Available to answer questions.

PREVIOUS ACTION

HB 159

See minutes of meetings on January 25-28.

Statutory Reference: AS 18.80.220; AS 23.30

Action Taken: No formal action taken this date.

ACTION NARRATIVE

Tape #17 and 18
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:05 p.m. Members present were: Representatives Martin, Bylsma, Rogers, and Randolph. Rep. Gardiner was absent. Before the committee was HB 159. Chairman Martin recapped action to date, and introduced Workers Compensation Board members.

Number 051

Richard Cattanach, Vice President of Finance, Unit Company, Anchorage, said that as a result of hearing, it was realized that a better approach to workers compensation was for management and labor to work out a compromise.

Number 075

Jim Robison, W/C District Council of Labor, and Alaska State AFL-CIO, said he contacted 76 local union offices. They decided to discuss the bunkhouse rule, doctor shopping,

and spendable income. He told the results of the meeting.

Number 102 — Bill Reeves, Associated General Contractors, went over HB 159 with suggestions for changes. (He submitted a typewritten proposed committee substitute, entitled, "Labor/Management Work Draft", dated 2/13/82, which is available for inspection from the committee.) Reeves noted that Section 7 of the Labor & Commerce committee substitute should have been included in the labor/management workdraft.

Number 330 — Rep. Martin asked what security an injured employee has that the employer has forwarded a notice of injury. Jackie McClintock, Director of the Division of Workers Compensation, responded that there are penalties to employers who do not provide notice. Jeff Barry, committee aide, added that there is a problem in that area. THere was discussion of proof for the employee that the claim is forwarded.

Number 462 — Reeves resumed his testimony, going over the labor/management workdraft section by section.

Side B, Number 243 — Reeves noted that in Sec. 33, it should be added that people who have opted out of the social security program would have spendable income computed as though they had not opted out. He recommended checking some definitions and other changes that were not included in the labor/management workdraft.

Number 309 — Rep. Martin said that, during testimony taken in the interim, concern was expressed about employers being unwilling to rehire injured workers. Cattanach responded that they are concerned about that, but don't know the magnitude of the problem, or if Section 1 of the Labor & Commerce proposed committee substitute is the solution. He said he hated to see legislation that created a larger problem. There was discussion.

Number 412 — Barry referred to page 2 of the labor/management workdraft, regarding incentives and disincentives to employees, and referenced Florida law. Barry said his understanding is that, in collective

bargaining, unions do not refer people with physical impairments. Employers who are or would attempt to employ rehabilitated or injured employees could be stymied by other employers who refuse. He gave an example of this situation. He said there is no recourse, and that it shifts the liability to employers who attempt to work with injured employees. There was discussion.

Number 550 — Reeves said the real problem is that there is no incentive to the employer to hire injured workers who are not former employees. Barry said the other half of the problem is employers who won't hire because the applicant has at one time filed a workers compensation claim. He expanded on instances of this and problems created by this attitude. Cattanach said the goal is the same, the question is the means of attaining the goal. He asked the committee to give them a year to look at the problem to determine the best solution. There was discussion.

Number 650 — John Lewis, workers compensation consultant from Florida, said that Florida and other states with through the same experience. He said there were two problems: 1) rehiring an injured employee, for which there is direct incentive in Alaska; and 2) regarding not hiring people who have formerly filed a workers compensation claim, he said to look at civil court remedies, human rights commission, educational process, and rationality in the workers compensation system. Lewis said it is hard to prove that an employer is denying an applicant or former employee work on the basis of discrimination because that applicant had previously filed a workers compensation claim. He recommended waiting the year requested before taking action, if possible.

Tape 2, Number 053 — Zee Jackson, consultant from Anchorage, said you can't legislate "good faith". She said federal laws exist prohibiting employers from discriminating against handicapped workers, but one of the problems is proving discrimination. She said the process is one of education and evolution. She doesn't feel that a law such as that in section 1 of the Labor & Commerce workdraft will assist in achieving "return to work". She felt it

was an ongoing problem that requires continuous work and the efforts of everyone involved. She favors the parties working together and setting goals.

Number 118 — Martin asked if the labor/management bill addresses all the problems. Jackson responded that it is a good mechanism, and that the effort should be applauded. There was discussion.

Number 170 — Cattanach said they would not look favorably at taking parts of the labor/management bill out. Rep. Martin requested information from Don Koch, Division of Insurance, about benefits and ratings as set forth in the labor/management workdraft. Koch responded. There was discussion of cost savings.

Number 220 — As there was no further business to come before the committee, the meeting was adjourned at 2:53.

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Lee Jackson	P.O. Box 3130, Anch. 99510	Self	?	264-2460
D Rogers	Juneau	ASOCL.	No.	586-3707
K. Cattanach	Anchorage	WCCA	Yes	349-4568
Wm Reeves	Anch	AGC	YES	276-5359
Jim Robison	Box 899 Anch	W/C district counsel of Lab. Alaska State AFL-CIO	Yes	276-1640
Constance Bastian	3301 Eagle Anch	W/C Division Staff/AIC	No	264/2424
D Daugherty	POB 60005 FAI	W/C - AWCB	NO	452-1800
Anns Pittenger	6602 Lakeway-Anch 99502	Memer / Workm Comp	NO	243-7238
John Lewis	Box 330550, Miami, Fl	—	Y	305-447-11
Peter D Gail	1210 W 47 APT 4	WORKMANS COMP	NO	276-5829
Paul R. Traeh	5921 Sunset	Self	NO	586-2521
Elaine Vanderstaden	4800 Glacier Rd.	Sec. Inj Fund	no	2766
Lucille Adams	Box 1914 Fbx	Dept. Labor/AWCB	No	488-6803
K.S. Knudsen	3301 Eagle Anch	W/C Div: AWCB	NO	264-2424
T.E. Cook	Box 1914 FBX	Dept Labor/AWCB	NO	488-6803
DON KOCH	POUCH D JUNEAU	DIV OF INSURANCE	NO	465 2571
MICHAEL THOMAS	Box 1211 Juneau	Am. Inc. Ass'n	No	5863340
Jean Klinn		A.H.C	NO	6-1740
BILL SCHNEIDER	Box 4-2500 Anch, Ak 99509	A.G.C	NO.	276-5554
Tom Cashen	3200 Foster Juneau	IBEW Local 1547	NO	586-3000

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2/17/82

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
DAVID E. CHESS	407 DENALI ST. ANCH. 99501	BOILERMAKERS #498	No	279-4981
Bill D. Ross	407 Denali St. Anch. 501	W.A.B+C.T.C. + Carp.	NO	276-3533
Lee M. Thurlow	340 N. Franklin Juneau 99801	APEA	No	364-3402

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

2/17/82

1:05

000 START

HB 159 Call to order by Martin; recapped action to date

035 Intro of WC Board members

051 Richard Cattanach - as result of hrg, realized better approach, was for mgmt & labor to wk out compromise. ~~w out~~ Selected people to look at HB 159.

075 Jim Robinson - contacted 76 local union ofcs. Decided to discuss bunkhouse rule, dr shopping, & spendable income. Told about results of mtg.

102 Bill Reeves went over HB 159 w/ suggestions for changes & (submitted written proposed bill substitute, ~~to~~ intent. entitled "Labor/Mgmt Work Draft, 2/13/82, for CS for HB 159 (L&C)) Noted that sec. 7 of committee's CS shd have been

330 included in their draft.

405 Martin asked what security inj's employer has that employer has forwarded notice of inj.

Mr Clinton responded that there are penalties to employer Barry - mgmt ~~to~~ - & that must be forwarded; prob in that area.

432 ~~Reeves resumed testimony~~ Reeves; noted that employer is reqd to file notice

440 Discussion of proof for employer that claim is forwarded.

462 Reeves resumed testimony (their sec. 14, corresponding to L&C CS sec 10)

557 Qstns by Barry, Martin re spendable, weekly wage; discussion (Sec. 19 of their draft, p. 7)

609 Reeves resumed testimony (sec 20, 21, 22 corresponding to L&C 13, 14 & 15)

000 Side B — (at sec 29)

173 sec 33 corresponding to L&C sec 20

243 sec 33 read to add that persons who have opted out of SS progm and have spendable income computed as though they had not opted out.

285 Recommended checking some definitions & other changes that were not included in their draft CS.

309 Martin commented on presentation.

332 Martin - during testimony taken in interim, concern was expressed abt employers being unwilling to rehire rehabilitated injured wkrs.

349 Callanach - concerned abt that but don't know magnitude of prob or if this (i.e. sec 1 of WAC CS) is solution. Hate to see legislation that creates larger problem.

375 Discussion.

412 Barry - ref'd p. 2 of their draft re "incentives & disincentives to employers". Ref'd Florida law. Barry's understanding that in collective bargaining, unions no refer people w/ physical impairments. Employers who are/will attempt to employ... (injured/rehabilitated employees) could be stymied by other employers who refuse. Gave example. Also said there is no recourse; shifts liability to employers who attempt to wk w/ injured employees -- they pay add'l expense.

Martin spoke of employers he had heard of who did this, & of docs dr's testimony in that regard.

514 Cattanach - ~~not~~ think there may be a variety of approaches to problem; don't like C&C Sec 1. Need more study. ~~before~~

535 Discussion - Martin, Cattanach, Robinson, Reeves.

550 Reeves - real problem is no incentive to ~~a~~ hire injured wkrs who aren't former employers.

567 Barry - other half of prob is employers who won't hire because ~~prior~~ ~~employee~~ applicant has ~~at one time~~ filed a WC claim. Expanded on instances of this & problems created by this attitude.

626 Cattanach, goal is the same, question is means. Asking committee to give them a year to look at problem to determine best solution.

640 Discussion.

650 John Lewis - Florida & other states went th/ same experience. 2 prob - 1) rehiring ~~injured~~ employee - direct incentive (in Ak) to rehire; 2) re not hiring people who have formerly

000 Tape 2 filed W/C claim - look at civil court remedies, human rights comm, educational process, & rationality in W/C system. Hard to prove that employer is denying applicant/former employee work on basis of discrimination because of filing W/C claim. Recommended waiting the yr requested if ~~possible~~.

053 Jay Jackson - Can't legislate "good faith." Federal laws exist prohibiting employers not hiring handicapped wkrs; one of problems was proving discrimination. ~~&~~ Process is one of education & evolution. ~~can't "strong arm"~~

085 Doesn't feel a law (ref. Sec 1) will assist in achieving return to work. Ongoing problem, requires continuous work, requires efforts of everybody. Favors parties wkg together, setting goals.

118 Martin asked if their bill addresses all probs Jackson - good mechanism; outlining, delineating program positive. Effort to be applauded.

~~133 Martin asked if h Martin~~

Discussion Robinson, Martin, Barry. Barry noted new fiscal note will be needed if their bill is considered. Felt all ggps shd be given opportunity to comment on chgs; too unrealistic to look at couple wks min. for bill. There was assurance fm McClintock (ref f/n) & Lewis that info will be made available ASAP.

Discussion,

170 Cattanach said they wd not look favorably at taking parts of bill out; prefer total look.

Martin requested info fm Koch re benefits & ratings (ref new (third) draft). Koch responded. - mission re cost savings.

220 Mtg adj 2:53

LABOR/MANAGEMENT WORK DRAFT

FEBRUARY 13, 1982

Original Sponsor: Rules/Legislative Council

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 159 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to workers' compensation; and providing for an effective date."

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

* Section 1. AS 23.30.025 is amended by adding a new subsection to read:

Sec 2 No change

(c) An insurer may issue a policy of insurance insuring the payment of benefits under this chapter which provides for a deductible amount to be paid by the employer. A policy with a deductible provision must be approved by the director of insurance and must provide that the deductible amount be paid by the insurer to the employee on behalf of the employer. After payment of the deductible by the insurer, the insurer may recover the deductible amount from the employer. The failure of an employer to reimburse an insurer for the deductible amount does not relieve the insurer from any other obligation it may have under the policy of insurance. An insurer is not required to apply for a deviation under AS 21.39.070 in order to issue a policy under this subsection. This subsection does not apply to a policy of excess insurance purchased by a self-insurer.

* Sec. 2. AS 23.30.040(e) is repealed and reenacted to read:

NEW

(e) The board may authorize payment from the second injury fund of:

(1) up to $200 per month for maintenance to an employee being rehabilitated under § 41 of this chapter who suffers an extreme financial hardship;

(2) rehabilitation expenses exclusive of costs for provider services and testing.

* Sec. 3. LEGISLATIVE INTENT. It is the intent of the legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to his gross earnings at the time of the injury. The legislature recognizes five rehabilitation goals in a workers' compensation program:

NEW

(1) Early identification of injured workers who will eventually need rehabilitation;

(2) Use of competent rehabilitation providers;

(3) Opportunities for return to direct employment;

(4) Maintaining an atmosphere conducive to rehabilitation;

(5) Providing incentives and removing disincentives to rehabilitation.

The Department of Labor shall adopt regulations in accordnce with AS 23.30.005 to accomplish these goals.

* Sec. 4. The board shall select and employ a rehabilitation administrator and

NEW

may authorize the rehabilitation administrator to select and employ rehabilitation monitors.

* Sec. 5. The rehabilitation administrator is a partially exempt service under

NEW

AS 39.25.120. The monthly salary of the rehabilitation administrator is equal to Step A, Range 22 of the salary schedule in AS 39.27.011(a) for Anchorage.

* Sec. 6 AS 23.30 is amended by adding a new section to read:

Sec. 23.30.041. REHABILITATION OF INJURED WORKERS. (a) The rehabilitation administrator shall implement the provisions of this section. The rehabilitation administrator shall continuously study the issue of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all qualified rehabilitation facilities, agencies, and providers, both public and private.

(b) When an employee suffers an injury covered by this chapter which precludes his return to suitable gainful employment, he shall be entitled to prompt rehabilitation services. The employer or carrier, at its own expense, shall provide for necessary and appropriate rehabilitation services. If rehabilitation services are not voluntarily offered, the rehabilitation

administrator, if he deems the services necessary and appropriate, may retain a rehabilitation provider at the expense of the employer or carrier.

(c) Rehabilitation services shall not exceed 37 weeks, provided, however, the rehabilitation services may be extended an additional 37 weeks if the rehabilitation administrator determines that special circumstances exist. Nothing in this subsection precludes an employer or carrier from providing rehabilitation services beyond such period on a voluntary basis. Where rehabilitation requires residence at or near a facility or institution, away from the employee's customary residence, reasonable cost of board, lodging and travel shall be paid by the employer.

(d) Temporary disability benefits paid pursuant to §§ 185 or 200 of this chapter shall include such period as may be reasonably required for training in the use of artificial members and appliances, and shall be paid throughout the rehabilitation process.

(e) The rehabilitation provider shall file a plan for approval with the rehabilitation administrator in accordance with board regulations. Within ten (10) days of the rehabilitation administrator's decision any party may seek review of the decision by requesting a hearing in accordance with § 110 of this chapter. A decision by the rehabilitation administrator is presumed valid absent a showing of clear error.

(f) Refusal by an injured employee to participate in an evaluation or a plan approved by the rehabilitation administrator shall result in a forfeiture of disability compensation for the period such refusal persists. However, if an employee commences participation in an evaluation or plan of rehabilitation within two months from the date of such refusal, and successfully completes such rehabilitation plan or evaluation by becoming employed for a period of thirty consecutive business days following the completion of the rehabilitation program, he shall receive a lump sum payment of 25% of the compensation forfeited by him. Such lump sum payment is available only once to an employee refusing rehabilitation. The rehabilitation administrator may find that an employee refuses to participate in an evaluation or vocational plan if, the employee fails to cooperate with the rehabilitation provider, or if the employee, or anyone acting on the employee's behalf, interferes with the rehabilitation process.

* Sec. 7. AS 23.30.045 (a) is amended to read:

(a) An employer is liable for and shall secure the payment to his employees of the compensation payable under §§ 41, 50, 95, 145, and 180 - 215 of this chapter. If the employer is a subcontractor, the contractor is liable for and shall secure the payment of the compensation to employees of the subcontractor unless the subcontractor secures the payment.

* Sec. 8. AS 23.30.045 (c) is amended to read:

(c) For a person eligible for vocational rehabilitation service under this chapter or AS 23.15.080 [AND] who is placed with an employer for service [WITHOUT WAGES] at the request of the board or the division [OFFICE] of vocational rehabilitation to give him on the job training, work readiness, [OR] work therapy experience [,] or work sampling, the liability set out in (a) of this section applies to the state rather than to the employer.

* Sec. 9. AS 23.30.080 is amended by adding a new subsection to read:

(d) If an employer fails to insure or provide security as required by AS 23.30.075, the board may issue a stop order prohibiting the use of employee labor by the employer until the employer insures or provides security as required by AS 23.30.075. [The failure of an employer to file evidence of compliance as required by AS 23.30.085 shall create a rebutable presumption that the employer has failed to insure or provide security as required by AS 23.30.075.] If an employer fails to comply with a stop order issued under this section, the board shall assess a civil penalty of $1,000 per day. The employer may not obtain a public contract with the state or any of its political subdivisions for three years following the violation of the stop order.

* Sec. 10. AS 23.30.095(e) is amended to read:

(e) The employee shall, after an injury, at reasonable times during the continuance of his disability if requested by his employer or, when ordered by the board, submit himself to an examination by a physician or surgeon authorized to practice medicine under the laws of the state in which the employee may be found, furnished and paid for by the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR

EXAMINATIONS.] No fact relative to the injury or claim communicated to or otherwise learned by physician or surgeon who may have attended or examined the employee, or who may have been present at an examination is privileged, either in the hearings provided for in this chapter or an action to recover damages against an employer who is subject to the compensation provisions of this chapter. If an employee refuses to submit himself to any examination provided for in this section [HEREIN], his rights to compensation shall be suspended until the obstruction or refusal ceases, and his compensation during the period of suspension may, in the discretion of the board or the court determining an action brought for the recovery of damages under this chapter [HEREUNDER], be forfeited. The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. No autopsy may be held without notice first being given to the widow or widower or next of kin if they reside in the state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If no adequate notice is given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

* Sec. 11. AS 23.30.095 is amended by adding a new section to read:

(j) the board shall adopt and use a schedule for determining the existance and degree of permanent impairment based upon medically or scientifically demonstrable findings.

* Sec. 12. AS 23.30 is amended by adding a new section to read:

AS 23.30.097. RELEASE OF INFORMATION. Upon request the employee shall provide written authority to the employer, carrier, rehabilitation provider and rehabilitation administrator to obtain medical and rehabilitation information relative to his injury.

* Sec. 13. AS 23.30.~~105~~100(d)(2) is amended to read:

2. If the board excuses the failure on the ground that for some satisfactory reason notice could not be given; however, when the delay in giving notice is so excused, notwithstanding the provisions of AS 23.30.120, the burden of proof as to the validity of the claim shall shift to the employee;

* Sec. 14. AS 23.30.110(c) is amended to read:

(c) The board shall make the investigation which it considers necessary with [IN] respect to [OF] the claim, and upon application of an interested party shall provide an opportunity for [ORDER] a hearing on it. If a hearing on a claim is ordered, the board shall give the claimant and other interested parties at least 10 days' notice of hearing, served personally upon the claimant and other interested parties or sent by registered mail, and shall, within 30 [20] days after the hearing record closes [IS HAD], by order, reject the claim or make an award in respect to it. If a hearing is continued by the board, additional notice under this subsection is not required. [IF NO HEARING IS ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS SECTION THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN RESPECT TO IT.]

* Sec. 15. AS 23.30.120(3) is amended to read:

(3) The injury was not proximately caused by the employee being under the influence of an intoxicating liquor or drugs [OCCASIONED SOLELY BY THE INTOXICATION OF THE INJURED EMPLOYEE];

* Sec. 16. AS 23.30 is amended by adding a new section to read:

Sec. 23.30.122. CREDIBILITY OF WITNESSES. The board has the sole power to determine the credibility of a witness. A finding by the board concerning the weight to be accorded any witnesses testimony, including medical testimony and reports, is conclusive even though the evidence is conflicting or susceptible to contrary conclusions. The findings of the board shall be subject to the same standard of review as a jury's finding in a civil action.

* Sec. 17. AS 23.30.155(j) is amended to read:

(j) If an employer has made advance payments or overpayments of compensation, he is entitled to be reimbursed, after approval by the board, out of any unpaid installment or installments of compensation due.

* Sec. 18. AS 23.30.155 is amended by adding new subsection to read:

(n) If the board determines that it is in the interest of an injured employee, and the parties agree, the liability of the employer for all or part of compensation payable under AS 23.30.190 (a)(1)-(19) may be discharged by the payment of a lump sum.

* Sec. 19. AS 23.30.175(a) is amended to read:

(a) The weekly rate of compensation for disability or death for a recipient residing in Alaska may not exceed the percentage of the Alaska average weekly wage in effect on the date of injury as determined by the table contained in this subsection and initially may not be less than $110 [65] a week. However, if the board determines that the employee's spendable [AVERAGE] weekly wages are less than $110 [65] a week as computed under § 220 of this chapter, it shall issue an order decreasing the weekly rate of compensation to a rate equal to the employee's spendable [AVERAGE] weekly wages, and payments made earlier in excess of the decreased rate shall be deducted from the unpaid compensation in the manner the board determines. In any case, the employer shall pay timely compensation.

On	The Rate Shall Be
July 1, 1975	80% of the Alaska Average Weekly Wage
January 1, 1976	100% of the Alaska Average Weekly Wage
January 1, 1977	133.3% of the Alaska Average Weekly Wage
January 1, 1979	166.6% of the Alaska Average Weekly Wage
January 1, 1981	200% of the Alaska Average Weekly Wage

* Sec. 20. AS 23.30.175(b) is repealed and reenacted to read:

(b) After June 30 and before December 1 of each year, the commissioner shall adopt and publish the average weekly wage for each jurisdiction for the preceding calendar year as published by the United States Secretary of Labor for the purposes of unemployment insurance. In determining the rate of compensation the commissioner shall use the average weekly wage figure for each jurisdiction, including Alaska, for which the Secretary of Labor computes an average weekly wage. These figures are the applicable average weekly wages for those jurisdictions for the following calendar year.

* Sec. 21. AS 23.30.175(c) is repealed and reenacted to read:

(c) The following rules apply to recipients who do not reside in Alaska:

(1) The weekly rate of compensation shall be calculated by multiplying the recipient's weekly compensation rate calculated in accordance with § 180, 185,190, 200 or 215 of this chapter times the ratio of the average weekly wage of the jurisdiction in which the recipient resides to the average weekly wage of Alaska. The rate is based on the average weekly wages in effect when the recipient leaves Alaska and shall be adjusted annually upon publication of the average weekly wages for all jurisdictions.

(2) The calculation required by this subsection does not apply if the recipient is absent from Alaska for medical or rehabilitation services not reasonably available in Alaska.

(3) If the spendable weekly wage of the recipient and the resulting compensation rate is determined under AS 23.30.220(2) the calculation required by this subsection applies to only those gross earnings earned in Alaska.

(4) Application of this subsection may not result in a reduction of the weekly compensation rate to less than $110 a week except as provided in (a) of this section.

* Sec. 22. AS 23.30.175(d) is repealed and reenacted to read:

(d) In a jurisdiction for which no average weekly wage is computed by the United States Secretary of Labor for the purposes of unemployment insurance, the average weekly wage shall be as determined by the commissioner.

* Sec. 23. AS 23.30.180 is amended to read:

Sec. 23.30.180. PERMANENT TOTAL DISABILITY. In case of total disability adjudged to be permanent 80 [66-2/3] per cent of the injured employee's spendable [AVERAGE] weekly wages shall be paid to the employee during the continuance of the total disability. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two of them, in the absence of conclusive proof to the contrary, constitutes permanent total disability. In all other cases permanent total disability is determined in accordance with the facts.

* Sec. 24. AS 23.30.185 is amended to read:

Sec. 23.30.185. COMPENSATION FOR TEMPORARY TOTAL DISABILITY. In case of disability total in character but temporary in quality 80 [66-2/3] per cent of the injured employee's spendable [AVERAGE] weekly wages shall be paid to the employee during the continuance of the disability.

* Sec. 25. AS 23.30.190 is amended to read:

Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL DISABILITY. (a) In case of disability partial in character but permanent in quality the compensation is 80 [66-2/3] per cent of the injured employee's spendable [AVERAGE] weekly wages in addition to compensation for temporary total disability or temporary partial disability paid in accordance with §§ 185 or 200 of this chapter, respectively, and shall be paid to the employee as follows:

(1) arm lost, 280 weeks compensation, not to exceed $59,000 [$43,680];

(2) leg lost, 248 weeks compensation, not to exceed $54,400 [$40,320];

(3) hand lost, 212 weeks compensation, not to exceed 45,400 [$33,600];

(4) foot lost, 173 weeks compensation, not to exceed 39,700 [$28,700];

(5) eye lost, 140 weeks compensation, not to exceed $30,200 [$22,400];

(6) thumb lost, 51 weeks compensation, not to exceed $14,000 [$10,400];

(7) first finger lost, 28 weeks compensation, not to exceed $8,700 [$6,440];

(8) great toe lost, 26 weeks compensation, not to exceed $7,200 [$5,320];

(9) second finger lost, 18 weeks compensation, not to exceed $5,700 [$4,200]; third finger lost, 18 weeks compensation, not to exceed $4,700 [$3,500];

(10) toe other than great toe lost, 8 weeks compensation, not to exceed $3,000 [$2,240];

(11) fourth finger lost, 7 weeks compensation, not to exceed $2,800 ~~$2,000~~ [$2,100];

(12) loss of hearing of one ear, 52 weeks compensation, not exceeding $9,800 [$7,280]: loss of hearing of both ears, 200 weeks compensation, not to exceed $37,800 [$28,000] No benefit is payable for loss of hearing above 3,000 cycles per second;

(13) compensation for loss of more than one phalange of a digit shall be the same as for loss of the entire digit; compensation for loss of the first phalange is one-half of the compensation for loss of the entire digit;

(14) amputation between the elbow and the wrist is considered equivalent to the loss of an arm, and amputation between the knee and ankle is considered equivalent to the loss of a leg;

(15) compensation for loss of binocular vision or for 80 per cent or more of the vision of an eye is the same as for loss of the eye;

(16) compensation for loss of two or more digits, or one or more phalanges of two or more digits of a hand or foot may be proportioned to the resulting loss of use of the injured hand or foot, but may not exceed the compensation for loss of a hand or foot;

(17) compensation for permanent total loss of use of a member is the same as for loss of the member;

(18) compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member;

(19) in addition to other allowable compensation, the board shall award proper and equitable compensation up to $10,000 for

(A) serious disfigurement of face, head and, when such disfigurement is likely to handicap the employee in securing or holding employment, for serious disfigurement of neck or limbs normally exposed, or

(B) partial or total loss of or loss of use of a part or function of the body not otherwise provided for under this section;

(20) in all other cases in this class of disability the compensation is 80 [66-2/3] per cent of the difference between his spendable [AVERAGE] weekly wages and his wage-earning capacity after the injury in the same employment or otherwise, payable during the continuance of the partial disability, but subject to modification [RECONSIDERATION OF THE DEGREE OF THE IMPAIRMENT] by the board on its own motion or upon application of a party in interest; Whenever the board determines that it is in the interest of justice, the liability of the employer for compensation, or any part if it as determined by the board, may be discharged by the payment of a lump sum;

(21) in a case in which there is a loss of, or loss of use of more than one member or parts of more than one member set out in (1) - (18) of this section, not amounting to permanent total disability, the award of compensation is for the loss of, or loss of use of, each member or part of the member, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, (16) of this section applies.

(b) Total compensation paid under (a)(20) of this section may not exceed

$75,000 [60,000].

* Sec. 26. AS 23.30.200 is amended to read:

Sec. 23.30.200. TEMPORARY PARTIAL DISABILITY. In case of temporary partial disability resulting in decrease of earning capacity the compensation shall be 80 [66-2/3] per cent of the difference between the injured employee's spendable [AVERAGE] weekly wages before the injury and his wage earning capacity after the injury in the same or another employment, to be paid during the continuance of the disability, but not to be paid for more than five years.

* Sec. 27. AS 23.30.210 is amended to read:

Sec. 23.30.210. DETERMINATION OF WAGE-EARNING CAPACITY. (a) In a case of partial disability under § 190(20) or 200 of this chapter the wage-earning capacity of an inured employee is determined by his actual spendable weekly wage [EARNINGS] if the actual spendable weekly wage [EARNINGS] fairly and reasonably represents his wage-earning capacity. If the employee has no actual spendable weekly wage [EARNINGS] or his actual spendable weekly wage [EARNINGS] does not fairly and reasonably represent his wage-earning capacity, the board may, in the interest of justice, fix the wage-earning capacity which is reasonable, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition, including the effect of disability as it may naturally extend into the future.

* Sec. 28. AS 23.30.215(a) is amended to read:

(a) If the injury causes death, the compensation is known as a death benefit and is payable in the following amounts to and for the benefit of the following persons:

(1) reasonable and necessary funeral expenses not exceeding $2,500 [$1,000];

(2) if there is a widow or widower or a child or children of the deceased, the following percentages of the spendable [AVERAGE] weekly wages of the deceased:

(A) 80 [66-2/3] per cent for the widow or widower with no children;

(B) 40 [33-1/3] per cent for the widow or widower with one child and 40 [33-1/3] per cent for the child;

(C) 25 [20] per cent for the widow or widower with two or more children and 55 [46-2/3] per cent divided equally among the children'

(D) [deleted]

(E) 80 [66-2/3] per cent for an only child when there is no widow or widower;

(F) [deleted]

(G) 80 [66-23/] per cent, divided equally, if there are two ~~more~~ or more children and no widow or widower;

(3) if the widow or widower remarries, she or he is entitled to be paid in one sum an amount equal to the compensation to which the widow or widower would otherwise be entitled in the two years commencing on the date of remarriage as full and final settlement of all sums due the widow or widower;

(4) if there is no widow or widower or child or children, then for the support of father, mother, grandchildren, brothers, and sisters, if dependent upon the deceased at the time of injury, 40 [35] per cent of the spendable [AVERAGE] weekly wage of the deceased to such beneficiaries, share and share alike, not to exceed $20,000 in the aggregate.

* Sec. 29. AS 23.30.215(b) is amended to read:

(b) In computing death benefits, the spendable [AVERAGE] weekly wage of the deceased shall be computed under § 220 of this chapter and shall be paid in accordance with § 155 of this chapter and subject to the weekly maximum limitation in the aggregate as provided in § 175 of this chapter, but the total weekly compensation may not be less than $75 [45] for a widow or widower nor less than $25 [15] weekly to a child or $50 [30] for children.

* Sec. 30. AS 23.30.220 is repealed and reenacted to read:

Sec. 23.30.220 DETERMINATION OF SPENDABLE WEEKLY WAGE. Except as otherwise provided in this chapter, the spendable weekly wage of the injured employee at the time of the injury is the basis for computing compensation, and shall be the employee's gross weekly earnings minus payroll tax deductions. The gross weekly earnings shall be calculated as follows:

(1) if at the time of the injury the employee has been in the gainful employ of the employer for the full reporting quarter immediately preceding the time of injury, the gross weekly earnings shall be computed by dividing by thirteen the gross earnings said employee earned in the employ of the employer in that reporting quarter.

(2) if at the time of the injury the employee has not been in the employ of the employer for the full reporting quarter immediately preceding the time of injury, the gross weekly earnings shall be computed by dividing 100 into the gross earnings of the employee in the two calendar years immediately preceding the injury.

(3) if the board determines that the gross weekly earnings at the time of the injury cannot be fairly calculated under (1) or (2) of this section, or cannot otherwise be ascertained without undue hardship to the employee, the gross weekly earnings for calculating compensation shall be the usual gross earnings for similar service rendered by paid employees under similar circumstances as determined by the board;

(4) if an employee is a minor or an apprentice, or a trainee, as determined by the board, when injured, and under normal conditions his wages would increase during the period of disability, this fact may be considered by the board in computing his gross weekly earnings;

(5) if the employee is injured while performing his duties as a volunteer ambulance attendant, policeman or fireman, the gross weekly earnings calculating compensation shall be the minimum gross weekly earnings paid a full-time ambulance attendant, policeman or fireman employed, at a reasonable figure previously set by the subdivision to make this determination and in no case may the gross weekly earnings for calculating compensation be less than the minimum wage computed on the basis of 40 hours work per week.

* Sec. 31. AS 23.30 is amended by adding a new section to read:

Sec. 23.30.227. OTHER BENEFITS. No compensation shall be payable to an employee under §§ 180 or 185 of this chapter for any week in which the employee receives unemployment benefits (AS 23.20).

* Sec. 32. AS 23.30.235 is repealed and reenacted to read:

Sec. 23.30.235 CASES IN WHICH NO COMPENSATION IS PAYABLE. No compensation under this chapter shall be allowed for an injury:

(1) proximately caused by the employee's willful intent to injure himself or to willfully injure another;

(2) proximately caused by the employee being under the influence of an intoxicating liquor or drugs unless such drugs are being taken in quantities prescribed by employee's physician.

* Sec. 33. AS 23.30.250 is amended to read:

Sec. 23.30.250. PENALTY FOR MISREPRESENTATION. A person who willfully makes a false or misleading statement or representation for the purpose of obtaining a benefit or payment under this chapter is guilty of <u>theft as defined in AS 11.46.100(3) and is punishable as provided in AS 11.46.120 - 11.46.150</u> [A MISDEMEANOR, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $1,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH].

* Sec. 34. The board shall publish Sections 32 and 33 of this Act in a booklet defining the employee's rights and obligations under the Alaska Workers Compensation Act. The booklet shall be mailed to an injured worker upon notice of an injury.

* Sec. 35. AS 23.30.265 is amended by adding new paragraphs to read:

(29) "arising out of and in the course of employment" includes employer required or supplied travel to and from a remote job site; activities performed at the direction or under the control of the employer; and employer sanctioned activities at employer provided facilities; but excludes activities of a personal nature away from employer provided facilities.

(30) "under the influence of an intoxicating liquor or drugs" means not only all well-known and easily recognized conditions and degrees of intoxication, but any abnormal mental or physical condition which is the result of indulging intoxicating liquors or drugs, and which, to an appreciable degree, deprives one of that clearness of intellect and control of himself which he would otherwise possess.

(31) "drugs" means a controlled substance or cannabis as further defined in AS. 11.`1.900.

(32) "gross earnings" means recurring payments by employer to the employee for employment before any authorized or lawfully required deduction or withholding of funds by the employer, excluding irregular bonuses, reimbursement of expenses, expense allowances, and any benefit or payment to the employee which is not taxable to the employee during the pay period. The value of room and board to the employee may be considered in determining gross earnings for those employees with gross weekly earnings which are less than the Alaska average weekly wage at the time of injury.

(33) "payroll taxes" means the following:

(a) An amount equal to the amount which would be withheld pursuant to withholding tables in effect on July 1 preceding the injury under the Internal Revenue Code of 1954, and regulations pursuant thereto, as amended, as though the employee had elected to claim the maximum number of dependants for actual dependency, blindness and old age to which the employee is entitled on the date on which he was injured; and,

(b) An amount equal to the amount required on July 1 preceding the injury by the Social Security Act of 1935 as amended to be deducted or withheld from the amount of earnings of the employee at the time of the injury as if the earnings were earned at the beginning of the calendar year in which he was injured; and,

(c) And any other legislative mandated deductions including but not limited to ESC and FUTA;

(d) The Commissioner shall annually prepare formulas which shall be used to calculate an employee's spendable weekly wage on the basis of his gross weekly earnings, number of dependants, marital status and payroll tax deducations.

(34) "reporting quarter" means one of the 3 month periods (January through March, April through June, July through September, October through December) used to report employee wages to the Internal Revenue Service.

(35) "Suitable Gainful Employment" means employment which is reasonably attainable in light of the individuals age, education, previous occupation, and injury, and which offers an opportunity to restore the individual as soon as practical and as nearly as possible to his gross earnings as determined at the time of injury.

* Sec. 36. AS 23.30.095(g), 23.30.125(b), 23.30.175(e) and (f), AS 23.30.191 and AS 23.30.265(20) are repealed.

* Sec. 37. AS 39.25.120 is amended by adding a new paragraph to read:

(20) the rehabilitation administrator of the Workers' Compensation Board.

* Sec. 38. This act takes effect July 1, 1982.

Scott Wetzel Services Incorporated

An Affiliate of The Home Group, Inc.

741 Sesame Street • Suite 1A • Anchorage, Alaska 99503

Phone: (907) 276-2111

February 9, 1982

The Honorable Terry Martin
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Re: David Butler/Municipality of Anchorage

Dear Mr. Martin:

The attached decision from the Workers' Compensation Board is a classic example of the serious problems inherent in our current Workers' Compensation laws.

This employee, who had a minor hearing loss, basically corrected by a hearing aid, was kept on full salary through non-cashable sick leave for the period 4/1/80 through 12/8/80 while he was awaiting action on his request for retirement from the Municipality, which was subsequently granted. After he was retired and after he had received full payment in the amount of $27,658.67 from his employer for the period 4/1/80 through 12/8/80, he filed for worker's compensation for the same period of time and the Board has now ruled that the employer must also pay him compensation benefits of an additional $21,668.04 for the exact same period of time loss. The employee has therefore recovered in excess of 200% of his normal salary for a period of 9 months. Full payment by an employer, regardless of what fund it is paid from, or what they call it, should certainly satisfy the requirements of the Workers' Compensation Board.

Your comments will be appreciated.

Very truly yours,

SCOTT WETZEL SERVICES, INC.

Renee Murray
Claims Manager

RM/vb

cc: Ed Hite - Daryl Cody & Assoc.
Harry Sjoberg - MOA

P. O. Box 1149 Juneau, Alaska 99811

DAVID W. bOLTER,
Employee,
Applicant,

vs.

MUNICIPALITY OF ANCHORAGE
(Self-Insured),
Employer,
Defendant.

DECISION AND ORDER
Case No. 80-04-0548.

On December 10, 1981 the defendant requested modification of the Board's November 19, 1981 Decision and Order. No opposition was submitted by the employee and the Board deemed the record closed on January 15, 1982.

Defendant alleges the Board erred in a determination of fact. The defendant asserts that employee is not entitled to compensation between April 1, 1980 and December 8, 1980 because he was being paid his full salary.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

There was no mistake in a factual determination. Evidence was presented at the November 12, 1981 hearing that employee received sick leave payments in the amount of his full salary between April 1, 1980 and December 8, 1980. Evidence was also presented, and the defendant does not dispute, that employee was disabled.

There is no provision in the Alaska Workers' Compensation Act permitting for offsets of amounts received by an injured worker from any private source as a result of the same injury. A special exception is made for Social Security payments. See AS 23.30.225

In the instant case the employee was paid his full salary from his non-cashable sick leave reserve. We have no knowledge of the terms of the Municipality's sick leave program nor do we have jurisdiction over it. If sick leave payments were made to the employee in error the defendant must seek another forum for his recovery.

ORDER

Defendant's petition for Modification is denied and dismissed.

Dated at Anchorage, Alaska, this 4th day of February 1982.

ALASKA WORKERS' COMPENSATION BOARD

/s/ William F. Reeves
William F. Reeves, Designated Chairman

/s/ Jim Robison
Jim Robison, Member

/s/ Ann Pittenger
Ann Pittenger, Member

WFR/cw

APPEAL PROCEDURES

A compensation order may be appealed through proceedings in Superior Court brought by a party in interest against the Board and all other parties to the proceedings before the Board, as provided in the Rules of Appellate Procedure of the State of Alaska.

A compensation order becomes effective when filed in the office of the Board, and unless proceedings to appeal it are instituted, it becomes final on the 31st day after it is filed.

CERTIFICATION

I hereby certify that the foregoing is a full, true and correct copy of the Decision and Order in the matter of David Bulter, employee/applicant; vs. Municipality of Anchorage/Police Department employer; Case No. 80-04-0548; dated and filed in the office of the Alaska Workers' Compensation Board in Anchorage, Alaska, this 4th day of February 1982.

Cynthia Williams
Clerk

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STATE OF ALASKA

PUBLIC NOTICE

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

Notice is hereby given that the Department of Commerce and Economic Development, Division of Banking and Securities, under authority vested in AS 06.01.020 and AS 06.30.030, proposes to adopt regulations to Title 3, Chapter 5 of the Alaska Administrative Code to implement AS 06.30.500 and AS 06.30.530 as follows:

3 AAC is amended by adding new provisions that allow savings associations to participate in conventional loans or pools of conventional loans secured by a mortgage on a one-to-four family residence where the mortgaged property is located outside the state.

Notice is also given that any person interested may present oral or written statements or arguments relevant to the action proposed at hearings to be held in the Commissioner's Conference Room, Ninth Floor, State Office Building, Juneau, Alaska, at 1:00 p.m., Tuesday, February 9, 1982.

Written testimony may also be submitted to the Division of Banking and Securities so long as it is received by 4:30 p.m., on February 9, 1982.

TO BE COMPLETED BY ORDERING DEPARTMENT

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STATE OF ALASKA

Copies of the proposed regulations may be obtained by writing to:

Division of Banking & Securities
Pouch D
Juneau, Alaska 99811

The Department of Commerce and Economic Development, upon its own motion or at the insistence of any interested person, may, at the hearing or after it, adopt the proposals substantially as described above without further notice or may decide to take no action on them.

Charles K. Webber, Commissioner

12/22/81
Date

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CHAPTER 5. SAVINGS ASSOCIATIONS

ARTICLE 2. ASSOCIATION PRACTICES

Section
110. Communication between members
120. Service charges on dormant accounts
130. Redemption of savings accounts
140. General reserve account
150. Net worth requirements
160. Alternative mortgage instruments
170. NOW accounts
180. Participation in first mortgages where property is located outside of State

3 AAC 05 is amended by adding one new section to read:

3 AAC 05.180. PARTICIPATION IN FIRST MORTGAGES WHERE MORTGAGED PROPERTY IS LOCATED OUTSIDE OF STATE. An association may participate in conventional loans or pools of conventional loans secured by a mortgage on a one-to-four family residence where the mortgaged property is located outside the State.
(Eff. / / , Reg.)

Authority: AS 06.01.020
AS 06.30.030
AS 06.30.500(3)
AS 06.30.530

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NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

Notice is hereby given that the Department of Commerce and Economic Development, under authority vested by AS 06.05.005, AS 06.15.010, AS 06.20.340, AS 06.25.315, AS 06.30.025, AS 06.30.030, AS 06.40.180 and AS 06.45.010, proposes to adopt regulations to Title 3, Chapter 1 of the Alaska Administrative Code to implement AS 06.05.060 as follows:

3 AAC is amended by adding new provisions that provide for the confidentiality of the records, reports and correspondence files of the Division of Banking, Department of Commerce & Economic Development.

Notice is also given that any person interested may present oral or written statements or arguments relevant to the action proposed at a hearing to be held in the Conference Room of the Commissioner of Commerce & Economic Development, Room 203, Michael Building, 610 East Tenth Street, Anchorage, Alaska, at 10:00 a.m., Tuesday, February 16, 1982.

Written testimony may also be submitted to the Division of Banking and Securities so long as it is received by 4:30 on February 16, 1982.

Copies of the proposed regulations may be obtained by writing to:

Division of Banking & Securities
Pouch D
Juneau, Alaska 99811-0800

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The Department of Commerce and Economic Development, upon its own motion or at the insistence of any interested person, may, at the hearing or after it, adopt the proposals substantially as described above without further notice or may decide to take no action on them.

Charles R. Webber

Charles R. Webber, Commissioner

Date: 12/24/81

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CERTIFYING OFFICER

DATE ENTERED

VOUCHER NUMBER

CHAPTER 1. FINANCIAL INSTITUTION GENERAL ADMINISTRATION

ARTICLE 4. GENERAL PROVISIONS

Section
905. Records; disclosure and limitation on disclosure
910. Definitions

3 AAC 01 is amended by adding one new section to read:

3 AAC 01.905. RECORDS; DISCLOSURE AND LIMITATION ON DISCLOSURE. (a) The records, reports and correspondence files of the division shall not be public documents, shall not be subject to subpoena nor shall they be open for inspection by the public. Neither the commissioner, the director nor any member of their respective staffs may disclose any information obtained in the discharge of official duties to any person not connected with the division, except that the commissioner may disclose such information:

(1) to representatives of federal agencies insuring accounts in the financial institution;

(2) to representatives of federal agencies, other states and foreign countries having supervisory authority over the activities of the financial institution or enterprises or similar financial institutions or enterprises if such representatives are permitted to and do upon request of the commissioner disclose similar information respecting those financial institutions under their supervision;

(3) to the attorney general of this state; and

(4) to a select committee of the legislature of this state appointed for the purpose of inspecting such records, but this paragraph shall not permit disclosure of information as to the condition of any particular financial institution or enterprise, or disclosure of information which has been disclosed to a financial institution or enterprise by or on behalf of any person in connection with a transaction or proposed transaction with such financial institution or enterprise.

(b) The commissioner may:

(1) disclose the fact of filing applications by financial institutions, give notice of hearings, if any, of such applications, and his actions thereon, as provided by law;

(2) prepare and circulate reports reflecting the assets and liabilities of financial institutions, including such other information considered pertinent to the purpose of each report for general statistical information; and

(3) prepare and circulate reports provided by law.

(c) Nothing in this section shall prevent any person or a financial institution covered under this chapter from access to records, reports and correspondence which apply to him or the institution to the extent that those portions of the records, reports and correspondence which do so apply are reasonably segregable from the portions of the records, reports and correspondence which do not apply to him or the institution and also to the extent that federal laws and statutes do not proscribe the disclosure. (Eff. / / , Reg.)

Authority: AS 06.05.005
AS 06.05.060
AS 06.15.010
AS 06.20.340
AS 06.25.315
AS 06.30.025
AS 06.30.030
AS 06.40.180
AS 06.45.010

3 AAC 01.910 is amended by adding new sections to read:

(6) "director" means the director of banking, securities, small loans and corporations or his designee;

(7) "division" means the Division of Banking, Securities, Small Loans and Corporations. (Eff. / / , Reg.)

Authority: AS 06.05.005
AS 06.15.010
AS 06.20.340
AS 06.25.315
AS 06.30.025
AS 06.40.180
AS 06.45.010

David Cottrell, C.P.A. Special Master
3301 Denali
Anchorage, Alaska 99503

January 31, 1982

Dear Mr. Cottrell:

As advised by my attorney, I am submitting to you a claim for compensation forte settlement, as a former employee of the Southcentral Regional Resource Center in the amount of $7,826.63.

$4,175.32	Salary: bounced payroll check, October wages, 30 day difference in pay (from 9/80)
1,604.00	tax sheltered annuities - payroll "deduction"
603.31	attorney fees, to collect wages
336.84	T.S.A. interest @ 14.00% - Comm. Mutual
1,034.76	Salary interest @ 17.38 Merrill Lynch Ready Assets Annualized Interest Rate.
72.40	lawyers Rec. interest @ 12.00%.
$7,826.63	

Christine Talasz

c.c. ✓ Terry Martin, Representative
Joe Montgomery, Representative
Arliss Sturgulewski, Senator

Christine Talasz
4101 Resurrection Dr.
Anchorage, Alaska 99504
337-5578 (home)

Terry - Although the legislature has appropriated $300,000 the most I've gotten so far is that "there isn't enough money to pay me my claim." I've been offered $4,000+ if I'll sign a release. I'm told, if I don't sign the release, I may not get any money. Since the claim in this letter, is lower

just a portion of my loss, I don't feel I should accept any less. (I wonder where all the money has gone?!?) There will be a hearing to try to settle outstanding employee claims which will be on either Feb. 18th or 19th in Anchorage. I'm ready to do battle!

Wish me luck. Do you have any other suggestions on how I can get my money?

Chris

2-18-82

HB159

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 18, 1982
1:10 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Randolph
Rep. Rogers
Rep. Gardiner

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 159 An Act relating to workers' compensation, and providing for an effective date.

WITNESS REGISTER

Jacquelyn McClintock, Director
Division of Workers Compensation
Department of Labor
PO Box 1149
Juneau, Alaska 99811
465-2790
Position Statement: Presented fiscal note.

Dick Block, President
Alaska National Insurance Company
PO Box 3440
Anchorage, Alaska
248-2642
Position Statement: Commented on various draft versions of HB 159.

William Reeves
Associated General Contractors
Anchorage, Alaska
276-5354
Position Statement: Comments on bill.

PREVIOUS ACTION

HB 159 See minutes of meetings of January 25-28, and 2/17.

Statutory Reference: AS 18.20.220; AS 23.30

Action Taken: No action taken during this meeting.

ACTION NARRATIVE

Tape #19
Recording
Number 005

The meeting was called to order by Chairman Martin at 1:10 p.m. Members present were: Representatives Martin, Bylsma, Gardiner, Randolph, and Rogers. There were no members absent. Before the committee was HB 159, dealing with workers compensation.

Number 013

Rep. Rogers said he was told that a Finance subcommittee was considering eliminating a position in the Division of Insurance that deals with workers compensation. He asked that the committee request the Finance subcommittee to ensure that the position is not eliminated, and gave his reasons. There was discussion.

Number 039

Rep. Martin asked Jackie McClintock, Director of the Division of Workers Compensation, to go over the fiscal note. McClintock said that approximately $320,000 was needed to fund wages, travel, and other expenses. Rep. Rogers requests costs of computer changes and printing costs. He noted that the Finance Committee may have problems with the fiscal note, and suggested the committee go over the fiscal note before referral. There was discussion.

Number 081

Rep. Martin requested of McClintock an estimate of savings in premiums and rehabilitation. Rep. Bylsma commented on the savings resulting from the bill. There was discussion. Rep. Rogers felt the immediate savings would be in rehabilitation. He thought carriers might not reduce their rates for several years. McClintock said the Workers Compensation Board supports the bill.

Number 110

Dick Block, president of Alaska National Insurance Company, commented on HB 159. He addressed his comments to the labor/management draft committee substitute (see minutes of 2/17/82).

Number 140

Block felt that Section 1 of the draft bill does not belong in the labor code, but should be in the insurance code. He said the section sets out no standards to guide the director as to allowable deductible

policies. Rep. Rogers asked if a carrier would issue a policy without checking the risk. Block felt it depended on the carrier, and reiterated the need for standards. Block said he felt the last sentence of Section 1 was unclear.

Number 195

Regarding Section 2 of the labor/management draft, Block asked for clarification of what the $200 referenced in (e)(1) was to be used for, and noted that financial hardship is not defined. William Reeves, Associated General Contractors, said the $200 is in addition to total permanent disability, and that extreme hardship is up to the discretion of the Board. There was discussion of this section.

Number 278

Block went over the rehabilitation sections. He said Section 3 sets forth appropriate guidelines, but he was concerned about Section 4, which he felt should be more specific. There was discussion. Block urged the committee to consider that the rehabilitation sections, as structured, would encourage the creation of a substantial new bureaucracy. He felt these things could be done within the existing Division of Workers Compensation. Rep. Rogers said it could have ben done by vocational rehabilitation, but based on studies, without new authority, there is no chance of getting rehabilitation. With the new authority, there should be a significant decrease in time to get people back to work. There was discussion of the roles of the Workers Compensation Board, the state government, employers, employees, etc.

Number 576

Block said that, if rehabilitation is to be effective, it is to the carrier's/self insured's best interest; also, the employee's lawyer will work toward this as well. Rep. Rogers commented that lawyers tend to work for a lump sum payment so they's get a larger award of attorney's fees. He also felt that part of the intent was to eliminate the need for attorneys to get involved. There was a discussion of lawyers in the rehabilitation process.

Number 647

There was discussion among the committee, Block, Reeves, and McClintock about overpayments.

Side B, Number 007	Block felt the amount of offset for leaving the state should be adjusted annually. He commented on average weekly wages in Alaska as compared to other places. There was discussion.
Number 103	Block said, regarding Section 31, that an employee would reject unemployment insurance and take workers compensation. Rep. Rogers pointed out that this section applies only to total disability, and that one who is totally disabled cannot draw unemployment.
Number 113	Block commented on savings versus new costs. He observed that there is a shift of responsibility from the carrier to workers compensation, which may not be in the best interest of those involved. He elaborated on his reasons for thinking this. Block said he supports the need for data, and thought this should be done through 1) notice of injury; and, 2) closing report. He said current requirements are to report any change in circumstances, which adds to administrative costs.
Number 162	There was discussion about the amendments before the committee. Rep. Martin asked Reps. Bylsma and Rogers to work with Jeff Barry on the bill.
Number 205	As there was no further business to come before the committee, the meeting was adjourned at 2:14 p.m.

1:10

HB 159

2/18/82

005 Call to order; all members present

013 Rep. Rogers - last couple yrs, tried to make sure of adequate budget (Div Ins + Div WC) for Wkrs Comp. Was told Finance subcomm considering eliminating posn in Div of Ins. Asked that comm. request Fin subcomm to ensure posn is not eliminated. Gave reasons.

Discussion.

039 Martin asked McClintock to go over fiscal note

042 McC - Approx $320,000: 4 staff members, rehab, rehab went over what this wd fund - wages, travel, expenses

062 Rogers - requested costs of computer charge, printing costs. Noted that Finance may have probs w/ fn. Suggested comm. go over note before referral. Gave reasons.

Discussion.

081 Martin requested est. of savings in premiums & rehab of McC.

085 Byloma commented on savings resulting for bill.

Discussion. Rogers felt immediate savings wd be in rehab; felt carriers might not reduce rates for sev. yrs.

107 McC said Board supports bill.

110 Dick Block, Pres, At Natl Ins Co - commented on HB 159. - addressed labor/mgmt draft CS (see yesterdays minutes).

140 Sec 1 - suggested:

1) don't belong in labor code; shd be in ins. code

156 2) no standards to guide director as to allowable deductible policies.

169 Rogers asked if carriers wd issue policy w/o ckg risk

Block - depends on carriers. Need standard.

Block, cont'd

189 3) referred to last sentence of sec 1; felt this language was unclear.

195 Sec. 2: ~~[illegible]~~ (e)(1) - unclear if $200 is addl, in lieu of, etc. Wording unclear; financial hardship not defined.

205 Reeves - in addn to TPD; extreme hardship up to discretion of board; explained language.

225 Block - ~~taking position that any~~ of making addl allowances. Legis. is providing income in excess of wages before injury, which is disincentive to rehab.

Discussion.

~~246 Statute currently provides TTD TPD 1½~~

246 Discussion of Temp Total Disability + addl $200.

(McClintock + Reeves joined Block for discussion w/ committee)

278 Block - re rehab sections

Sec 3 - sets forth appropriate guidelines. Concerned abt # 4 - ~~Obligation~~ shd be more specific

re last sentence, Sec 3 - giving tremendous latitude to Dept of Labor to develop regns; need more specific guidelines.

308 Discussion - ~~Assertion asked if to preferred it be legislated~~

~~Block responded that addl obligation imposed~~

357 Block urgd comm to consider, re secs 4, 5, & other rehab sections: was as structured, invites creation of substantial new bureaucracy. Can be done w/in existing Div of WC.

386 Rogers - CD have been done by VOC. rehab, but based on studies, w/o new auth, no chance of getting rehab; with it, there shd be signif decrease in time to get people back to work. Discussion of roles of Board, state govt, employers, employees, etc.

491 Reeves - commented on Block's position.

539 Discussion.

576 Block - if rehab is to be effective, it is in carrier's/self-insured's best interest; also, employee's lawyer will wk toward this as well. Rogers commented that lawyers tend to wk for lump sum pymt so they'd get larger attys fees. Also felt that part of intent was to eliminate need for attys to get involved.

615 Block said until there is dispute, state agency need not be involved.

Discussion of worth of lawyers in rehab.

647 Block - p. 7, Sec 17 - re overpymts - support concept, but doesn't understand need for Board's approval.

Rogers commented.

684 Discussion

698 McClintock - sometimes carriers overpays. Then stops pymt completely until excess pd up.

Reeves added that Bd has often stipulated that, in case of overpymt, a percentage is deducted until overpymt is repaid.

Side B Discussion.

007 Block - p. 8, sec 21 (1) — amt of offset for lvg state shd be adjusted annually. ~~In language~~ last sentence - "rate" shd be chngd to "ratio."
Comm ented on average wkly wages in ak compared to other places. There was general agmt that word shd be chngd (Reeves, McC, Comm)

036 Block - spendable wkly wage - not sure affect will be, intended.
Rogers commented.
Block - referred to income tax implications
Discussion.

053 Block - p. 13 Sec 30 (3) - unnecessary.
(5) - fixes salary at what paid fireman, etc, wd get; doesn't take into acct that most volunteers get other wages.
Rogers - felt subsec (5) shd be added to (3).

069 Reeves - (3) (4) & (5) are in essence frm current act. Felt (3) incorporates (4) & (5).

086 Rogers - commented; not convinced (3) takes care of prob, but allows som flexibility.
Discussion.

103 Block - p. 13, sec 31 - re unemplmt ins - felt employer wd reject unemp & take WC.
Rogers commented pointed out it only applies to total disability, can't draw unemp.

113 Block - comments on savings v. new costs. Observed that shift of responsibility frm carriers to wkr comp ~~has not~~ may not be in best interest of those involved. Expanded.

138 Supports need for data; shd be done through:

1) notice of injury

& 2) closing report

Currently required to report any change in circumstances; that explain adds to admin costs. Asked, McC, value of info. He felt reporting shd be cut off to just opening & closing report. Asked if he cd prop amdmts to address this.

102 Discuss & discussion abt amdmts before committee.

178 Martin said he was hoping to ask some of comm to form subcomm to wk w/ researcher on amdmts.

191 Martin asked Rogers & Byloma to wk w/ Barry on bill. Hope to pass bill by Thurs.

198 Barry - re reporting procedures - quotas.

Martin said to contact McC.

205 2:14 mtg adjourned.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 2/18/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:03	
Rep. D. Randolph	✓		1:07	
Rep. B. Rogers	✓		1:07	
Rep. T. Gardiner	✓		1:07	
Rep. T. Martin, Chair	✓		12:59	

Subject Matter:

House Bill No. 159

Senate Bill No. _____

Special Orders:

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
DICK BLOCK	PO Box 3440 ANCH	ALASKA NAT Ins Co.	YES	248-2662
Lee JACKSON	P.O. Box 3130, Anch. 99510	Self	?	264-2460
MIKE THOMAS	Box 1211 JUNEAU	AFM. INSURANCE ASSN	NO	5863340
DON KOCH	POUCH D JUNEAU 99811	DIV OF INS	? IF NEEDED	465 2577
WILLIAM REEVES	Anch	AGC	MAYBE	276-5354
John LOWIS	Mimmi	"	Y	305-443-8
D.W. RICHARDS	JUNEAU	W/C Board	NO	465-2790
JIM ROBISON	Box 899 ANC 11	W/C A.S.D.C.A. State Fed.		276-1640
DAVID KERTZNER	RESEACH & ANALYSIS	R&A, DOL	NO	x 2780
Judy Knight	P.O. Box 1149 Juneau	Dept. of Labor	NO	2700

HOUSE LABOR & COMMERCE COMMITTEE HB 159

HEARING DATE: 2/18/82

HB 159

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Sean Kline		A.G.C	No	6-1740
Tony Cook		WORKERS COMP	NO	
Lee Lunchon		APEA	NO	
Jim Sitterson		Ak Workers Comp Bd	No	-
Russell Adams		AK. W/C	No	488-6803
[illegible]		AGC - AWCB	No	452-1800
Courtney Bratton		Ak AWCB	No	269-2424

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

2-19-82

SB 84

Testimony by

Max D. Nalley

Exxon Company USA
February 19, 1982

before the

House Labor and Commerce Committee

regarding

2nd HCS CSSB 84 (L&C)

MR. CHAIRMAN, I AM MAX NALLEY, ALASKA PUBLIC AFFAIRS MANAGER FOR EXXON COMPANY, U.S.A. I AM PRESENTING THE COMMENTS OF MR. RICHARD H. WEAVER, EXXON'S ALASKA OPERATIONS MANAGER, WHO IS NOT ABLE TO BE HERE TODAY DUE TO A PRIOR COMMITMENT TO MEET WITH COMMISSIONER KATZ.

EXXON APPRECIATES THIS OPPORTUNITY TO COMMENT ON THIS DRAFT BILL WHICH WE VIEW TO BE OF GREAT IMPORTANCE TO THE STATE, ITS PEOPLE AND THE INDUSTRIES CONCERNED WITH RESOURCE DEVELOPMENT. EXXON SUPPORTS THE DRAFT COMMITTEE SUBSTITUTE FOR THE LATEST VERSION OF SB-84 (2nd HCS CSSB 84 (L&C)). IN THE INTEREST OF TIME, OUR COMMENTS TODAY WILL BE LIMITED TO THE SPECIFIC PORTIONS OF THE DRAFT BILL THAT RELATE TO THE TIME PERIODS REQUIRED FOR STATE RESOURCE AGENCIES TO RENDER FINAL DECISIONS ON PERMIT APPLICATIONS.

IT IS OUR BELIEF THAT THE TIME CONSTRAINTS ESTABLISHED IN THIS LEGISLATION ARE ADEQUATE AND WORKABLE. WE WOULD FURTHER OBSERVE THAT THIS LEGISLATION PROVIDES THE PROCEDURE FOR THE GOVERNMENT TO BALANCE THE LEGITIMATE INTERESTS OF THE PERMIT APPLICANT WITH THE INTERESTS OF THOSE WHO MAY BE IMPACTED BY THE ISSUANCE OF THE PERMIT. THIS LEGISLATION MAKES A REAL, CONCERTED, AND WELL DEFINED EFFORT TO INSURE THAT LEGITIMATE AND JUSTIFIABLE CONCERNS ARE CONSIDERED AND THAT THOSE CONCERNS INFLUENCE THE DECISION MAKING PROCESS.

LET ME JUST QUICKLY OUTLINE HOW THE TIME FRAMES CONTAINED IN THE BILL COULD WORK IN THE PERMITTING PROCESS:

THE DRAFT BILL REQUIRES THAT EACH STATE RESOURCE AGENCY MUST CLASSIFY THE PERMITS WITH WHICH IT DEALS INTO ONE OF TWO CLASSIFICATIONS AND ADOPT PROCEDURAL REGULATIONS RELATING TO THE PROCESSING OF EACH CLASS OF PERMITS.

CLASS I PERMITS ARE THOSE WHICH REQUIRE A FINAL DECISION WITHIN 30 DAYS, WHILE

CLASS II PERMITS - THOSE WHICH, BECAUSE OF REQUIREMENTS FOR PUBLIC NOTICE OR PUBLIC HEARING OR INTERAGENCY REVIEWS, DEMAND MORE TIME - REQUIRE A DECISION WITHIN 65 DAYS.

IT IS OUR BELIEF THAT THE GREAT MAJORITY OF PERMITS WHICH THE RESOURCE AGENCIES ISSUE ARE OF A RECURRING AND ROUTINE NATURE WITH WHICH THE AGENCIES HAVE CONSIDERABLE PRIOR EXPERIENCE. THESE PERMITS SHOULD EASILY BE PROCESSED WITHIN EITHER THE 30-DAY OR 65-DAY TIME FRAME.

ADDITIONALLY, A VERY KEY COMPONENT OF THE DRAFT BILL FOR THOSE CONCERNED THAT THE TIME FRAMES ARE TOO SHORT IS THE PROVISION THAT ALLOWS THE LEAD AGENCY TO EXTEND THE TIME PERIOD BY AS MUCH AS 120 DAYS IN THOSE INSTANCES WHERE THE PERMIT INVOLVES UNUSUALLY COMPLEX ISSUES. WE NOTE THAT THERE HAS BEEN NO ATTEMPT TO DEFINE "UNUSUALLY COMPLEX ISSUES" IN THE LEGISLATION AND THAT IS PROPER, BECAUSE THIS IS A DECISION THE AGENCY SHOULD HAVE THE AUTHORITY TO MAKE ON A CASE-BY-CASE BASIS.

THE TOTAL ELAPSED TIME FOR PERMIT DECISIONS ON COMPLEX, CLASS II APPLICATIONS CONCEIVABLY COULD THEN BECOME 185 DAYS--MORE THAN SIX MONTHS. THAT IS ENOUGH TIME, FOR EXAMPLE, FOR THE LEAD AGENCY TO SPEND ONE MONTH TO DETERMINE THAT THE PERMIT IS, IN FACT, COMPLEX; A MONTH TO GET THE INFORMATION OUT TO ANY AFFECTED COMMUNITIES AND OTHER RESOURCE AGENCIES; A MONTH TO GO OUT AND HOLD HEARINGS IN THE COMMUNITIES; ANOTHER MONTH TO COME BACK AND RECEIVE COMMENTS FROM ALL CONCERNED; AND TWO MORE MONTHS FOR THE LEAD AGENCY TO DIGEST ALL THE COMMENTS AND MAKE A DECISION ON ISSUANCE OF THE PERMIT.

WE FEEL THESE TIME FRAMES ARE ADEQUATE AND ALLOW AMPLE OPPORTUNITY FOR GATHERING INFORMATION FROM OTHER AGENCIES AND AFFECTED LOCAL AREAS, AS WELL AS TIME FOR SERIOUS CONSIDERATION BY THE PERMITTING AGENCY OF ALL THE FACTS PRESENTED, BEFORE MAKING A PERMIT DECISION.

THERE ARE TWO ADDITIONAL OBSERVATIONS WE WOULD MAKE CONCERNING THE TIME FRAME SPECIFIED IN THE DRAFT BILL:

FIRST, THE TIME CONSTRAINTS DICTATE THAT THE PERMITTEE PREPARE HIS APPLICATION IN A COMPLETE AND THOROUGH FASHION SO THAT HE HAS SOME DEGREE OF ASSURANCE THAT THE APPLICATION CAN BE REVIEWED AND APPROVED WITHIN THE TIME ALLOWED, SINCE THE ALTERNATIVE FOR THE APPLICANT IS DENIAL OF THE PERMIT

AS A MATTER OF PRACTICE, WITH CRITICAL PERMITS EXPERIENCE SHOWS THAT APPLICANTS AND AGENCIES WORK IN CONCERT LONG BEFORE THE PERMIT IS OFFICIALLY FILED TO DEFINE THE POINTS THAT NEED TO BE ADDRESSED A) TO PROPERLY COVER THEM IN THE INITIAL SUBMITTAL. THUS, THERE IS A DISCIPLINE IMPOSED UPON THE PERMITEE AS WELL AS THE AGENCY TO ASSURE THAT THE INFORMATION THAT IS PROVIDED IS ADEQUATE TO THE REQUIREMENTS FOR ISSUANCE OF THE PERMIT AND TO PRECEDE THE FORMAL PERMIT APPLICATION WITH DISCUSSIONS WITH THE APPROPRIATE RESOURCE AGENCIES IN ORDER TO STREAMLINE THE DECISION MAKING PROCESS BY THE LEAD AGENCY.

SECOND, IN RESPONSE TO WORRIES THAT HAVE BEEN RAISED THAT THIS DRAFT BILL WOULD ALLOW THE STATE TO RUN ROUGHSHOD OVER LOCAL CONCERNS, I EMPHASIZE THE DISTINCTION BETWEEN THIS BILL, WHICH RELATES TO PERMIT ISSUANCE, AND THE COMPLETELY SEPARATE PROCESS THAT ADDRESSES THE POLICY QUESTION OF WHETHER OR NOT A MAJOR PROJECT SHOULD BE UNDERTAKEN IN THE FIRST PLACE. FOR EXAMPLE, THE ISSUE OF EXPLORATION IN A PARTICULAR FRONTIER AREA WILL BE STUDIED LONG BEFORE THE FIRST PERMIT APPLICATIONIS MADE. THERE ARE REQUIREMENTS FOR STUDIES, HEARINGS AND OTHER SUCH ACTIVITIES WHICH PROVIDE INFORMATION TO AND IDENTIFY CONCERNS OF LOCAL COMMUNITIES THAT MAY BE IMPACTED BY THE PROPOSED DEVELOPMENT. FROM THE INFORMATION GAINED IN THIS LENGTHY AND DELIBERATE PROCESS

THE STATE WILL MAKE ITS POLICY DECISION REGARDING OIL AND GAS EXPLORATION AND DEVELOPMENT IN A GIVEN AREA. ONCE THAT OVERALL POLICY DECISION HAS BEEN MADE BY THE STATE, FROM THAT POINT ON THE ISSUE SHOULD BE HOW SPECIFIC PERMIT ACTIVITIES (BOTH INDIVIDUALLY AND COLLECTIVELY) AFFECT LOCAL AREAS, NOT WHETHER DEVELOPMENT IS GOING TO OCCUR. THE PERMIT PROCESS ESTABLISHED IN THIS DRAFT BILL IS NOT THE VEHICLE FOR THE STATE TO DECIDE ON BROAD POLICY QUESTIONS. RATHER IT ALLOWS FOR ORDERLY DEVELOPMENT TO PROCEED ONCE THE DEVELOPMENT QUESTION HAS BEEN RESOLVED.

IN SUMMARY, MR. CHAIRMAN, EXXON STRONGLY SUPPORTS THE DRAFT BILL BEFORE YOU TODAY. IN OUR VIEW, IT REPRESENTS A BALANCED APPROACH WHICH PROTECTS THE INTERESTS OF THE STATE OF ALASKA, ITS PEOPLE, AND THE RESOURCE INDUSTRIES. WE URGE ITS PROMPT ADOPTION.

THANK YOU VERY MUCH.

RHW/SPEECH/066/es

TESTIMONY OF

O. K. GILBRETH, JR.

BEFORE THE HOUSE LABOR AND COMMERCE COMMITTEE

February 19, 1982

Juneau, Alaska

Mr. Chairman, my name is O. K. Gilbreth and I'm representing the Alaska Oil and Gas Association. I have previously testified before this committee on SB 84. I would like to briefly point out the importance of achieving regulatory reform through legislation.

First, Mr. Chairman, I would like to clarify some misconceptions about the draft of SB 84 which is the subject of discussion of this committee. That draft has been dubbed by the Attorney General as an AOGA draft. I would like to point out that it is not an AOGA draft. There are some very important differences in what we would suggest as the best bill and what this bill contains. Realizing that most legislation represents compromises, however, the members of AOGA are willing to compromise and recommend passage of the draft in order to accomplish some type of regulatory reform.

There are imperative needs for changes to the permitting process in this state. Let us look for a moment at how this may affect the future of the state and state income.

First, you must keep in mind that we are still importing a very large portion of our nation's petroleum requirements. We are using roughly sixteen million barrels of petroleum each day in the U.S. and as of the week ending February 5, 1982 we were producing 8,628,000 barrels per day. Our nation's deficiency is great and our problems many.

Closer to home, since Alaska and its offshore areas hold from one-fourth to more than one-half of the estimated undiscovered oil and gas resources for the entire nation, it is becoming imperative that unnecessary road blocks to these resources in Alaska be removed. Testimony from many sources has indicated that the future state income will decline significantly as Prudhoe Bay production declines. There is a long lead time to bring a field on production, and the oil and gas industry is virtually helpless to accelerate and bring discoveries on line because of continuing permitting problems.

At a meeting of the Senate Resources Committee a couple of weeks ago, concerns were expressed by State senators and legislators on the revenue reductions which the state will be facing in the next few years. Illustrating their concern were several questions which were asked of DNR Commissioner Katz on how development could be accelerated to maintain state income.

Mr. Chairman, for industry to move any faster, there are changes that have to be made. For example, for a company to drill a well

into the offshore area of the Beaufort Sea, it is necessary to get about 42 permits from state and federal agencies. The operator must start to get permits a year in advance of the drilling season. He must order steel and tubular goods for the sea lift many months before his permits are approved and must commit millions of dollars before he knows whether or not he can drill as he has proposed. Any of his permits can be disapproved by any one of a myriad of state, federal and local agencies. More certainty has to be built into the system.

Let me give you one example of permit problems that delay development and delay eventual income. As you know, ~~the Kuparuk Field which is a major field by any standard, has just started production.~~ operators are trying to get all of the Prudhoe Bay Field on production. One company has an application to lay a gathering line across the Kuparuk River to carry production from one pad to another and then to a gathering center. This line would account for about 20,000 barrels per day of production. The application was filed in October 1981 and approval still hasn't been received. In the meantime, the state's income is being pushed further into the future. There is a danger of losing a complete construction season and the operator still can't get a permit approval. Mr. Chairman, the legislature should be asking the bureaucrats responsible for this delay why this has happened and what demands they have levied on the operator. It should also be determined if state agencies are trying to design installations without expertise and experience.

In the meantime, there are leases nearby that will be expiring

soon and interest in trying to develop them has waned because of of the state's delay in issuing permits for the pipelines. Wells will not be drilled and income will not be coming to the State. All of this is occurring because the regulators have thus far been able to delay these projects through the permitting process. The State must correct problems like these if state income is to be maintained in the future.

The chart marked AOGA Exhibit A shows several of the agencies that must approve just one of the 42 permits mentioned earlier. You will see evidence of multiple handling and duplication shown on this chart. This is a web of governmental handling that boggles the mind.

Too many state permitters always seem to have plenty of fears to suggest and few suggestions that will permit practical, beneficial development to proceed. I would like to point out that every penny of royalty and tax income which this state is receiving today comes from production discovered thirteen or more years ago. The more recent discoveries are being held up through a laborious permitting and political process. Nothing is moving very fast under current permits and policies.

Mr. Chairman, we have been called "mulish and obstinate" in testimony before this Committee for our steadfast position in trying to get the law changed so that we can get permits in a

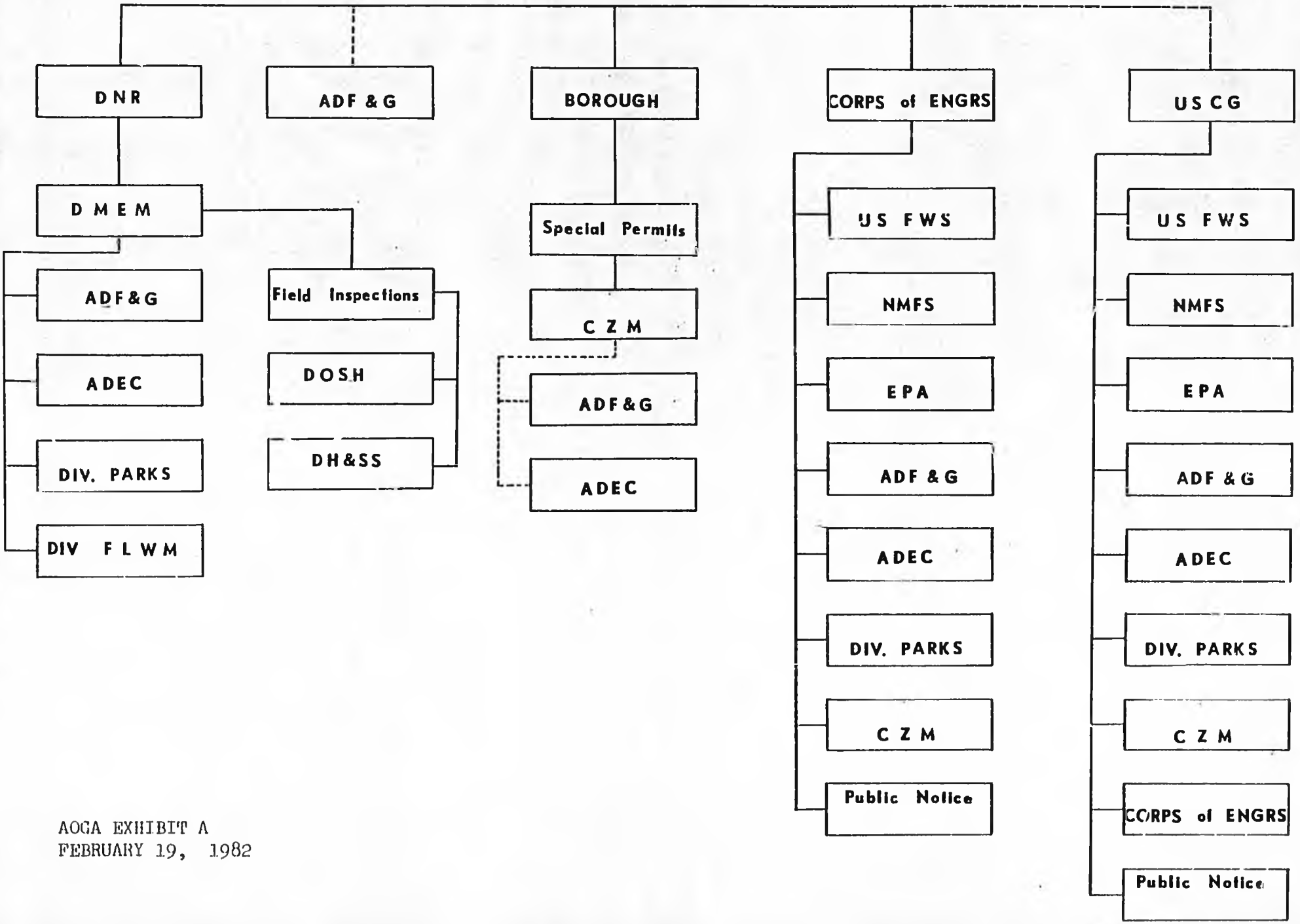
reasonable time. We have seen bills on regulatory reform before the legislature for three years in a row only to be sidetracked by the bureaucrats who don't want the system changed.

I suspect that the organized opposition to the bill before you is being orchestrated by those who want to stop or delay development. I recommend to you that you ask every opponent of this bill who testifies to describe to you how his proposal will minimize duplication and enhance permit processing.

Most of the opponents to development will be advocating more public input, more opportunity to object, longer approval periods, more appeal procedures, and no mandatory action. We have spent several years analyzing the laborious permitting process and in the main the present process represents a nonproductive and costly drain on the public which begets more and more bureaucrats. The State of Alaska and this legislature are the key to many of these problems. The members of AOGA are unanimous in urging this committee to adopt the draft of the bill before you to assure that the public can obtain permits in a reasonable time.

Mr. Marc Bond will discuss AOGA's position on changes which the Administration has recommended to the draft of SB 84 which is before you.

AGENCIES INVOLVED IN OPERATING PERMITS ON STATE LANDS



AOGA EXHIBIT A
FEBRUARY 19, 1982

SB 84 - MARATHON TESTIMONY

HOUSE LABOR AND COMMERCE COMMITTEE

HEARING

FEBRUARY 19, 1982

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS JAMIE LINXWILER AND I AM PRESENTING MARATHON OIL COMPANY'S TESTIMONY IN SUPPORT OF SENATE BILL 84 (SB 84). COPIES OF THIS TESTIMONY HAVE BEEN PROVIDED TO THE COMMITTEE.

MARATHON DIRECTS ITS TESTIMONY, NOT TO THE BILL PER SE, BUT RATHER TO THE HISTORY OF SB 84. MARATHON BELIEVES THIS HISTORY IS IMPORTANT IN SETTING THE STAGE FOR THE COMMITTEE'S DELIBERATIONS.

MARATHON HAS FOLLOWED THIS LEGISLATION, NOW CALLED SB 84, SINCE ITS ORIGINAL INTRODUCTION AS SB 548 IN MARCH 1980. THE CONCEPTS DETAILED IN THE BILL ARE A DIRECT OUTGROWTH OF A SIGNIFICANT PROBLEM THAT AROSE IN 1978 AND 1979 WHEN THE CORPS OF ENGINEERS ASSERTED JURISDICTION OVER DEVELOPMENT OF STATE LANDS UNDER THEIR WETLANDS PROGRAM. AS A RESULT, THE AGENCIES PRIMARILY RESPONSIBLE FOR MANAGING DEVELOPMENT OF STATE LANDS CEASED MAKING FINAL DECISIONS ON THESE MATTERS AND OTHER STATE AGENCIES SUDDENLY BECAME CENTRAL IN THE PROCESS. WHEN ADDED TO ALREADY SIGNIFICANT PROBLEMS IN THE STATE REGULATORY ARENA, THE

RESULT WAS SIGNIFICANT DELAY, DUPLICATION, AND A LACK OF CLEAR RESPONSIBILITY IN THE STATE GOVERNMENT.

TWO PROJECTS AROSE IN RESPONSE. THE FIRST PROJECT WAS GOVERNOR HAMMOND'S REGULATORY REFORM EFFORT INITIATED IN THE SPRING OF 1979. THE SECOND PROJECT WAS A RESULT OF THE FIRST, IN THAT, THE ALASKA OIL AND GAS ASSOCIATION CREATED A SPECIAL GROUP CALLED THE REGULATORY REFORM COORDINATING COMMITTEE TO ASSIST IN AN IN-HOUSE REVIEW OF REGULATORY MATTERS AND THE GOVERNOR'S REGULATORY REFORM PROJECT.

THROUGHOUT 1979, BOTH PROJECTS REVIEWED REGULATIONS AND THE EFFECTIVENESS OF THOSE REGULATIONS IN THE REAL WORLD. DURING THE SPRING OF 1980, TWO SIGNIFICANT EVENTS OCCURRED THAT STARTED US ON OUR PATH TO TODAY'S HEARING. THE FIRST EVENT WAS THE ALASKA SUPREME COURT'S DECISION STATE V. A.L.I.V.E. VOLUNTARY, 606 P.2D 769 (ALASKA 1980). THIS DECISION EFFECTIVELY ELIMINATED THE LEGISLATURE'S RIGHT TO ANNUL REGULATIONS. THE SECOND SIGNIFICANT EVENT WAS THE LEAVING OF THE ADMINISTRATION'S REGULATORY REFORM PROJECT LEADER AND THE OUTSIDE APPEARANCE THAT THE GOVERNOR'S REGULATORY REFORM PROJECT HAD COME TO AN END.

THESE EVENTS LED TO THE REALIZATION, BY THOSE IN INDUSTRY AND GOVERNMENT INVOLVED IN THE REGULATORY REFORM EFFORT THAT DIRECT INVOLVEMENT BY THE LEGISLATURE WOULD BE REQUIRED FOR REGULATORY REFORM TO ACTUALLY OCCUR. IN REVIEWING WHAT ACTION

COULD BE TAKEN BY THE LEGISLATURE TO SOLVE SOME - NOT ALL - OF THE REGULATORY PROBLEMS, THE CONCLUSION WAS REACHED THAT A COMMON THREAD IN THESE PROBLEMS WAS THE LACK OF A TIME LIMIT ON THE DECISION-MAKING PROCESS. VIA A TIME LIMIT, ACTION WOULD BE TAKEN AND A DECISION WOULD BE MADE. FROM THIS PROSPECTIVE, YOU HAVE THE BASIC BACKGROUND IN WHICH SB 84 WAS CREATED.

AS STATED, LEGISLATION, SB 548, WAS INTRODUCTED IN THE ELEVENTH LEGISLATURE IN MARCH, 1980. IT WAS REVIEWED BY THE LEGISLATURE AND THE ADMINISTRATION, BUT FAILED TO REACH THE FLOOR OF THE HOUSE FOR FINAL LEGISLATIVE APPROVAL IN THE LAST MINUTES OF THE SESSION. DURING THE LEGISLATIVE PROCESS, THE ADMINISTRATION PLAYED AN INTEGRAL ROLE IN THE REDRAFTS OF THE LEGISLATION AND THE ADMINISTRATION'S CONCEPTS WERE CONTINUED IN WHAT CAME NEXT -- THE UNIFORM PERMITTING PROCEDURE REGULATIONS.

ON DECEMBER 5, 1980, GOVERNOR HAMMOND ANNOUNCED THE UNIFORM REGULATIONS. THE GOVERNOR STATED THESE REGULATIONS WOULD ESTABLISH FIRM, REASONABLE DEADLINES AND WOULD MAKE THE REGULATORY PROCESS CLEAR, SO THAT INDIVIDUALS OR BUSINESSES WOULD NOT WASTE TIME AS A RESULT OF PROCEDURAL DELAYS. A PRESS RELEASE IN THE DECEMBER 2 Anchorage Times STATED THE UNIFORM REGULATIONS: "ACCOMPLISHED THROUGH ADMINISTRATIVE LAW WHAT HAMMOND COULDN'T GET THROUGH THE LEGISLATURE." THAT IS,

REGULATORY REFORM LEGISLATION WAS GOING TO OCCUR THROUGH THE PROMULGATION OF REGULATIONS. IN THIS REGARD, IT IS IMPORTANT TO RECALL THAT BECAUSE OF THE A.L.I.V.E. DECISION, THE LEGISLATURE WOULD BE OUTSIDE THE PROCESS.

THE ATTORNEY GENERAL'S OFFICE ACTUALLY BEGAN DRAFTING THE UNIFORM REGULATIONS SIX MONTHS PRIOR TO THE DECEMBER 5 ANNOUNCEMENT, OR RATHER, JUST AFTER THE LEGISLATIVE SESSION HAD COME TO AN END. MARATHON BELIEVES EVERYONE INVOLVED IN THIS UNIFORM REGULATION PROCESS WORKED IN GOOD FAITH. THE UNIFORM REGULATIONS, HOWEVER, CREATED AN UNUSUAL SITUATION, IN THAT, THEY CREATED RARE AGREEMENT - BETWEEN GENERALLY DIAMETRICALLY OPPOSED GROUPS - THAT THE REGULATIONS WERE UNWORKABLE. FOR EXAMPLE, BOTH AOGA AND TRUSTEES FOR ALASKA OPPOSED THE ADOPTION OF THE REGULATIONS. TO THIS DATE, THE UNIFORM REGULATIONS ARE STILL AWAITING IMPLEMENTATION.

ABOUT THE SAME TIME AS THE GOVERNOR ANNOUNCED THE UNIFORM REGULATIONS, A COMMITTEE REPORT WAS ISSUED TO THE LEGISLATURE ON REGULATORY REFORM. THE REPORT RECOMMENDED EXTENSIVE REVISION OF THE REGULATORY PROCESS, INCLUDING, IN PARTICULAR, THE ADOPTION OF LEGISLATION ESTABLISHING PERMITTING TIME LIMITS, SUCH AS THOSE CONTAINED IN THE PRESENT VERSION OF SB 84. WITH THIS RECOMMENDATION IN MIND AND IN RESPONSE TO THE CONCERN OVER THE UNIFORM REGULATIONS, A MUCH TOUGHER VERSION OF SB 84 THAN WHAT

THE COMMITTEE HAS BEFORE IT TODAY WAS INTRODUCED LAST SESSION. THE BILL PASSED THE SENATE LAST SESSION ON A 17 TO 2 VOTE. SINCE SB 84 HAS BEEN IN THE HOUSE, AND ESPECIALLY SO DURING THE INTERIM LAST FALL, SB 84 HAS GONE THROUGH A NUMBER OF DRAFTING REVISIONS TO ANSWER THE CONCERNS OF VARIOUS GROUPS. THE BILL BEFORE YOU REPRESENTS INPUT FROM ALL AREAS OF CONCERN.

MR. CHAIRMAN, COMMITTEE MEMBERS, THIS TRACING OF THE HISTORY OF SB 84 NOW BRINGS US TO THIS HEARING. SB 84 INCORPORATES A NUMBER OF THE RECOMMENDATIONS MADE TO THE LEGISLATURE IN THE DECEMBER, 1980 REGULATORY REFORM REPORT. SB 84 REPRESENTS THE LEGISLATURE'S FIRST STEP TOWARD REGULATORY REFORM AND ENSURES THE LEGISLATURE'S INVOLVEMENT IN THE REGULATORY REFORM EFFORT.

MARATHON STRONGLY SUPPORTS THE BILL AND STRONGLY RECOMMENDS COMMITTEE APPROVAL.

STATEMENT OF JAMES K. BARNETT

ATTORNEY FOR

SOHIO ALASKA PETROLEUM COMPANY

TO

HOUSE LABOR AND COMMERCE COMMITTEE

FEBRUARY 19, 1982

My name is James K. Barnett, Attorney for Sohio Alaska Petroleum Company. As you know, Sohio Alaska Petroleum Company has been intimately and continuously involved in various proposals for State permit reform over the past several years. Last year Tim Bradner and Roger Herrera of our offices testified before your committee on our company's concern regarding permit reform. Today I would like to bring you up to date on our general position.

Each member company in the Alaska Oil and Gas Association probably has a slightly different emphasis on the State permit reform effort. Sohio's major concern has always been with a lead agency portion of the bill, as we believe this concept will streamline and simplify decision making among the various State agencies in Coastal Zone Management consistency determinations and on comments made by the State concerning a federal permit application.

Tim and Roger spoke to you last year about the time delays experienced and what we call "the Saga of Sag 7 and 8." This situation arose in 1980 when Sohio sought Corps of Engineer permits for the construction of two gravel islands in the Beaufort Sea. In that case, conflict between State agencies pursuing their legitimate, legislatively prescribed interests, led to extensive delays in developing an overall State policy on the construction of these islands. The delays were so extensive that it took a longer time for the final permits to be issued than it did for us to drill the wells on the islands once the islands were constructed!

We at Sohio do not want to single out any one agency or any one person for criticism or concern. We are certain that each individual involved in the permitting decisions then and now excersized his own best judgment in making a good faith decision about the permit applications based on the laws surrounding his agency's existence. The difficulty is that no one person or agency has been given the legislative mandate to speak for the State. Instead, consistency determinations sometimes are concluded only after lengthy dis ussion between a variety of concerned agencies and, in some cases, the applicant becomes responsible to mediate differences to bring a consistency determination to a prompt conclusion.

Further, when a federal permit action is under consideration, besides the mandatory requirement of a State consistency determination, a federal agency like the Corps of Engineers may also receive

separate comments from individual State agencies. In some cases in the past, these comments have been issued from State agencies entirely separate from the State consistency determination, and have included different and more stringent comments and recommendations than those issued in the formal consistency determination. This of course can cause even further delay and, once again, the applicant assumes a large role in mediating differences between agencies, and sometimes this requires that the applicant accept harsher permit stipulations than the State consistency determination might require.

This permit reform legislation will correct these problems through the lead agency process. In the cases most relevant to Sohio, the Department of Natural Resources will be designated as the lead agency for review of all State agency comments in anticipation of a consistency determination and the issuance of formal State comments to the Corps of Engineers. The Department of Natural Resources will accept comments from all relevant agencies and local municipalities with approved coastal mangement plans or, where such plans do not exist, from the Office of Coastal Management. These comments must be given to the Department in a specified time, and the Department in turn must issue them in a further specified time. Delays experienced in the past will therefore be held to a minimum.

Much has been said about the role of local governments in this process. We believe the State's coastal zone law has established a good mechanism for viable local government input, and the draft permit reform legislation before you today gives much credence to the comments of the local coastal resource districts established pursuant to this law. In the draft bill, "substantive consideration" is given by the Department of Natural Resources to all factual statements issued, not only from the various commenting State agencies, but also from the comments of the local coastal resource districts. If no local resource district has yet been established in the locality, then such substantive consideration is given to the Office of Coastal Management, the State body which speaks for the local governments pursuant to the State's coastal zone management law if there is no approved plan in that locality.

The Department of Natural Resources cannot arbitrarily reject the factual statements or recommendations of the agencies or local governments. Instead the draft bill gives significant credence to those comments. However, as the "lead agency", the Department of Natural Resources does have the final say in balancing all the comments in reaching the overall premitting decision. This is essential to avoid lengthy delay and cumbersome permitting processes which have been experienced by Sohio and others in previous situations.

The Saga of Sag 7 and 8 occured two years ago and I would like to tell you that the situation has markedly improved. In most

cases it has and I must continue to emphasize that we believe that each person and each agency exercises their best judgment in making a good faith determination about our permit applications based on the law that they must enforce. But even today Sohio has had a permit application pending since September 1981 dealing with the West End development of the Prudhoe Bay oil field. This permit needs a State consistency determination, and as of today, February 19--five months later--it's still has not been issued. It is admittedly a controversial permit, and we have been assured by the relevant agency that the consistency finding will soon issue. But this permit reform legislation, if it were in effect, would have required a more expeditious process than we are now experiencing.

I thank you for the opportunity to comment. In closing, I would like to add Sohio's full endorsement to the latest draft of Senate Bill 84 now before your Committee. We urge the passage of this bill today to the full House so that it may become law as soon as possible.

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 19,1982
1:07 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Rogers
Rep. Randolph

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

SB 84 An Act relating to processing of permits by state agencies, and to administration of the Alaska Coastal Managements program.

WITNESS REGISTER

O.K. Gilbreth
AOGA
Anchorage, Alaska
Position Statement: Clarifications regarding draft committee substitute.

Jamie Linxwiler
Marathon Oil Company
Anchorage, Alaska
Position Statement: Gave history of SB 84.

Max D. Nalley
Alaska Public Affairs Manager
Exxon Company USA
Anchorage, Alaska
Position Statement: Supported draft committee substitute.

James K. Barnett, Attorney
Sohio Alaska Petroleum Company
Anchorage, Alaska
Position Statement: Gave position on permit reform.

Ethel Nelson
Exploration Land Representative
Texaco, Inc.
Anchorage, Alaska
Position Statement: Supported bill.

Marc Bond, Attorney
Chevron USA
Anchorage, Alaska
Position Statement: Discussed proposed amendments to SB 84.

PREVIOUS ACTION

SB 84

See minutes of 2/12/82.

Statutory Reference: AS 44.62

Action Taken: Rep. Randolph moved to accept 2d HCS CSSB 84 (L&C) for amendment.

Rep. Rogers moved to accept 2d HCS CSSB 84 (L&C) with all the governor's proposed amendments. Question, Rogers motion: for--Rogers, Gardiner; opposed--Randolph, Bylsma, Martin. Motion failed.

Rep. Rogers moved to amend the main motion by accepting the governor's proposed amendment #4. Motion passed unanimously.

Rep. Rogers moved to amend the main motion by accepting the governor's proposed amendment #11. On the question: for--Rogers, Gardiner; opposed--Bylsma, Martin, Randolph. Motion failed.

Rep. Rogers moved to amend the main motion by accepting the governor's proposed amendment #10. Rep. Bylsma objected, and withdrew his objection. Motion passed unanimously.

Rep. Rogers moved, page 6, lines 12-13, to amend the main motion by deleting the sentence "right to appeal ...637". There was objection. On the question: for--Rogers, Gardiner, Bylsma; opposed--Randolph, Martin. Motion passed.

Rep. Rogers moved to amend the main motion by adding, on page 5, line 24 "except when applicable, due process rights...within 45 days" (see governor's proposed amendments). On the question: for--Rogers, Gardiner; opposed--Martin, Bylsma, Randolph. Motion failed.

Rep. Rogers moved to amend motion on page 5, lines 16 and 17, by deleting "for up to an additional 30 days." and inserting, after word "section", the language: ". However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the lead agency must issue a final decision." Motion passed

without objection.

Rep. Rogers moved to amend motion on page 2, line 12, after word "application.", by deleting the period, and inserting: ", unless a public hearing is held on the application, in which case a final decision must be issued within 75 days after the date of receipt." On the question: for--Rogers, Gardiner, Bylsma; opposed--Randolph, Martin. Motion passed.

Rep. Rogers moved to amend motion on page 2, line 26, by adding: ", unless the applicant otherwise agrees." Motion passed unanimously.

Rep. Rogers moved to amend motion on page 4, line 6, by deleting the first sentence and inserting the first sentence of the governor's proposed amendment #3. On the question: for--Rogers, Gardiner; opposed--Randolph, Martin, Bylsma. Motion failed.

Rep. Rogers moved to amend motion by accepting the governor's proposed amendment #3. On the question: for--Gardiner, Rogers; opposed--Randolph, Martin, Bylsma. Motion failed.

Rep. Rogers moved to amend motion on page 5, lines 3-5, by deleting subsection (d), and inserting new subsection (3). There being no objection, the motion passed.

Rep. Rogers moved to amend motion on page 5, lines 22-23, by accepting the governor's proposed amendment #7, as revised. On the question: for--Rogers, Gardiner; opposed--Martin, Bylsma, Randolph. Motion failed.

Rep. Rogers moved to rescind the committee's action in failing to adopt the amendment. Rep. Rogers withdrew the motion after discussion.

Rep. Gardiner moved to amend motion on page 1, line 11, by deleting word "being" and inserting "many times". On the question: for--Rogers, Gardiner; opposed--Bylsma, Randolph, Martin. Motion failed.

Rep. Gardiner moved to amend motion on page 1, line 15, by deleting all of line 15 and

inserting "the unjustified delay of permits by". After discussion, Rep. Gardiner withdrew the motion.

Rep. Gardiner moved to amend motion on page 1, line 15, by beginning the sentence with the language, "The unjustified delay of permits caused by". On the question: for--Rogers, Gardiner; opposed--Martin, Bylsma, Randolph. Motion failed.

Rep. Gardiner moved to amend motion on page 1, line 20, by deleting word "protracted" and inserting word "unnecessary". On the question: for--Gardiner; opposed--Bylsma, Randolph, Martin.

Rep. Randolph moved to report 2d HCS CSSB 84 (L&C) out of committee. He withdrew that motion.

On the question on the main motion to adopt 2d HCS CSSB 84 (L&C): for--Martin, Bylsma, Randolph; opposed--Gardiner. Motion passed.

Rep. Randolph moved to report 2d HCS CSSB 84 (L&C), as amended, out of committee. There being no objection, motion passed.

ACTION NARRATIVE

Tape #20 and 21
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:07 p.m. Members present were: Representatives Martin, Bylsma, Randolph, Gardiner, and Rogers. There were no members absent. This meeting was a continuation of the hearing on SB 84. The committee was considering the draft Labor & Commerce committee substitute, and amendments proposed by the administration. Rep. Martin limited testimony to ten minutes.

Number 031

O.K. "Easy" Gilbreth, Alaska Oil & Gas Association (AOGA), wanted to clarify misconceptions of the draft committee substitute. (Gilbreth spoke from prepared testimony, which is available from the committee.) Gilbreth said the Attorney General called it the "AOGA draft", but it isn't. He said it's a compromise AOGA can accept. Gilbreth said there is a need for

changes. He spoke of the future of the state and the state's income. He passed out a chart dated 2/19/82 which showed agencies an operator must go through to get a permit on state land. He felt the present permit process to be non-productive. There was discussion.

Number 142

Jamie Linxwiler, Marathon Oil Company, said they support SB 84. He spoke of the history of the bill, and past attempts at permit reform. (Linxwiler spoke from prepared testimony, which is available from the committee.) He said SB 84 incorporates a number of recommendations made in past regulation reform attempts.

Number 241

Max D. Nalley, Alaska Public Affairs Manager, Exxon Company USA, said they supported the draft committee substitute. (Nalley spoke from prepared testimony, which is available from the committee.) He said the time constraints established in the bill are workable. He felt it makes a real effort to ensure justifiable concerns are considered. Nalley went over how the proposed timeframes would work. He felt the timeframes are adequate to obtain and evaluate all input before making decisions. He said the bill also addresses local concerns through the public hearing process, studies, etc. There was discussion.

Number 397

James Barnett, attorney for Sohio Alaska Petroleum Company, gave their general position. He said their major concern is with the lead agency portion of the bill. (Barnett spoke from prepared testimony, which is available from the committee.) Barnett spoke of time delays experienced in the past. He said the difficulty is that no one person or agency has been given legislative mandate to speak for the state. He said the applicant assumes a large role in mediating differences between agencies. Barnett felt this legislation would correct those problems through the lead agency process. He felt local coastal zone laws establish a good mechanism for viable local government input. He gave an example of a permit processing problem. There was discussion about various aspects of the bill.

Side B, Number 048 — Ethel Nelson, Exploration Land Representative, Texaco, Inc., supported the bill. She said comments made in the past have been selectively ignored by the administration. Regarding the governor's amendments, she said that some do not promote orderly development. She said they are willing to accept the bill as drafted as a good faith compromise. She said she agreed with the testimony that would be given by Marc Bond. Nelson went over the impact of the bill. She said that Alaska's wealth is almost entirely dependent on production of natural resources.

Number 104 — Marc Bond, attorney for Chevron USA, and also representing AOGA, supported the Labor & Commerce committee substitute. He discussed the governor's proposed amendments and gave comments on each amendment. He felt, in proposed amendment #1, that the extra 20 days is not needed. He said it is the opinion of AOGA that 65 days is more than enough time. There was discussion.

Number 252 — Bond said that the lead agency is the key provision of the bill. He felt the lead agency must have the authority to make decisions, and said that non-lead agencies should not be allowed to give input to federal agencies. He opposed amendment #3. There was discussion about who should make decisions, what data would be considered, and how decisions should be handled.

Number 529 — Bond said, regarding proposed amendment #4, that he believed federal law requiring comments of an agency would override this provision. He supported the section.

Number 560 — Rep. Randolph moved to accept 2d HCS CSSB 84 (L&C) for discussion. Rep. Rogers moved to amend Rep. Randolph's motion to accept the draft with all the governor's proposed amendments. On the question on Rep. Rogers' motion: for--Rogers, Gardiner; opposed--Martin, Bylsma, Randolph. Motion failed.

Number 575 — Rep. Rogers moved the governor's proposed amendment #4 as an amendment to Rep. Randolph's motion. Motion passed unanimously.

Number 613 — Rep. Rogers moved to amend the main motion

by accepting the governor's proposed amendment #11. On the question: for--Rogers and Gardiner; opposed--Randolph, Bylsma, Martin. Motion failed.

Number 624 — Rep. Rogers moved to amend the main motion by accepting the governor's proposed amendment #10. Rep. Bylsma objected. There was discussion. Motion passed unanimously.

Number 700 — Rep. Rogers moved to amend the main motion, on page 6, lines 12-13, by deleting sentence "right to appeal...637". There was objection. Discussion followed. On the question: for--Rogers, Gardiner, Bylsma; opposed--Randolph, Martin. Motion passed.

Tape 21, Number 030 — Rep. Rogers moved to amend the main motion, on page 5, line 24, by adding "except when applicable, due process rights...within 45 days." (See governor's proposed amendment #8). There was discussion. On the question: for--Rogers, Gardiner; opposed--Randolph, Bylsma, Martin. Motion failed.

Number 050 — Rep. Rogers moved to amend the main motion, on page 5, lines 16 and 17, by deleting language "for up to an additional 30 days." and inserting: ". However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the lead agency must issue a final decision." He asked unanimous consent. There being no objection, the motion passed.

Number 091 — Rep. Rogers moved to amend the main motion, on page 2, line 12, by adding a comma and inserting the governor's proposed amendment #1, with one change: delete 85 and insert 75. There was discussion. On the question: for—Bylsma, Rogers, Gardiner; opposed--Martin, Randolph. Motion passed.

Number 151 — Rep. Rogers moved to amend the main motion, page 2, line 26, by adding, ", unless the applicant otherwise agrees." There being no objection, the motion passed unanimously.

Number 172 — Rep. Rogers moved to amend the main motion, page 4, line 6, by deleting the first sentence and inserting the first sentence of the governor's proposed amendment #7. On the question: for--Rogers, Gardiner;

opposed--Randolph, Martin, Bylsma. Motion failed.

Number 188 — Rep. Rogers moved to amend the main motion by adopting the governor's proposed amendment #3. On the question: for--Rogers, Gardiner; opposed--Martin, Bylsma, Randolph. Motion failed.

Number 190 — Rep. Rogers moved to amend the main motion, page 5, lines 3-5, by deleting subsection (d) and inserting new subsection (d), using language from governor's proposed amendment #5. Rep. Randolph asked unanimous consent. There being no objection, the motion passed.

Number 210 — Rep. Rogers moved to amend the main motion, page 5, lines 22-23, by accepting the governor's proposed amendment #7, as revised. Rep. Gardiner asked unanimous consent. On the question: for--Gardiner, Rogers; opposed--Randolph, Bylsma, Martin. Motion failed.

Number 233 — Rep. Rogers moved that the committee rescind its action in not adopting the previous amendment. There was discussion. Rep. Rogers withdrew the motion.

Number 303 — Rep. Gardiner moved to amend the main motion, page 1, line 11, by deleting the word "being" and inserting "many times". There was discussion. On the question: for--Gardiner, Rogers; opposed--Bylsma, Martin, Randolph. Motion failed.

Number 335 — Rep. Gardiner moved to amend the main motion, page 1, line 15, by deleting all of line 15 and inserting "The unjustified delay of permits by". There was discussion. Rep. Gardiner withdrew the amendment.

Number 365 — Rep. Gardiner moved to amend the main motion, page 1, line 15, by beginning the sentence with: "The unjustified delay of permits caused by". On the question: for--Rogers, Gardiner; opposed--Martin, Bylsma, Randolph. Motion failed.

Number 375 — Rep. Gardiner moved to amend the main motion, page 1, line 20, by deleting the word "protracted" and inserting the word "unnecessary". There was discussion. On the question: for--Gardiner; opposed--

Randolph, Bylsma, Martin. Motion failed.

Number 441 — Rep. Randolph moved to pass 2d HCS CSSB 84 (L&C) from committee. He withdrew that amendment.

Number 447 — On the question of the main motion by Randolph to accept 2d HCS CSSB 84 (L&C): for--Randolph, Bylsma, Martin; opposed--Gardiner.

Number 459 — Rep. Randolph moved to report 2d HCS CSSB 84 (L&C), as amended, from committee. There being no objection, motion passed.

Number 474 — There being no further business to come before the committee, the meeting was adjourned at 3:13 p.m.

CSSB 84

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
LARRY VAVRA	1401 MARTIN Rd	UNION Oil	no	586-2341
denise zachary		Rep. Gardiner	no	
WILLIAM Reeves	3201 Spenard Road	AGC	YES	276-5359
Jean Klein		AGC	NO	6-1741
NORMAN GORSUCH	326 4TH ST	ELK GUESS + NWDO, ATTYS FOR SHELL	NO	6-3210
Rod Swanson	113 No. 5th	Self	NO	586-3896
Tony Vaska	Fourch V	House #17	not yet	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2/19/84

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Ray Benkert	P.O. Box X 2311 Juneau	Alaska Miners Assn.	Assn.	~~789~~ 7579
Jay W. Nelson	4111 E 65th St Anchorage	Alaska Envir. Lobby	No	586-2345

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2/19/82

CSSB 84

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Easy Gilbreth	[redacted] Anchorage	AOGA	Yes	
Jamie Linkwiler	Anchorage	Marathon	Yes	
Max Nally	Anchorage	Exxon	Yes	
Jim Barnett	Anchorage	Sohio	Yes	
[redacted] Ethel Nelson	Anchorage	Texaco	Yes	
[redacted] Mary Bond	Anchorage	Chevron [redacted]	Yes	
Jim Posey	Anchorage	ARCo	Yes	
Milton Byrd	Anchorage	A S I A	yes	
Mollie Dent	Juneau	Sierra Club Legal Defense Fund	Yes	
MARY HALLORAN	DNR—COMISSIONER'S OFFICE	DNR	NO	
George Kruse	Juneau	AK State Chamber of Commerce	Yes	
Dave Harbour	Anchorage	AK Cs	NO	

HOUSE LABOR & COMMERCE COMMITTEE Permits HEARING DATE: 2/19/82

Amendment #8

Rep. Rogers moved, p. 2, line 12, after word "application.", delete period, and insert ", unless a public hearing is held on the application, in which case a final decision must b3e issued within 75 days after the date of receipt." Discussion.
For: Rogers, Gardiner, Bylsma Against: Randolph, Martin
Amendment passed.

Amendment #9

Rep. Rogers moved, p. 2, line 26?, add, ", unless the applicant otherwise agrees."
No objection.
Motion passed unanimously.

Amendment #10

Rep. Rogers moved, p. 4, line 6, delete first sentence and insert, after (a), "There are established lead agencies which are solely responsible for issuing coastal management consistency determinations under AS 46.40 and for preparing and submitting state comments on federal permit applications for all projects which involve the disposal of an interest in state land or water or a least one class II permit."
For: Gardiner, Rogers Against: Randolph, Martin, Bylsma
Motion failed.

Amendment #11

Rep. Rogers moved the governor's proposed amendment #3.
For: Gardiner, Rogers Against: Bylsma, Randolph, Martin
Motion failed.

Amendment #12

Rep. Rogers moved, p. 5, lines 3-5, to delete subsection (d) and insert new subsection (d), using language from governor's proposed amendment #5. Rep. Randolph asked unanimous consent.
No objections.
Motion passed unanimously.

Amendment #13

Rep. Rogers moved, p. 5, lines 22-23, to accept the governor's proposed amendment #7, as revised (see sheet entitled Changes to Proposed Administration Amendments to SB 84): Delete language "Except as provided in this section the procedure is", and insert "Administrative appeals" conducted under "this section are not subject to the procedures in" AS 44.62.330-44.62.630. Rep. Gardiner asked unanimous consent.
For: Rogers, Gardiner Against: Bylsma, Martin, Randolph
Motion failed.

Amendment #14

AMENDMENTS PROPOSED DURING HL&C COMMITTEE MEETING 2/19/82

Re: SB 84

Amendment #1

Main motion (amendment)

Rep. Randolph moved to amend SB 84 by accepting the draft entitled 2d House CS for CS for Senate Bill No. 84 (L&C).

Amendment #2

amendments to amendment

Rep. Rogers moved to amend the amendment to accept the bill with all the governor's proposed amendments.
For: Rogers, Gardiner Against: Martin, Bylsma, Randolph
Amendment failed.

Amendment #3

Rep. Rogers moved to accept the governor's proposed amendment #4. (p. 5, lines 1-2)
Motion passed unanimously.
Amendment adopted.

Amendment #4

Rep. Rogers moved to accept the governor's proposed amendment #11.
For: Rogers, Gardiner Against: Martin, Bylsma, Randolph
Amendment failed.

Amendment #5

Rep. Rogers moved to accept the governor's proposed amendment #10, Rep. Bylsma objected. Discussion. (p. 6, lines 15-17)
Motion passed unanimously.
Amendment adopted.

Amendment #6

Rep. Rogers moved, p. 6, lines 12-13 of draft CS, delete sentence, "The right to appeal is not affected by the failure to seek further review under AS 44.62.637." There was objection. Discussion.
For: Rogers, Gardiner Against: Martin, Bylsma, Randolph
Amendment ~~failed~~ passed

Amendment #7

Rep. Rogers moved, p. 5, lines 16 and 17, delete "up to an additional 30 days." and insert, after word "section", ". However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the lead agency must issue a final decision." Asked unanimous consent.
No objection.
Amendment passed.

Rep. Rogers moved the committee rescind its action in failing to adopt previous amendment. Discussion.
Rep. Rogers withdrew his motion.

Amendment #15

Rep. Gardiner moved, p. 1, line 11, the delete word "being" and insert "many times". Discussion.
For: Gardiner, Rogers Against: Bylsma, Randolph, Martin
Motion failed.

Amendment #16

Rep. Gardiner moved, p. 1, line 15, delete all of line 15 and insert "the unjustified delay of permits by". Discussion.
Rep. Gardiner withdrew his amendment.

Amendment #17

Rep. Gardiner moved, p. 1, line 15, begin sentence with language, "The unjustified delay of permits caused by".
For: Gardiner, Rogers Against: Martin, Bylsma, Randolph
Motion failed.

Amendment #18

Rep. Gardiner moved, p. 1, line 10, delete word "protracted", insert word "unnecessary". Discussion.
For: Gardiner Against: Randolph, Bylsma, Martin
Motion failed.

Amendment #19

Rep. Randolph moved to pass 2d HCS CSSB84 (L&C) out of committee; motion was withdrawn.

Amendment #20

main amendment Question was called on main amendment to accept 2d HCS CSSB 84 (L&C) as amended by committee.
For: Martin, Bylsma, Randolph Against: Gardiner
— Motion passed.

Amendment #21

motion Rep. Randolph moved to pass 2d HCS CSSB 84 (L&C) out of committee. Rep. Gardiner asked unanimous consent.
There was no objection.
— Motion passed unanimously.

AMENDMENT 5

Page 5, ls. 3-5.

Delete existing subsection (d) and insert the following:

(d) For activities involving both a disposal of interest in land, or plan of operations approval under a previous disposal, and a certification under sec. 401 of the Clean Water Act (33 U.S.C. sec. 1341), the lead agency shall be the Department of Natural Resources.

Rogers left 3:08

~~289~~ Gard - p. 1, line 11 – delete "being" insert "many times"

303 Discussion

320 Question Gard R for; B, Ra, M against

335 Gard: line 15 delete ~~"The unjustified delay"~~ all of line 15, ins "The unjustified delay of permits by"

350 Discussion

362 Gard W/drew amdmt

365 Gard: add "The unjustified delay of permits caused by;

B M Ra opp'd R + Ga for

375 Gard - p. 1 line 10 delete "protracted", ins "unnecessary"

Discussion. (405) G for, B & Ra M opp'd

406 ~~Gardner~~ Discussion of general language in bill.

441 Rand moved to pass out of comm 2d CS CSSB 84 (L & C); w/drew

447 main amdmt to accept 2d HCSCSSB 84 L & C

opp'd: Gard fav: M, B, Ra

459 Rand moved to pass HCSCSSB 84 out of comm.

Gard asked unan consent.

No objection, & no passed. Bill was to be passed fm comm w/ amdmts passed.

474 Adj. 3:13

2/19/82

SB 84

Gardiner absent

000 START

1107 Call to order; continuation of hrg on SB84 - considering draft of L& . CS, + amdmts prop'd by admin. Limited testimony to 10 minutes.

022 Rogers asked abt xcrpt of Clark testimony & prop's regs for comm. use

031 OK Galbraith, Ak Oil + Gas Assoc,

& clarify misconceptions of draft CS; AG called it AOGA draft, but it isn't. It's a compromise AOGA can accept. Need for changes; spoke of future of state + state's income. (spoke fm prepared testimony.) Passed out chart dated 2/19/82 showing agencies operator must go th/ to get permit on state land.

Present permit process non-productive.

135 Galbraith said Mark Bond wd speak to amdmt.

Discussion.

142 Jamie Zinkewicher, Marathon Oil Co - support SB84. Spoke of history of bill & attempts at permit reform. (Spoke fm prepared testimony.) SB 84 incorporates a number of recommendations made in past leg reform attempts.

241 Max D. Malley, Ak Pub Affairs Mgr, Exxon Co USA -- supports draft CS. (Spoke fm prepared testimony) Time constraints estab'd in bill are workable. Makes real effort to ensure justifiable concerns are considered. Went over how prop'd time frames wd work. Time frames are adequate to obtain + go over all input before making decision. Bill also addresses local concern th/ public hrg process, studies, etc.

Vaska joined mtg around 1:30. (observed) former legislator Red Swanson in audience.

330 Rogers asked what permits he wd classify as complex

334 Dalley said most arent, but it wd be up to agency

Discussion.

356 Gardiner - re gstns chart passed out previously

Linnaville - wetlands are approx 1/2 N. Slope & require fed permit; expanded on problems dealing w/Corps of Engineers; legislation wd address this prob.

377 James Barnett, Atty for Sohio, Alaska Petroleum Co — general posn. Major concern is w/ lead agency portion of bill (spoke from prepared testimony.) Spoke of time delays experienced in past. Difficulty is no one person or agency has been given legis. mandate to speak for the state. Applicant assumes large role in mediating differences bet. agencies. This Legislation will correct these problems through lead agency process. Went through process. Felt local coastal zone laws establish good mechanism for voice local govt input. Gave example of permit processing prob.

512 Gardiner asked him to give specifics of the problem.

Discussion.

529 Resumed testimony - Sohio supports bill.

537 Rogers asked went over differences in gov's amdmts w/ respect to lead agency. Asked if 1 lead agency or 1 for ~~each~~ all projects — Barnett felt shd be 1 lead agency for each class of activity.

Rogers — next diff is gstn of how stnds or data submitted by coastal resource dists are handled — draft gives substantive consideration; gov's doesn't say. ~~same~~

Barnett — data should be given consideration; gives local govts plenty of input.

Discussed

618 ~~Rogers~~ gov's ~~also supp~~ provisions in case of conflict w/ local CZM recommendns.

(Rogers/Barnett) Rogers felt w/o gov's amdmts, gov wd veto bill.

If can't compromise, bill shd be moved fm comm.

673 Randolph so moved, Rog asked unan consent. R w/drew mos, Rog w/d unan consent

690 Gardiner asked Barnett, if Corps is causing prob, how can State law affect Corps regmt?

~~Barnett~~ Discussion - Barnett said Corps expanded jurisdiction; they're spending time trying to affect resolution w/ Corps; being wkd on in Cong. Need lead agency; also, Corps asks everyone for input in permit process; want this funneled thr/ lead agency.

Side B
000

010 Rogers - then you like lead agency, to solve consistency determination is most imp pt of bill - more imp than time limits?

Barnett - yes

R asked which permits are most complex

B - eg, Waterflood project

R - so one class is ~~first time~~ case where there's no precedent - waterflooding, gas pipeline

B - yes

R - a e which permits wd you class as Class I & II classes

B - II defined here is for ins where pub hrgs req'd plan of operations permit is example of one that doesn't require pub hrgs.

043 Martin - comments

048 Ethel Nelson, exploration land rep, Texaco Inc - ~~has been in past~~ supports bill. Comments made in past have been selectively ignored by admin. Re amdmts: some do not promote orderly development. Willing to accept bill as drafted as good faith comp. Agree w/ testimony that will be given by Mark Bond. Went over impact of bill - opp to implement uniform permit process; gives local research agencies right to be heard & input considered by st; processing time & employees needed will be reduced. Alas wealth almost entirely dependent on production of nat'l resources. Will leave copy of testimony w/ Cates.

104 Mark Bond, atty on behalf of Chevron USA; today rep'g AOGA. Support 2d HCS CS SB 84 (1 & c). Discussing amdmts:

Amdmt #1 185 days for class II permit) - ~~same to H~~ this provision unnecessary & unwarranted, don't need 185 days

134 Rogers - 65 days cd be difficult, not enough time - gave example

155 Bond - opinion of AOGA that 65 days more than enough time. Cd get extension if they have problems. ~~Permit to obtain]~~ #1 w/ 65 day limit

169 Yard - if agencies have situ Rogers described, bureaucracy may be forced to hold things on everything to avoid getting into time-crunch situ. Gave reasons this may be true in ~~Alaska~~ order for bureaucracy to protect itself.

190 Bond - depends on how long you want to determine if pub hrg is necess.

196 Martin - ~~can't~~ can't agencies/industry usually initially tell which ones wd need hrg process; Bond thought so.
Martin spoke of comm. system in state, didn't agree w/ extension provision
Bylsma - first prob dealt w/ by agency shd be pub hrg optn
Also felt ext, lang shd not be in bill

035 # 2 (?) do not want extension expressly stated in bill.
Discussion, Rogers/Bond

Bond
252 #3 lead agency - key provision of bill. Went over objectives of section. Lead agency must have authority to make decisions; non-lead agencies shdn't be allowed to give input to fedl agencies.
Went over problems w/ amdmt & effects. (See written testimony)
Oppose this amdmt.

333 Rogers - don't understand diff bet / lead agency for CZM & consis - tency determinations, & having various agencies give determ depending on class of activity
Bond - w/ either, variety of agencies wd give input
R. - agree "comments" not defined; shd be chgd to "documented comments" or supported," & add that "conjectural info wd not be considered"
B - not adequate solution. Gave reasons

371 R - Rogers gave example of possible sitn & how it wd be dealt with; ~~gave ex. of possible sitn of decisions required & suggestions, & by an agency; went~~

B - commented on how he saw the sitn.

400 Discussion about who makes decisions, & what data wd be considered, how decisions shd be handled.

432 Martin - don't need to research every sitn; developmt has been going on for abt 20 yrs now, most data needed exists.

450 Gardiner - better example re Borax mine - happened in BC, didn't work out well. State is looking at, better method instead of just saying project won't work. Somebody will have to make a judgment that is a prediction; not provable irrefutably. Issue is what agency is most likely to have best info.

485 Bond - bill doesn't lock out considering conjectural info; agreed that all decisions can't be made based on facts.

496 Gardiner ~~exp~~ clarified his example of how the facts cd ~~preclude~~ force negative decision on the mine, where predictions wld allow it.

523 Bond - commented. ~~Thanked~~

529 #4 allowing agency other than lead agency to comment to a federal agency - bc fed law requiring comments of an agency wd override this. Support ~~amdmt~~ section.

560 Randolph prop'd accepting draft CS for wkg amdmts.
So moved (to accept 2d HCS CSSB 84 l.o.c)
Rogers moved to amend to accept w/ all of govs amdmts.

575 Question - ~~on~~ Rogers amdmt: for: Rog Gard
against: Paul, Byrsma Martin

603 ~~Roll call~~: Rogers mvd gov amdt 4 as amd to amd accepted unan.

613 Rog mod gov #11: R & G for, BM & R against

624 " " " " 10: Bylsma objected.

Rogers said amdmt has effect of changing rules of ct, & wd require 2/3 vote & amdmt of bill title. Legis shd not tell ct what cases have preference; unwarranted interference in ct affairs

Discussion.

Qstn: No objections, passed unan.

700 Rog mod p 6, lines 12-13 (on Randolph no)

delete sentence - "right to appeal . . . .637" ; objection.

701 Rogers - section has effect of requiring more litigation & more delay in process. Puts more policy govts in ct than w/ lead agency.

000 Tape 2

Discussion.

026 Qstn Oppd Ran, Martin for - R, G, & Bylsma - passed

030 Rogers - p. 5, line 24 - add "except when applicable due process rights.. within 45 days." (See gov's amdmts #8)

036 Discussion

043 Qstn: For: Rog, G Against: Ran, M, B

050 Rogers: p. 5, lines 16+17: delete "up to .. 30 days" & insert ", if the time period is extended, the extension should leave at least 30 d. ". However, Comments submitted under this subsec"

086 Asked unan consent. No objection, amdmt passed.

091 Rogers moved ~~gov amdt #~~, p. 2, line 12, add comma
← same as gov amdt #1 except delete 85, ins 75

115 ~~Randolph opposed~~ discussion

146 for: Bylsma, Rog, Gard
against: M, Rand

listen to record here

151 Rogers moved p 2 lines 26, " "unless the applicant otherwise agrees."

169 passed unan.

172 Rog - p. 4 6
delete 1st sent + insert 1st sent of gov #2 and 3
for G, Rog against Ran M B

188 Rog moved Gov #3
for R G against B, Ra, M

190 Rog p 5, 3-5, moved gov # 5 (delete subsec (d) & insert new (d)) Rand asked unan consent

206 no objections, passed

210 Rog moved # 7, revised p. 5, lines 22-23; Gard asked unan consent

226 vote for: G, Ro against: B, M, Ra

233 Rog moved to rescind action in failing to adopt amdt.

241 Discussion

283 Rog w/drew mo.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 2/19/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:00	
Rep. D. Randolph	✓		1:00	
Rep. B. Rogers	✓		1:00	
Rep. T. Gardiner	✓		1:12	
Rep. T. Martin, Chair	✓		1:00	

Subject Matter:

House Bill No. _____

Senate Bill No. 84

Special Orders:

Press the ENTER key to return to primary menu.
INPUT LINE ====>
MSG 82-00009774 PRTY 1 02/23/82 15:32:51 ORIG: LR00 IN= 0007 OUT= 0001
FROM: FLORENCE IN BARROW TO: JOAN MATTHEWS, (H) L&C
TARGET: LJHY SUBJ: REQUEST - SB84 PAGE 0001

I HAVE JUST HAD A COUPLE OF REQUESTS FOR THE "MOST RECENT COPY OF SB84, YOU KNOW, THE PERMITTING BILL." I EXPLAINED THAT IT HAD PASSED OUT OF THE (H) L&C WITH AMENDMENTS. COULD YOU PLEASE SEND ME THE AMENDMENTS? IF IT LOOKS LIKE IT MIGHT TAKE A COUPLE OF DAYS WITH THE MAILS AND THE WEATHER, COULD YOU GET IT TO THE JUNEAU LIO AND PERHAPS THEY COULD TELECOPY IT TO ME. THANKS VERY MUCH, JOAN. AND GREETINGS FROM A WONDERFULLY SUNNY, BUT COLD, BARROW!

MSG 82-00009779 PRTY 1 02/23/82 15:41:41 ORIG: LJE1 IN= 0001 OUT= 0002
FROM: JOAN, H LABOR & COMMERCE TO: FLORENCE, BARROW
TARGET: LJHY SUBJ: SB 84 PAGE 0001

FLORENCE--
WILL PASS THE AMENDMENTS ALONG AS SOON AS WE'VE CHECKED THEM AGAIN AGAINST THE TAPE OF THE MEETING. WHEN THEY STARTED AMENDING, THINGS GOT CONFUSING. I TYPED UP WHAT I HEARD; APPARENTLY NOT EVERYONE HEARD WHAT I DID, SO WE'RE CHECKING IT, AND SHOULD HAVE A REAL ROUGH DRAFT BY TOMORROW, WHICH I WILL SEND. WILL ALSO FORWARD THE COMMITTEE SUBSTITUTE WHEN THAT'S READY.

WISH I WERE IN BARROW--WE'VE GOT SUN HERE, BUT WINDS ARE GUSTING TO 50 AND 60 MPH--NASTY! WILL GET THE INFORMATION TO YOU ASAP....JOAN

amendments sent to legal services 2/20/82

AMENDMENTS PROPOSED DURING HL&C COMMITTEE MEETING 2/19/82

Re: SB 84

Amendment #1

Main motion (amendment)

Rep. Randolph moved to amend SB 84 by accepting the draft entitled 2d House CS for CS for Senate Bill No. 84 (L&C).

Amendment #2

amendments to amendment

Rep. Rogers moved to amend the amendment to accept the bill with all the governor's proposed amendments.
For: Rogers, Gardiner Against: Martin, Bylsma, Randolph
Amendment failed.

Amendment #3

Rep. Rogers moved to accept the governor's proposed amendment #4. (p.5, lines 1-2)
Motion passed unanimously.
Amendment adopted.

Amendment #4

Rep. Rogers moved to accept the governor's proposed amendment #11.
For: Rogers, Gardiner Against: Martin, Bylsma, Randolph
Amendment failed.

Amendment #5

Rep. Rogers moved to accept the governor's proposed amendment #10; Rep. Bylsma objected. Discussion. (p. 6, lines 15-17)
Motion passed unanimously.
Amendment adopted.

Amendment #6

Rep. Rogers moved, p. 6, lines 12-13 of draft CS, delete sentence, "The right to appeal is not affected by the failure to seek further review under AS 44.62.637." There was objection. Discussion.
For: Rogers, Gardiner Against: Martin, Bylsma, Randolph
Amendment failed.

Amendment #7

Rep. Rogers moved, p. 5, lines 16 and 17, delete "for up to an additional 30 days." and insert, after word "section", ". However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the lead agency must issue a final decision." Asked unanimous consent.
No objection.
Amendment passed.

Amendment #8

Rep. Rogers moved, p. 2, line 12, after word "application.", delete period, and insert ", unless a public hearing is held on the application, in which case a final decision must b3e issued within 75 days after the date of receipt." Discussion.
For: Rogers, Gardiner, Bylsma Against: Randolph, Martin
Amendment passed.

Amendment #9

Rep. Rogers moved, p. 2, line 28, add, ", unless the applicant otherwise agrees."
No objection.
Motion passed unanimously. should be after line 28

Amendment #10

Rep. Rogers moved, p. 4, line 6, delete first sentence and insert, after (a), "There are established lead agencies which are solely responsible for issuing coastal management consistency determinations under AS 46.40 and for preparing and submitting state comments on federal permit applications for all projects which involve the disposal of an interest in state land or water or a least one class II permit."
For: Gardiner, Rogers Against: Randolph, Martin, Bylsma
Motion failed.

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Rep. Rogers moved the governor's proposed amendment #3.
For: Gardiner, Rogers Against: Bylsma, Randolph, Martin
Motion failed.

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Rep. Rogers moved, p. 5, lines 3-5, to delete subsection (d) and insert new subsection (d), using language from governor's proposed amendment #5. Rep. Randolph asked unanimous consent.
No objections.
Motion passed unanimously. ~~Should be line 1 d, subsection (e)~~

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For: Rogers, Gardiner Against: Bylsma, Martin, Randolph
Motion failed.

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Rep. Rogers moved the committee rescind its action in failing to adopt previous amendment. Discussion.
Rep. Rogers withdrew his motion.

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Rep. Gardiner moved, p. 1, line 11, the delete word "being" and insert "many times". Discussion.
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Motion failed.

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Rep. Randolph moved to pass 2d HCS CSSB84 (L&C) out of committee; motion was withdrawn.

Amendment #20

main amendment

Question was called on main amendment to accept 2d HCS CSSB 84 (L&C) as amended by committee.
For: Martin, Bylsma, Randolph Against: Gardiner
Motion passed.

Amendment #21

motion

Rep. Randolph moved to pass 2d HCS CSSB 84 (L&C) out of committee. Rep. Gardiner asked unanimous consent.
There was no objection.
Motion passed unanimously.

AMENDMENTS PROPOSED DURING HL&C COMMITTEE MEETING 2/19/82

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Main motion (amendment)

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Amendment failed.

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No objections.
Motion passed unanimously. ~~should be [illegible], subsection (c))~~

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main amendment

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Motion passed.

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motion

Rep. Randolph moved to pass 2d HCS CSSB 84 (L&C) out of committee. Rep. Gardiner asked unanimous consent.
There was no objection.
Motion passed unanimously.

Amended – see pages 2, 5, 6

Original sponsors: Bennett, Parr and Fahrenkamp

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

2d HOUSE CS FOR CS FOR SENATE BILL NO. 84 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to processing of permits by state agencies, and to administration of the Alaska Coastal Management program."

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

* Section 1. FINDINGS. The legislature finds that

(1) the orderly development of state resources is being unnecessarily delayed by the length of time required to obtain permits from state agencies, by the complexity of the permitting process, and by the number of agencies involved in the permitting process;

(2) the uncertainties created by the lack of specific time limits, the proliferation of agency reviews, the number of agencies involved in the permit process, and unjustified agency requirements upon the processing of permit applications have cost Alaskans millions of dollars in lost employment and higher prices;

(3) the public interest has not been advanced by protracted delay in the processing of permit applications by state agencies;

(4) by reducing the number of agencies and agency reviews involved in the permit process, and by requiring state agencies to process permit applications in an expeditious manner, the social, economic, and environmental health and well-being of Alaska citizens will be promoted; and

(5) there are many administrative orders and similar documents that have been promulgated by the executive branch relating to interagency review that conflict and overlap, retarding the permit issuing process.

* Sec. 2. AS 44.62 is amended by adding new sections to read:

ARTICLE 8A. PERMIT PROCESSING.

Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource agency shall by regulation classify each of the permits issued by that agency within one of the two following categories:

(1) class I permits, for which the state agency must issue a final decision within 30 days after the date of receipt of a completed permit application; and

(2) class II permits, for which, because of a necessary public notice or interagency review period, a final decision cannot be issued within 30 days. A final decision on a class II permit must be issued within 65 days after the date of receipt of a completed permit application, , unless a public hearing is held on the application, in which case a final decision must be issued within 75 days after the date of receipt.

(b) Final regulations classifying its permits, and uniform procedural regulations providing for the processing of these permits, shall be adopted by each state resource agency by October 1, 1982, following appropriate notice and hearing. Permits applied for after October 1, 1982 must be issued in accordance with the time periods specified in (a) of this section, and the provisions of the implementing regulations.

Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESSING. (a) Upon a finding by the head of a resource agency that a permit being considered involves unusually complex issues so that the agency cannot render a final decision within the time period specified in AS 44.62.632(a), the head of the agency may prescribe a time period within which the final decision will be made. The finding of the head of the agency may be appealed by the applicant to the superior court under the Appellate Rules of Procedure. The time period may not be extended more than 120 days beyond the time period specified in AS 44.62.632(a), unless the applicant otherwise agrees.

(b) The time period specified in AS 44.62.632(a) may be extended

if necessary to facilitate joint processing of a permit application by state and federal agencies, but only if adherence to the time periods established in AS 44.62.632(a) would cause an irreconcilable conflict with a federal statute or regulation.

(c) Subject to (a) and (b) of this section and AS 44.62.634, failure of a resource agency to make a final decision within 30 days after the receipt of a completed permit application for a class I permit, or within 65 days after the receipt of a completed permit application for a class II permit, is approval of the application. In an appeal of a permit issued by operation of this subsection, the record shall be considered in the light most favorable to the applicant, and the permit shall be accorded a presumption of regularity.

(d) A state agency may not condition the issuance of a permit upon the issuance of a permit from another governmental agency.

Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agency receives a completed permit application that does not contain sufficient information concerning the project's compliance with the agency's statutes and regulations, the agency shall notify the applicant within 15 days after receipt of a completed permit application for a class I permit, and within 30 days after receipt for a class II permit.

(b) The notification must specify those particular facts or issues concerning the proposal upon which the agency requires additional information in order to determine whether the project will conform to the agency's statutes and regulations.

(c) If a timely request under (a) and (b) of this section is made, the time period specified in AS 44.62.632 is suspended from the date of request to the date of full compliance with the request. Subsequent requests for additional information may be made, but must relate only to new issues raised by the response to the initial noti-

fication. Subsequent requests do not extend the time periods specified in AS 44.62.632.

(d) Nothing in this section grants a resource agency the authority to request information beyond the authority given to it by other statutes.

Sec. 44.62.635. LEAD AGENCY. (a) There is established a lead agency that is solely responsible for issuing coastal management consistency determinations under AS 46.40 and for preparing and submitting state comments on federal permit applications. The lead agency is that resource agency that has principal responsibility for authorizing the overall activity, including instances where an activity requires permits from more than one resource agency. For classes of activities for which no agency with principal responsibility exists the governor shall designate a resource agency to be a lead agency for each class by administrative order no later than October 1, 1982. In performing its functions under this section, the lead agency shall consult with other resource agencies and with coastal resource districts under AS 46.40.

(b) Substantive consideration shall be given to the documented factual statements or data submitted by resource agencies and to the office of coastal management within their primary areas of expertise, and to the documented factual statements or data submitted by coastal resource districts made under an approved district coastal management program. The lead agency shall consider opinions, conclusions or recommendations submitted by the commenting agency, but may, in its discretion, reach contrary opinions, conclusions or recommendations according to the evidence received. The lead agency shall then balance competing factors in reaching its final decision. No resource agency other than the lead agency has primary expertise in the balancing of competing factors.

Except as otherwise required by federal law,

(c) No state agency other than the lead agency may comment to a federal permitting agency.

delete this subsection; replace with attached * (entitled Amendment 5)

~~(d) An agency's completion of a review under sec. 401 of the Clean Water Act (33 U.S.C. sec. 1341) does not constitute that agency as a lead agency under this section.~~

Sec. 44.62.636. COMMENT PERIOD. A coastal resource district or state agency that receives a request for comment in connection with a permit application or plan review being processed by a resource agency shall submit these comments in accordance with the following schedule:

(1) comments on class I permits shall be submitted within 15 days after the agency's receipt of the request;

(2) comments on class II permits and federal permits shall be submitted within 30 days after the agency's receipt of the request;

(3) when under AS 44.62.633, the requesting agency has extended the time periods specified in AS 44.62.632, that agency may extend the time period specified in this section. However, comments submitted ~~for up to an additional 30 days~~ under this subsection shall be submitted no later than 30 days prior to the date on which the lead agency must issue a final decision.

Sec. 44.62.637. ADMINISTRATIVE APPEALS. (a) The uniform procedural regulations adopted under AS 44.62.632(b) must provide for an administrative appeal from a final decision on a permit application. The administrative appeal is to the head of the resource agency involved. Except as provided in this section the procedure is conducted under AS 44.62.330 - 44.62.630.

(b) The administrative appeal must be resolved within 45 days after the final decision on a permit application, or, if a hearing is held on the administrative appeal, within 65 days after the final decision on the permit application.

(c) An appeal taken from a decision granting a permit may, but need not, stay the issuance of the permit.

(d) The head of the agency may summarily dismiss an appeal before the time established in this section, and the dismissal is the final agency action on the matter.

(e) In an appeal from the denial or conditioning of a permit the head of the agency may, if he determines that the public interest would be served, grant the permit or remove conditions of the permit until the appeal is determined.

Sec. 44.62.638. REVIEW BY THE SUPERIOR COURT. (a) Judicial review by the superior court of a final decision issued under AS 44.62.632 - 44.62.637 may be had by filing a notice of appeal in the superior court in accordance with the applicable Rules of Appellate Procedure. The right to appeal is not affected by the failure to seek further review under AS 44.62.637. The review is governed by the provisions of AS 44.62.560(b) - (e) and AS 44.62.570.

(b) An appeal taken under this section ~~has~~ should have preference on the calendar of civil actions before the court and ~~shall~~ should be decided without unnecessary delay.

* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

(c) As used in AS 44.62.632 - 44.62.638,

(1) "date of receipt" means the date on which a state agency actually receives a completed application filed in accordance with agency regulations and at a place identified as appropriate for filing in the agency's regulations;

(2) "permit" means a permit, license, certification, consistency determination, or other authorization or approval issued by a resource agency as a written document that is required to be obtained or is solicited from a state agency before the construction or operation of a project; "permit"

(A) does not include the approval of a unit agreement,

a unit development plan, or a unit exploration plan, or conveyances of interest in state land or water;

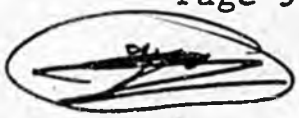
(B) does include all authorizations and approvals, whether proprietary or regulatory, necessary to undertake a project under a previously conveyed property interest;

(3) "project" means a new activity or expansion or addition to an existing activity for which permits are required before construction or operation; "project" does not include pursuing a trade or profession, providing public health service, or operating a financial institution;

(4) "resource agency" includes the Department of Natural Resources, the Department of Environmental Conservation, and the Department of Fish and Game with respect to permits issued for the protection of fish habitat or the regulation of state sanctuaries, refuges, and critical habitat areas.

AMENDMENT 5

Page 5, ls. 3-5.



Delete existing subsection (d) and insert the following:

(d) For activities involving both a disposal of interest in land, or plan of operations approval under a previous disposal, and a certification under sec. 401 of the Clean Water Act (33 U.S.C. sec. 1341), the lead agency shall be the Department of Natural Resources.

AMENDMENT 3 - Replace with the following:

Page 4, ls. 6 - 29

Delete all of sec. 44.62.635(a) and (b) and insert following in its place:

(a) There are established lead agencies which are solely responsible for issuing coastal management consistency determinations under AS 46.40 and for preparing and submitting state comments on federal permit applications for all projects which involve the disposal of an interest in state land or water or at least one class II permit. The lead agency may vary for classes of activities, but shall be that agency which has principal responsibility for authorizing the overall activity. For classes of activities for which no agency with principal responsibility exists the governor shall designate a lead agency by administrative order no later than October 1, 1982.

(b) In performing its function under this section, the lead agency shall consult with other resource agencies and with coastal resource districts under AS 46.40. The lead agency shall consider facts, data, opinion, conclusions or recommendations submitted by the commenting agency and the coastal resource districts within their areas of expertise. The lead agency shall then balance competing factors in reaching its final decision. No resource agency other than the lead agency has primary expertise on the balancing of competing factors.

(c) In its consideration of the comments of other resource agencies, the lead agency shall give substantive consideration to the facts and data, and to the (opinions, conclusions or recommendations substantiated by said facts and data) which are submitted by commenting agencies within their primary areas of expertise. An opinion, conclusion or recommendation is adequately substantiated under this subsection if it is based on facts or data reasonably relied upon by experts in the field.

(d) If a coastal resource district with an approved and applicable district coastal management program appeals the lead agency's consistency determination, AS 44.62.560 -- 44.62.570 govern judicial review. However, notwithstanding AS 44.62.570(c), abuse of discretion is established if the reviewing court determines that the consistency determination is not supported by a preponderance of evidence in the administrative record.

2nd HOUSE CS FOR CS FOR SB NO. 84 (L&C)

PROPOSED ADMINISTRATION AMENDMENTS

AMENDMENT 1

Page 2, l. 12.

application [.] , unless a public hearing is held on the application, in which case a final decision must be issued within 85 days after the date of receipt.

AMENDMENT 2

Page 2, ~~ls~~. 26-28.

Yes - ?

under the Appellate Rules of Procedure. Unless the applicant and the agency otherwise agree, [T]the time period may not be extended more than 120 days beyond the time period specified in AS 44.62.632(a).

AMENDMENT 3

NO

Page 4, ls. 6 -- 29

Lead agency

Delete all of sec. 44.62.635(a) and (b) and insert the following in its place:

(a) There are established lead agencies which are solely responsible for issuing coastal management consistency determinations under AS 46.40 and for preparing and submitting state comments on federal permit applications for all projects which involve the disposal of an interest in state land or water or a least one class II permit. The lead agency may vary for classes of activities, but shall be that agency which has principal responsibility for authorizing the overall activity. For classes of activities for which no agency with principal responsibility exists the governor shall designate a lead agency by administrative order no later than October 1, 1982. In performing its function under this section the lead agency shall consult with other resource agencies and with coastal resource districts under AS 46.40. The lead agency shall balance competing factors in reaching its decision. Substantive consideration shall be given to the comments of resource agencies within their primary areas of expertise.

(b) If a coastal resource district with an approved and applicable district coastal management program appeals the lead agency's consistency determination,

AS 44.62.560 -- 44.62.570 govern judicial review. However, notwithstanding AS 44.62.570(c), abuse of discretion is established if the reviewing court determines that the consistency determination is not supported by a preponderance of evidence in the administrative record.

AMENDMENT 4

Page 5, ls. 1-2.

Yes

(c) Except as otherwise required by federal law, [N]no state agency other than the lead agency may comment to a federal permitting agency.

AMENDMENT 6

Page 5, ls. 16-17.

extend the time period specified in this section. [FOR UP TO AN ADDITIONAL 30 DAYS.]

AMENDMENT 7

TLR

Page 5, ls. 22-23.

Administrative appeals [EXCEPT AS PROVIDED IN THIS SECTION THE PROCEDURE IS] conducted under this section need not comply with AS 44.62.330 - 44.62.630.

AMENDMENT 8

Page 5, l. 24.

(b) Except when applicable due process rights may require more formal administrative proceedings, the [THE] administrative appeal must be resolved within 45 days.

AMENDMENT 9

Page 6, ls. 12-13.

Procedure. [THE RIGHT TO APPEAL IS NOT AFFECTED BY THE FAILURE TO SEEK FURTHER REVIEW UNDER AS 44.62.637.] The review is governed by the

AMENDMENT 10

Page 6, ls. 15-17.

Yes

(b) An appeal taken under this section [HAS] should have preference on the calendar of civil actions before the court and [SHALL] should be decided without unnecessary delay.

AMENDMENT 11

Page 7, l. 12.

Resources, the Department of Environmental Conservation, the Alaska Coastal Policy Council, and the Depart-

CHANGES TO PROPOSED ADMINISTRATION ADMENDMENTS TO SB 84
(2nd House CS for CS for SB 84 Labor & Commerce)

AMENDMENT 1 - No Change.

AMENDMENT 2 - No Change.

AMENDMENT 3 - See Attached.

AMENDMENT 4 - No Change.

AMENDMENT 5 - No Change.

AMENDMENT 6 - Replace with the following:

Page 5, ls. 16=17

extend the time period specified in this section. (FOR UP TO AN ADDITIONAL 30 DAYS.) However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the lead agency must issue a final decision.

AMENDMENT 7 - Revise as follows:

Page 5, ls 22 - 23

Administrative appeals (EXCEPT AS PROVIDED IN THIS SECTION THE PROCEDURE IS) conducted under this section are not subject to the procedures in AS 44.62.330-44.62.630.

AMENDMENT 8 - No Change.

AMENDMENT 9 - Revise as follows:

Page 6, ls. 12 - 13

Procedure. The right to appeal is not affected by the failure to seek further review under AS 44.62.637 if either solely a question of law is at issue or in those instances in which an administrative appeal would be futile. The review is governed by the

AMENDMENT 10 - No Change.

AMENDMENT 11 - No Change.

MSG 82-00009323 PRTY 1 02/22/82 09:37:45 ORIG: LJE1 IN= 0002 OUT= 0002
FROM: JOAN, H LABOR & COMMERCE TO: FLORENCE, BARROW
TARGET: LJHY SUBJ: YOUR OMNI RE SB 84 PAGE 0001

FLORENCE:
THE COMMITTEE HEARD SB 84 LAST FRIDAY, AND UNEXPECTEDLY PASSED THE BILL OUT. AS I HAD TOLD YOU PREVIOUSLY THAT WE WOULD BE CONTINUING TO HEAR THE BILL FOR AT LEAST ANOTHER FRIDAY, I THOUGHT I SHOULD LET YOU KNOW ABOUT THIS ACTION. THERE WERE AMENDMENTS. IF YOU NEED A COPY OF THE AMENDMENTS, OR ANY OTHER INFORMATION, DON'T HESITATE TO CONTACT ME. ...JOAN

CAXXR

MSG 82-00008574 PRTY 1 02/17/82 12:34:03 ORIG: LJE4 IN= 0001 OUT= 0002
FROM: JOAN, H LABOR & COMMERCE TO: FLORENCE, BARROW
TARGET: LJHY SUBJ: REPLY PAGE 0001

FLORENCE:
SB 84 HAS BEEN HELD OVER. THE COMMITTEE WILL BRING IT UP AGAIN THIS FRIDAY, AND EVERY SUCCESSIVE FRIDAY (WHEN NOTHING ELSE IS SCHEDULED) UNTIL TESTIMONY HAS BEEN TAKEN AND REVISIONS TO THE BILL, IF ANY, HAVE BEEN MADE. THERE ARE ALOT OF PEOPLE WHO HAVE SEVERAL POINTS OF VIEW, APPARENTLY, ABOUT THIS LEGISLATION. AT THIS TIME, WE PLAN TO HEAR THE BILL AGAIN THIS FRIDAY, AND TWO WEEKS FROM THIS FRIDAY; NEXT FRIDAY WE HAVE THE AIR TAXI TELECONFERENCE.

I GUESS I MANAGED TO MAKE THAT FAIRLY CONFUSING, BUT THE MAIN THING IS IF YOU HAVE PEOPLE INQUIRING ABOUT THE BILL, IT WILL BE HEARD AGAIN, AND WE WILL ACCEPT WRITTEN TESTIMONY, LETTERS, ETC.; AT THIS TIME NO TELECONFERENCES ARE PLANNED. IF YOU HAVE QUESTIONS, FEEL FREE TO CONTACT ME AGAIN.

HOPE ALL IS WELL IN BARROW. ...JOAN

MSG 82-00008549 PRTY 1 02/17/82 11:50:45 ORIG: LR00 IN= 0003 OUT= 0001
FROM: FLORENCE IN BARROW TO: JOAN MATTHEWS, (H) L&C
TARGET: LJHY SUBJ: REQUEST. PAGE 0001

CAN YOU TELL ME WHAT HAPPENED TO THE STATUS OF SB84 IN THE MEETING OF THE (H) LABOR & COMMERCE COMMITTEE ON FRIDAY, FEB. 12?
THANKS.

PS: HAVING THE SCHEDULE OF THE MEETINGS IS VERY HELPFUL! YOUR EXTRA FEW MINUTES AT THE IBM IS APPRECIATED!

2-22-82

HB 705

HB 619

HB 698

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 22, 1982
1:08 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph
Rep. Rogers

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

HB 619 — An Act relating to labor relations involving teachers and school districts.

HB 698 — An Act relating to teachers' retirement benefits; and providing for an effective date.

HB 705 — An Act relating to public employees and teachers benefits; and providing for an effective date.

WITNESS REGISTER

Representative Cato
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-4858
Position Statement: Prime sponsor of HB 705; testified about need for bill.

Representative Zharoff
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-4968
Position Statement: Prime sponsor of HB 698; testified about need for bill.

Bob Cooksey
NEA-Alaska
147 South Franklin
Juneau, Alaska 99801
Position Statement: Favors both bills (HB 698 and HB 705); encouraged adopting Rep. Zharoff's sponsor substitute.

Bob Manners

NEA-Alaska
147 South Franklin
Juneau, Alaska 99801
Position Statement: Supported need for HB 619; requested changes.

Bob Greene
Alaska School Boards
326 4th Street
Juneau, Alaska 99801
586-1083
Position Statement: Supported portion of HB 619; requested changes.

Fred Muller, Deputy Commissioner
Department of Administration
Pouch C
Juneau, Alaska 99811
Position Statement: Testified regarding HB 705 and HB 698; recommended changes.

Marilyn Miller
Alaska Municipal League
Juneau, Alaska
586-1325
Position Statement: Comments on changes they would like.

Cherie Shelley
Alaska Public Employees Association
no address or phone given
Position Statement: Comments on bills.

PREVIOUS ACTION

HB 619

No previous action.

Statutory Reference: AS 14.20

Action Taken: No action taken during this meeting as sponsor had requested hearing be delayed.

HB 698

No previous action.

Statutory Reference: AS 14.20; AS 14.25

Action Taken: No action taken during this meeting.

HB 705

No previous action.

Statutory Reference: AS 14.20; AS 14.25; AS 39.35

Action Taken: No action taken during this meeting.

ACTION NARRATIVE

Tape #22
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:08 p.m. Members present were: Representatives Martin, Bylsma, Randolph, and Rogers. Representative Gardiner was absent. Also in attendance were Representatives Cato and Zharoff. Before the committee were House Bills 619, 698, and 705. Rep. Martin said that the prime sponsor of HB 619, Rep. Metcalfe, had asked that the committee delay hearing on HB 619.

Number 013

Rep. Cato, prime sponsor of HB 705, testified regarding the need for the bill, and gave a history of prior legislation. She said the bill does not increase the teacher's contribution. It sets guidelines to determine the increase each age group receives, cost of living eligibility, and survivor's benefits. She feels this needs to be addressed. Rep. Rogers inquired about the fiscal note; Rep. Cato responded. There was discussion of the fiscal note and impact.

Number 147

Rep. Zharoff, prime sponsor of HB 698, said a sponsor substitute for the bill should have been given to the committee. He said if the committee would adopt his proposed sponsor substitute as a committee substitute, it would help for clarification. Rep. Zharoff gave background on the bill and explained the fiscal note. He said, if the committee preferred, he would give them suggested amendments in lieu of adopting the sponsor substitute.

Number 200

There was discussion by the committee of the differences in HB 698 and HB 705.

Number 240

Bob Cooksey, NEA-Alaska, said they favored both bills, and encouraged adopting Rep. Zharoff's sponsor substitute. He went over the impact of both bills, and gave his reasons for supporting the legislation. At Rep. Rogers' request, Cooksey went over HB 698, section by section.

Number 415 — Rep. Martin asked if there is enough money in the pension fund to cover cost of living allowances in the future, or if this would be paid out of the general fund. There was discussion of the pension fund and investments. Rep. Rogers gave background of investment powers.

Number 403 — Bob Manners, NEA-Alaska, gave background supporting the need for HB 619. He gave their concept of need for arbitration in collective bargaining, and the affect. Manners said, regarding the intent of the legislation, that arbitration is good. He went over portions of the bill they're concerned about, section by section.

Number 694 — Bob Greene, Alaska School Board, testified regarding HB 619. He said the school boards support the first section dealing with mediation. He said current law gives direction to the federal government, but the federal government uses its own laws. He said a provision should be added to allow mediation to be used more than once in a bargaining period. Greene commented on other sections of the bill.

Side B, Number 077 — There was discussion of the right to strike, alternative arbitration, and accelerated bargaining.

Number 209 — Regarding HB 698, Greene commented on the change in function of the teacher retirement board. He said the school boards oppose this unless there is a change in composition of this board. He said that, if the board can make policy decisions, the members should represent all parties affected. He said no provision is made for school board input. There was discussion.

Number 269 — Greene spoke of the increase in employer contributions. He proposed that either the local employer contribution be frozen at the same contribution as the employee's; or that all parties contributing (employer, employee, state) be treated the same. He suggested the state accept the responsibility for paying for the increased costs. He agreed that a post-retirement benefit would be helpful.

Number 359 — Fred Muller, Deputy Commissioner, Department

of Administration, testified regarding both HB 705 and HB 698. Muller said that HB 705 provides an automatic cost of living adjustment. He elaborated on how these adjustments are made, and their future impact. Muller said HB 705 recognizes that older people have more difficulty living on a pension than younger retirees. He said no adjustment is made for those people under 55 years old. Muller said that continuing to fund ad hoc increases will put the retirement system in a position similar to the federal social security system. He said the funds needed will be billions of dollars per year in the future. He supported yearly funding. Muller said HB 705 does not take into account the employee contribution. He felt employees should contribute to benefits they will receive.

Number 468 — There was a discussion of costs and investments.

Number 536 — Regarding HB 698, Muller said it was the same as former HB 121, only it was related just to teachers. Muller explained the investment decisions made by the Department of Revenue. Muller went over changes they would recommend to HB 698. There was discussion of how the program would be funded.

Tape 23, Number 015 — Marilyn Miller, Alaska Municipal League, said they would like to see the increase in benefit costs borne by the employees.

Number 025 — Cherie Shelley, APEA, supported the cost of living increases. She said the problem with HB 698 is that it addresses only teachers. She felt this would upset employees in the PERS system, and felt the bill should cover both groups.

Number 057 — Rep. Martin said that the bills would be heard again at a later time. Jeff Barry, committee aide, said the attorney general had requested more time on HB 557; Rep. Martin explained why they had requested more time.

Number 076 — There being no further business to come before the committee, the meeting was adjourned at 2:45 p.m.

Gardiner] absent
~~Randolph~~

Cato, Zharoff attending

1:08 2/22/82

000 Call to order

HB619 Sponsor requested hrg be delayed

013 HB 705 - Betty Cato - gave reason for legislation
& history of prior legis.. Bill does not increase
teachers contrib contribution. Sets guidelines to
determine increase each age group recvs, COLA eligibility,
disability & ~~spouse of deceased~~ survivors benefit. Feels this
needs to be addressed.

066 Rogers inquired about fiscal note, Cato responded.
Discussion of note & impact.

109 Martin said it seemed we're mandating increase
(ref'd secs. 2 & 3); discussion of where funds
will come fm (revenue funds, pension plan funds, etc).

147 Rep. Zharoff - HB698 - prime sponsor. Said sponsor
substitute shd have been in packets - it's being revised
for final submission. Said if comm. w/d adopt his
sponsor sub as a comm. sub, w/d help for clarification.
~~Rogers was not~~ (This was not formally done.) Gave background on bill & explained
fiscal note. Said he'd give. Gave suggested amdmts in lieu of
adopting ~~the~~ sponsor sub.

200 Martin, Rogers discussed differences in 698 & 705.
Discussion.

040 Bob Cooksey ANEA (?) Alaska - favored both bills;
encouraged adopting Rep Z's CS. Went over what
Cato's bill does & what Zharoff's bill does; gave
reasons for supporting legislation.

~~Senate~~ Spoke of what teacher board wd do.

285 Rogers requested he go over sections of HB698.

291 Cooksey ~~a~~ did so, section by section (draft CS/SS)

366 ~~Discussion~~. Recognize cost; if, in long run, continue as presently set up, will eventually be more costly than this legislation

385 Randolph asked status of administrative option; Cooksey said it has been implemented for present yr. Implementn depends on funds (?). Gave history of this option.

~~405 Discussion~~.

415 Martin asked if there is enough ~~funds~~ money in pension fund to cover cola's in future, or if wd be pd out of general fund. Discussion of pension fund & investments.

439 Rogers gave background of investment powers.

447 Rogers asked abt testimony on labor relations bills - discussion.

463 Bob Manners, NEA Alaska, re HB 619 - gave their concept of need for arbitration in collective bargaining & affect. Gave background supporting need for HB 619. Said, re intent of legis, arbitration is good. Went over portions of bill they're concerned about - p. 2-4, strike section

533 p. 2, l. 23-27 - ~~court order shd carry order to use arbitrat~~

p. 3 - right to strike - concerned abt how right to strike is arrived at.

p. 4 - arbitration procedure - ambiguity in Sec A.

p 4 - para C - selection of arbiter - shd be latitude

p 5 - para E - arbiters award shd be dealt with item by item rather than total pkg.

637 Cost of arbitration - hopefully state wd assist in cost. Not all school districts can afford it.

last p., sec 14 - discrepancy in bill

677 Rogers - asked if theys prefer the bill or current law.

Manners said finality is important process

694 Bob Green, ak School Board - re HB 619 - school boards ~~one incentive to take new~~ support first section dealing w/mediation. Current law gives direction to fed govt; feds use their own laws.

Side B

Shd add provision to allow mediation to be used more than once in bargaining period.

020 Sec 14.20.580 - fed mediation svc will not provide reports; suggested deleting reference to reports.

Sec 2 - difficulty w/ref to lockout.

053 Rogers asked clarification; discussion

077 Green - sec 3, right to strike determined by election - concerned abt impact in rural community.

096 Rogers - ~~pud~~ school who he rather have decision (strike/arbitration)

Green - feel this wd be handled at statwide level; wd rather see determination by local govt agency, even borough or city govts.

129 ~~Doug~~ Rogers - if teachers don't have right to strike & mediation unsuccessful, what alternative do teachers have?

Green - advisory arbitration; good collective bargaining will result in agmt. Things can be done to speed process. Don't support third party arbitrator in any case. Thinks too much time spent in process is problem. Spoke of accelerated bargaining & other options to speed process.

209 Green - re retirement bills

HB 698 - ref to chng in function of teacher retirement bd: school boards oppose this unless there is chng in makeup of this bd. If board can make policy decisions, members shd represent all parties affected. No provision made for school bd input.

14.25.035-252 Rogers - then include ? to clarify what they want.

260 Green - cost of bill causes abt 5% increase of employer contribution (Randolph/Rogers clarified - presently 8.45% of wages; will go to 12.27%, which is close to 50% increase in contribution). Concerned. Proposed either local empr cont'n be frozen at same as employees cont; or all parties ~~cont'g~~ contributing (empe, empr, state) be treated the same. Significant amt of money. ~~If increasing teacher benefits~~ Suggested state accept responsibility for paying for the change increasing ~~over that~~ costs already known. Agreed post-retirement benefit wd be helpful.

359 Fred Mullen, dep comm, dept admin, re HB 705 & 698.

HB 705 bill provides automatic cola adjustment - elaborated on how cola adjustments are made, & future impact. [Cost ~~not~~ of new benefits is not actuarily funded.] 705 provides cola adjustment recognizing that older people have more difficulty living on pension than youngers. No adjustments for those under 55. Continuing to fund ad hoc increases will put retirement system in prob similar to Soc. security. Funds needed will be billions per yr in future. Support fndg each yr.

448 HB 705 doesn't take into account employer contribution; employees shd contribute to benefits they will receive. Agreed w/ Rogers that this wd reduce fiscal note.

468 Rogers request 1 cost, assuming 4% ad hoc, actuarial cost.

480 Martin said he had assumed investments were made to take care of bene. increases; asked how it works.

491 Muller — Comm of Dep of Admin makes that decision. ~~Actuarial estimates~~ Explained how system works, factors considered. Said no state funds from general revenues.

536 Rogers asked when decisions for ad hoc increases are made; Muller ~~stated~~ explained.

Discussion.

HB 698

0553 Muller said 698 is same as former ~~121~~ 121, only related just to teachers.

HB 705

564 Martin asked abt HB 705, sec 2, increasing benef. payts. Muller explained bill. Said mandatory increase is easier to budget.

Discussion. Muller explained investment decisions by Dept. Revenue

HB 698

611 Recommended chgs —

p. 4, l. 14 (orig bill) — word "membership" be chgd to "credited"

p. 7, l. 5 — last word "state" shd be chgd to "employer-sponsored"

, l. 6 — first word " " " " "

overall — tried to address probs (in 121) in administering system; 698 only addresses prob w/ teachers, doesn't address PERS. Admin wd prefer to see total prob treated.

672 Randolph asked opinion of 1/0 cost sharing (empr, empe)

085 Muller - ~~Employer determines benefit Equal Sharing~~
Doesn't address major problems, like automatic Cola
Discussion. Randolph had questions abt program.

729 Muller explained. Retirement determined by wages & length of svc.
Tape 2
Discussion.

015 Marilyn Miller, AK Municipal League - ~~Hrgs~~ ~~don't recognize~~
would like to see, in benef. increases, costs be borne by employees.

026 Sherry Shilley, APEA (PERS & TERS system) - support Cola increases -
~~concepts to be~~ prob. w/ 698, in it addresses post teachers; would upset
other employees (PERS) - shd cover both groups.

042 Martin asked Muller for fiscal note on HB 698 to include PERS as well as TERS.
Martin said thinking of bringing bills up again Thurs.

057 Will wk on WC & these bills Thurs.

063 Barry said AG requested more time on HB557.

066 Martin explained why AG needed more time.
Went over agenda.

076 Adjourned. 1:45.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 2/22/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:00	
Rep. D. Randolph	✓		1:18	
Rep. B. Rogers	✓		12:58	
Rep. T. Gardiner				
Rep. T. Martin, Chair	✓		12:55	

Subject Matter:

House Bill No.	705	619	698		
Senate Bill No.					

Special Orders:

HB 617
HB 698
HB 705

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
[redacted]				
Marie Brodie		AK Mun. League	yes	6-1325
Don Oberg		NEA-AK	no	276-3091
Chris Shelley		AFGA	yes	
D Rondeau		Alaska District Council of Laborers (Local 71)	No	586-3107

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2-22-82

HB 619
HB 698
HB 705
} Combined

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Rep Cato	Capital 128		✓	X4858
Ronnie Coulter	"	Rep Cato		"
Bob Manners	147 S. Franklin	NEA - AIC	Yes	619, 698, 705
Bob Cooksey	147 S Franklin	NEA-AIC	Yes	619.698-705
Bob Greene	326 4TH St.	AK Sch. Boards	YES	586-1083
Fred Mueller	Rowe & Tunnell	Dept. of Admin	YES	705=698
John Logan	"	"	"	465-4462
Ken Humphreys	"	"	"	"

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2/22/82

2-23-82

HR 17

HB 662

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 23, 1982
1:10 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph
Rep. Gardiner

COMMITTEE CALENDAR

HR 17 — Requesting AHFC, AIDA, and the Department of Community and Regional Affairs to obtain and analyze statistical data on unlawful discrimination in state loan programs.

HB 662 — An Act relating to occupational licensing fees; and providing for an effective date.

WITNESS REGISTER

Harry D. Treager
Division of Occupational Licensing
Juneau, Alaska 99811
465-2534
Position Statement: Available to answer questions.

Peter Froehlich
Assistant Attorney General
Department of Law
Juneau, Alaska 99811
465-3600
Position Statement: Available to answer questions.

Wayne Jensen
Board of Architects, Engineers, and Land Surveyors
Box 310
Juneau, Alaska 99801
586-1070
Position Statement: Expressed concerns about HB 622.

PREVIOUS ACTION

HR 17 — No previous formal action. See minutes of House Labor & Commerce teleconference meeting of 1/14/82.

Statutory Reference: none.

Action Taken: Rep. Martin moved to accept a Labor & Commerce committee substitute. Motion passed unanimously.

Rep. Martin moved to report CSHR 17 from committee. On the question: for--Martin, Rogers, Randolph; opposed--Bylsma. Motion passed.

HB 662

No previous action.

Statutory Reference: AS 08.01; AS 08.04; AS 08.13; AS 08.18; AS 08.20; AS 08.32; AS 08.36; AS 08.40; AS 08.42; AS 08.48; AS 08.54; AS 03.62; AS 08.64; AS 08.68; AS 08.70; AS 08.71; AS 08.72; AS 08.80; AS 08.84; AS 08.86; AS 08.98; AS 08.99.

Action Taken: No action taken.

ACTION NARRATIVE

Tape #2
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:10 p.m. Members present were: Representatives Martin, Bylsma, and Rogers. Representatives Randolph and Gardiner arrived later in the meeting.

Number 011

Representative Martin gave the background of HR 17 (a meeting before session with NAACP, and a teleconference held by the House Labor & Commerce Committee on 1/14/82 regarding possible discrimination in the financial community).

Number 033

Rep. Martin moved to accept the Labor & Commerce committee substitute. Rep. Bylsma objected. After discussion, Rep. Bylsma removed his objection. Committee substitute for HR 17 was adopted.

Number 039

There was discussion of the intent of the resolution. Rep. Bylsma did not think it appropriate for departments to investigate themselves. Rep. Rogers suggested that legislative subpoena could be used if there are problems getting information. The committee discussed means of acquiring information.

Number 080

Rep. Martin said part of the reason for the

resolution was to assure minorities that action is being taken.

Number 091 — Rep. Martin moved to report CSHR 17 from committee. On the question: for--Rogers, Martin, Randolph; opposed--Bylsma. Motion passed.

Number 122 — Rep. Martin brought HB 662 before the committee.

Number 125 — Harry Treagor, Division of Occupational Licensing, and Peter Froehlich, Assistant Attorney General, came before the committee to answer questions. Froehlich went over HB 662.

Number 146 — Froehlich said the bill is similar to legislation introduced in 1979. He said the principle of the authorizing agency to set fees has been followed recently. He used corporate filings as an example. Froehlich said advantages are that setting fees by regulation makes fees more flexible and easier to adjust. He said uniformity was another advantage. Currently, there are 19 boards with 88 licensing categories. Each board sets fees, in most cases. Froehlich said this bill would accomplish uniformity, as the same entity would set fees for all boards who license people. He said this could more closely match the cost of licensing a program to each program. He noted that the bill also includes some housekeeping changes.

Number 190 — Rep. Rogers had questions. Rogers said the department ends up setting fees in case of disagreement between the department and the board. He noted that most boards and comissions are subject to sunset review, so the fees could change every four years as an inclusion in sunsetting bills. He said that many boards and commissions license only a few people. He felt that charging the costs to the departments involved might be expensive. Rep. Rogers asked for input from the affected departments. There was a discussion of costs, and of consolidating boards.

Number 309 — Rep. Gardiner said that a policy decision has been made that boards exist and agencies regulate. He said the legislature

appropriates funds for these boards. He asked who should pay the budget with this system. He felt it has always been easier to take money from general funds than to raise fees. Gardiner said a policy decision needs to be made as to who pays what share of the burden.

Number 348 — Rep. Rogers said a problem could arise if an agency has an empire-builder on staff who wants to increase staff. He felt it would be easy for a division to raise fees and add employees without being questioned by the legislature. He agreed that some fees need adjusting, but felt it should be done by statute rather than regulation. Rep. Rogers felt some portion of the costs should be borne by the regulated industries, some by the public.

Number 412 — Treagor agreed with Rep. Rogers regarding sunsetting. He gave his reasons for supporting the bill.

Number 441 — Rep. Gardiner requested a proposed fee schedule from the Division of Occupational Licensing. There was discussion of the need for this information.

Number 462 — Rep. Rogers felt another concern to be addressed with making the industry bear costs, especially in a field such as medical, is that there is dislike and dissention within the field. It could happen that one profession would increase the fees of another (dentists increase fees of dental hygienists, for example). If legislative review of regulations was clearly established as constitutional, he would be less concerned.

Number 505 — Wayne Jensen, Board of Architects, Engineers, and Land Surveyors, was concerned that regulations have in the past been established by boards, and it appears the Department of Commerce would establish regulations that will cover boards (under the provisions of the bill). He felt there appears to be little advantage to doing this. Jensen thought fees were often viewed more as a tax than as a cost. He said the Board directly receives no more than 15-20% of the fees generated. He would prefer that the board should establish fees and

procedures, and the Department of Commerce should assist the board. Jensen said that boards are not intended to serve departments.

Number 656 — In response to a point Jensen brought up in explaining his position regarding HB 662, Rep. Randolph felt that professional associations should provide funds for travel to participate in national and regional conferences.

Number 720 — No action was taken on HB 662. There being no further business to come before the committee, the meeting was adjourned at 1:55 p.m.

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 23, 1982
1:10 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph
Rep. Gardiner

COMMITTEE CALENDAR

HR 17 — Requesting AHFC, AIDA, and the Department of Community and Regional Affairs to obtain and analyze statistical data on unlawful discrimination in state loan programs.

HB 662 — An Act relating to occupational licensing fees; and providing for an effective date.

WITNESS REGISTER

Harry D. Treager
Division of Occupational Licensing
Juneau, Alaska 99811
465-2534
Position Statement: Available to answer questions.

Peter Froehlich
Assistant Attorney General
Department of Law
Juneau, Alaska 99811
465-3600
Position Statement: Available to answer questions.

Wayne Jensen
Board of Architects, Engineers, and Land Surveyors
Box 310
Juneau, Alaska 99801
586-1070
Position Statement: Expressed concerns about HB 622.

PREVIOUS ACTION

HR 17 — No previous formal action. See minutes of House Labor & Commerce teleconference meeting of 1/14/82.

Statutory Reference: none.

Action Taken: Rep. Martin moved to accept a Labor & Commerce committee substitute. Motion passed unanimously.

Rep. Martin moved to report CSHR 17 from committee. On the question: for--Martin, Rogers, Randolph; opposed--Bylsma. Motion passed.

HB 662

No previous action.

Statutory Reference: AS 08.01; AS 08.04; AS 08.13; AS 08.18; AS 08.20; AS 08.32; AS 08.36; AS 08.40; AS 08.42; AS 08.48; AS 08.54; AS 08.62; AS 08.64; AS 08.68; AS 08.70; AS 08.71; AS 08.72; AS 08.80; AS 08.84; AS 08.86; AS 08.98; AS 08.99.

Action Taken: No action taken.

ACTION NARRATIVE

Tape #24
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:10 p.m. Members present were: Representatives Martin, Bylsma, and Rogers. Representatives Randolph and Gardiner arrived later in the meeting.

Number 011

Representative Martin gave the background of HR 17 (a meeting before session with NAACP, and a teleconference held by the House Labor & Commerce Committee on 1/14/82 regarding possible discrimination in the financial community).

Number 033

Rep. Martin moved to accept the Labor & Commerce committee substitute. Rep. Bylsma objected. After discussion, Rep. Bylsma removed his objection. Committee substitute for HR 17 was adopted.

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There was discussion of the intent of the resolution. Rep. Bylsma did not think it appropriate for departments to investigate themselves. Rep. Rogers suggested that legislative subpoena could be used if there are problems getting information. The committee discussed means of acquiring information.

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Rep. Martin said part of the reason for the

resolution was to assure minorities that action is being taken.

Number 091 — Rep. Martin moved to report CSHR 17 from committee. On the question: for--Rogers, Martin, Randolph; opposed--Bylsma. Motion passed.

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Number 309 — Rep. Gardiner said that a policy decision has been made that boards exist and agencies regulate. He said the legislature

appropriates funds for these boards. He asked who should pay the budget with this system. He felt it has always been easier to take money from general funds than to raise fees. Gardiner said a policy decision needs to be made as to who pays what share of the burden.

Number 348

Rep. Rogers said a problem could arise if an agency has an empire-builder on staff who wants to increase staff. He felt it would be easy for a division to raise fees and add employees without being questioned by the legislature. He agreed that some fees need adjusting, but felt it should be done by statute rather than regulation. Rep. Rogers felt some portion of the costs should be borne by the regulated industries, some by the public.

Number 412

Treagor agreed with Rep. Rogers regarding sunsetting. He gave his reasons for supporting the bill.

Number 441

Rep. Gardiner requested a proposed fee schedule from the Division of Occupational Licensing. There was discussion of the need for this information.

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Rep. Rogers felt another concern to be addressed with making the industry bear costs, especially in a field such as medical, is that there is dislike and dissention within the field. It could happen that one profession would increase the fees of another (dentists increase fees of dental hygienists, for example). If legislative review of regulations was clearly established as constitutional, he would be less concerned.

Number 505

Wayne Jensen, Board of Architects, Engineers, and Land Surveyors, was concerned that regulations have in the past been established by boards, and it appears the Department of Commerce would establish regulations that will cover boards (under the provisions of the bill). He felt there appears to be little advantage to doing this. Jensen thought fees were often viewed more as a tax than as a cost. He said the Board directly receives no more than 15-20% of the fees generated. He would prefer that the board should establish fees and

procedures, and the Department of Commerce should assist the board. Jensen said that boards are not intended to serve departments.

Number 656 — In response to a point Jensen brought up in explaining his position regarding HB 662, Rep. Randolph felt that professional associations should provide funds for travel to participate in national and regional conferences.

Number 720 — No action was taken on HB 662. There being no further business to come before the committee, the meeting was adjourned at 1:55 p.m.

2/23/82 HL&C HB 662
HR 17

Absent: ~~Gardiner~~, ~~Randolph~~

000

1:10 Call to order by Martin

011 HR17 & CS – gave history of legislation (mtg w/NAAC 1½ & gen telecons)

~~033~~ ~~HB~~

033 Martin moved to accept CS & asked unan consent; objection by Byloma; removed; CS adopted.

039 Byloma doesn't think appropriate for depts to investigate themselves.

Discussion of intent of resolution. Rogers suggested legislative subpoena cd be used if there are problems getting info. Martin ~~said~~ gave his thoughts abt getting info; Byloma felt info wd not be unbiased.

Discussion of means of getting info.

080 Martin said part of the reason was to assure ~~of~~ minorities that action is being taken.

091 Martin moved to pass resol. out of comm. As Rep. Randolph just arrived, he asked explanation of resolution.

Question for, Martin, Rogers, Randolph Opp. Byloma

~~Not~~ CSHR17 passed fm Committee.

HB662

122 ~~In~~ Martin intd HB 662

125 Harry Treagor, Dir Occ'l Licensing, & Peter Knoblich, ACT ofc, said they're avail to answer questns.

1:25 Martin left

136 Treagor - said ~~bill was to b~~ requested revising fee structure

146 Peter Faelich, Asst AG -

- ~~#~~ similar to legislation intd in 1977
- principle of authorizing agency to set fees has been followed recently. Have example (corporate filing).
- Advantages
  1) Setting fees by regn makes fees more flexible, easier to adjust.
  2) Uniformity. Currently 19 bds w/ 88 licensing categories - each bd setting fees in most cases. This bill wd accomplish uniformity - same entity wd set fees for all bds who license people.
  3) More closely match cost of licensing pgm to each ~~pgm~~ pgm.

Bill also includes some housekeeping things.

190 Rogers - gotcha

- dept ~~sets~~ sets up setting fees in case of disagmt bet dept & bd.
- most bds & comms subject to sunset law, so fees can change every 4 yrs in bills to sunset orgns.
- Many bds & comms don't license that many people. Chging costs to depts might be expensive. Wants depts input.

Discussion of costs w/ Treagor.

Rogers - sometimes creating boards increases costs in situs that don't warrant a board.

Discussion of consolidating bds.

267 Rogers asked why dept rather than bd shd set fees.

270 Treagor - uniformity, & awareness, & experience to base fees. Agreed w/Rogers concerning small bds not always being necessary.

285 Discussion.

294 Randolph - went over problems he foresees

309 Gardiner -- policy decision has been made that bds exist & agencies regulate. Legis approp's funds for these bds. Who shd pay the budget with this system. Felt it has always been easier to take money fm gen'l funds than to raise fees. Policy decision needs to be made on who pays what share of the burden.

348 Rogers - Problem - if agency has an empire-builder on staff who wants to increase staff, wd be easy for division to raise fees & add people w/o it being gotnd by Legislature. Agreed some fees need adjusting, but feels it shd be done by statute rather than regn. Feels some portion of costs shd be borne by regl'd industries, some by public

396 ~~Randolph - either, reduce # of bds~~ Discussion.

409 Bylsma re-directed committee to getting witnesses

412 Treagor - agd w/Rogers re sunsetting. Gave his reasons for supporting bill.

441 Gardiner requested a prop'd fee schedule fm Occ'l Licensing. Discussion of need for this info.

462 Rogers – another concern w/ making industry bear cost, esp in medical field, for example, there is dislike or dissention w/in field. Cd happen that one profession wd increase fees of another (dentists increase dental hygienists, eg). If legis rev of regns were clearly established as const'l, wd be less concerned.

505 Wayne Jensen, Bd Arch, Engrs & Land Surveyors – concerned

1) regns ~~that~~ have in past been est'd by bds; appears that Commerce will establish regs that will cover bds. Appears to be little advantage to doing this. ~~Concerned that revenues generated for registration~~ All 3 types of members ~~ok in conjunction bds~~ participate w/ ~~federal~~ national committee to provide uniformity.

Thinks fees are often viewed more as a tax than as a cost. Bd directly recvs no more than 15-20% of fees generated. Wd prefer that bd shd establish fees & procedures & Dept of Commerce shd assist bd. Bds not intended to serve dept.

656 Randolph – ~~rather than have state decide allowable expenses~~, professional assoc. shd provide funds for travel to participate in national/regional confs (in response to a point Jensen brought up in explaining his posn).

Discussion.

720 Mtg adjourned 1:55. No action.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 2/23/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:00	
Rep. D. Randolph	✓		1:18	
Rep. B. Rogers	✓		1:00	
Rep. T. Gardiner	✓		1:06	
Rep. T. Martin, Chair	✓		12:55	

Subject Matter:

House Bill No. 662 HR 17 _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
STEVEN Levi	Capitol	HHPS	NO	3720
DAN KANOUSE	Pouch B	Community & Regional Affairs	No	4708
HARRY D. TREAGER	Occupational Licensing	Divi Occupational	IF REQUESTED	2534
F W INGLEDUE	481 - 6L HWY Juneau			
PETER FROEHLICH	AGO - Juneau	DEPT of LA-W	(Yes)	3600

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2/23/82

HB 622

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
WAYNE JENSEN	BOX 310 JUNEAU	BD. ARCH. ENG & LAND. SURVEYORS	YES	586 1070

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2-23-82

POSITION PAPER
HOUSE BILL 662

Department of Commerce and Economic Development. "An Act relating to occupational licensing fees and providing for an effective date."

AMENDING LICENSING FEES

This bill would give the Department of Commerce and Economic Development the authority to establish licensing fees by regulation. It centralizes the responsibility of setting fees which accurately reflect the cost of licensing and examination services for the various professions licensed through the Division of Occupational Licensing.

This bill also amends inconsistencies in existing language throughout Title 8.

FISCAL IMPACT ANALYSIS

The attached fiscal note reflects the need for a research aide (contractual basis) to assist the regulations specialist in assessing the various costs incurred by the State in the licensing and examination processes for 88 licensing categories. It is anticipated that once the fee regulating project is outlined, the necessary research should be completed by the research aide within eight months. The staggering of established renewal periods and recent changes in legislation may affect the commencement of this project. This could occur in FY '83, FY '84 or the beginning of FY '85.

Once the initial research has been completed, the research aide's contract will be terminated and the department's regulation specialist will consult the respective licensing boards and proceed with the regulation adoption process pursuant to the Administrative Procedures Act.

RECOMMENDATION

The department strongly supports the passage of this bill.

Recommended by: Harry D. Treager
Harry D. Treager, Director
Division of Occupational Licensing

Date: February 23, 1982

Approved by: E.W. Eboch
Edward W. Eboch
Deputy Commissioner
Department of Commerce and Economic Development

Date: 2-23-82

POSITION PAPER
HOUSE BILL 662

Department of Commerce and Economic Development. "An Act relating to occupational licensing fees and providing for an effective date."

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This bill would give the Department of Commerce and Economic Development the authority to establish licensing fees by regulation. It centralizes the responsibility of setting fees which accurately reflect the cost of licensing and examination services for the various professions licensed through the Division of Occupational Licensing.

This bill also amends inconsistencies in existing language throughout Title 8.

FISCAL IMPACT ANALYSIS

The attached fiscal note reflects the need for a research aide (contractual basis) to assist the regulations specialist in assessing the various costs incurred by the State in the licensing and examination processes for 88 licensing categories. It is anticipated that once the fee regulating project is outlined, the necessary research should be completed by the research aide within eight months. The staggering of established renewal periods and recent changes in legislation may affect the commencement of this project. This could occur in FY '83, FY '84 or the beginning of FY '85.

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The department strongly supports the passage of this bill.

Recommended by: Harry D. Treager
Harry D. Treager, Director
Division of Occupational Licensing

Date: February 23, 1982

Approved by: E.W. Eboch
Edward W. Eboch
Deputy Commissioner
Department of Commerce and Economic Development

Date: 2-23-82

2-24-82

E.O. 52

HB 641

HB 642

HB 641
HB 642 →

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Judy Knight	Box 1149 Juneau	Dept of Labor	Yes	2700
Dale Cheek	Box 630 Juneau	" " "	Yes	4870
Lizzette Clark	P.O. Box 10492 Fairbanks	C.J. Mining Inc.	HB 641 Yes	456-3086
[signature]	Fourth Dr	Dept. of Com.		465-2512
Staack				

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2/24/87

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 2/24/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:10	
Rep. D. Randolph	✓		1:05	
Rep. B. Rogers				
Rep. T. Gardiner	✓		1:18	
Rep. T. Martin, Chair	✓	~~Late~~	12:55	

Subject Matter:

House Bill No. 641 642 _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

Executive Order 52

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 24, 1982
1:12 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph
Rep. Rogers

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

Executive Order 52 — Regarding merging the statutory responsibilities of the Wage and Hour Division and the Division of Occupational Safety and Health within the Department of Labor.

HB 641 — An Act establishing a personal loan program for Alaska residents; and providing for an effective date.

HB 642 — An Act establishing the Alaska natural resource trust; and providing for an effective date.

WITNESS REGISTER

Judy Knight
Department of Labor
Box 1149
Juneau, Alaska 99811
465-2700
Position Statement: Explained Executive Order 52.

Dale Cheek
Department of Labor
Box 630
Juneau, Alaska 99811
465-4870
Position Statement: Explained Executive Order 52.

Anselm Staack, Comptroller
Division of Treasury
Department of Revenue
Pouch SB
Juneau, Alaska 99811
465-2350
Position Statement: Went over fiscal notes necessary for HB 642.

Billy Berrier, Director
LAA Legal Services
Pouch Y
Juneau, Alaska 99811
465-3867
Position Statement: Available to answer questions.

Lynette Clark
CJ Mining, Inc.
PO Box 10492
Fairbanks, Alaska
456-3086
Position Statement: Testified in support of HB 641 and 642.

Dave Massey, Deputy Direction
Livision of Loans & Veterans Affairs
Department of Commerce
Pouch D
Juneau, Alaska 99811
465-2510
Position Statement: Testified regarding HB 641.

PREVIOUS ACTION

Executive Order 52 — No previous action.

Statutory Reference: AS 18.60; AS 23.10.075.

Action Taken: Rep. Rogers moved that the committee write a letter to Speaker Hayes stating that the committee had reviewed EO 52 and found it to be of benefit to the administration, and note changes (correction of clerical errors). Motion passed without objection.

HB 641 — No previous action.

Statutory Reference: AS 45.

Action Taken: Rep. Rogers moved to delete Section 1. There was objection by Rep. Randolph. On the question: for--Rogers, Martin, Bylsma; opposed--Randolph. Motion passed.

Rep. Rogers moved, page 2, line 26, to add subsection (3): "makes an application for the loan on or before August 24, 1982." Rep. Bylsma objected. Rep. Rogers withdrew the motion and restated it, changing the date to November 1, 1982. On the question:

for--Rogers, Randolph; opposed--Bylsma, Martin. Motion failed.

Rep. Rogers moved, page 2, line 10, insert after the word "for", the words "up to". On the question: for--Rogers, Randolph, Bylsma; opposed--Martin. Motion passed.

Rep. Rogers moved, page 2, line 5, to insert a new sentence, to read, "If funds appropriated to this program are insufficient to fully fund all loan applications, the Commissioner shall reduce the maximum amount of the loan to an amount which would allow all loans to be made." On the question: for--Rogers, Randolph; opposed--Bylsma, Martin. Motion failed.

Rep. Rogers moved to incorporate the amendments into a new committee substitute for HB 641. On the question: for--Rogers, Randolph; opposed--Martin, Bylsma. Motion failed.

Rep. Bylsma moved, page 2, line 26, to delete subsection (2). Rep. Randolph objected, and withdrew his objection. Motion passed without objection.

Rep. Randolph moved to rescind the committee's action in not adopting Rep. Rogers' amendment to page 2, line 5. On the question, for--Rogers, Randolph; opposed--Martin, Bylsma. Motion failed.

Rep. Randolph moved to report the bill from committee with individual recommendations. On the question: for--Rogers, Randolph; opposed--Martin, Bylsma. Motion failed.

Rep. Randolph moved to rescind the committee's action in not reporting the bill from committee. On the question: for--Rogers, Randolph; opposed--Martin, Bylsma. Motion failed.

1 42 Resources Committee added Labor & Commerce Committee referral by unanimous consent. Bill was moved from Resources to Labor & Commerce 1/12/82.

Statutory Reference: AS 37.

Action Taken: No formal action taken. Rep.

Rogers requested forming a subcommittee to review bill. Rep. Martin said he wished to discuss composition of a subcommittee with the House leadership before appointing a subcommittee.

ACTION NARRATIVE

Tape #25
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:12 p.m. Members present were: Representatives [illegible]n, Bylsma, Rogers, and Randolph. Representative Gardiner was absent.

Number 010

Rep. Martin brought Executive Order 52 before the committee for consideration. He asked Judy Knight and Dale Cheek, both from the Department of Labor, to come before the committee to give an overview of the Order.

Number 014

Judy Knight said Dale Cheek would be the director of the proposed Labor Standards & Safety. She gave background of the need for the order, and went over how the new name was selected, based on the functions of the agency. In response to a question by Rep. Martin, Knight explained the new draft which was given to the committee was needed because of incorrect statutory citations. The changes were discussed, and changes adopted.

Number 070

There was discussion about what action to take on the order. Rep. Rogers moved that the committee write a letter to the Speaker of the House stating that the committee had reviewed EO 52 and found it to be of benefit to the administration. Motion passed without objection.

Number 094

Rep. Martin brought HB 642 before the committee, and said that Legal Services wished to testify. Rep. Martin noted that HJR 81 is similar to HB 642.

Number 111

Rep. Randolph, prime sponsor of HB 642 and HJR 81, spoke of the purpose of the legislation, which he said was to take a percentage of resource development income, aside from taxes income, and create a trust, of which every Alaskan would be a

beneficiary. For his motivation, he said he believes the wealth belongs to the people of the state, and should be shared equitably. He said this legislation would affect 25-30% of the total income from resource extraction. He expanded on this, and recommended appointing a subcommittee to examine the bill.

Number 148

Rep. Rogers, co-sponsor of HB 642, said he believes this can be done without a constitutional amendment. He concurred with Rep. Randolph that the bill should be worked on by a subcommittee.

Number 169

Rep. Martin said he is concerned this is similar to a bill by Senator Gravel (which would have created AGSOC, Alaska General Stock Ownership Corporation). Rep. Randolph explained the difference, and said it would have the opposite effect. Rep. Rogers noted the similarity--transferring money from the state to individuals--but felt the trust is just a vehicle to transfer funds, not to conduct business. He gave examples of similar royalty trusts. Rogers said the advantage of a trust is that there are good precedents of similar trusts. Rep. Randolph went into the justification for a trust.

Number 236

Rep. Martin said the constitution already says the natural resources wealth belongs to all the people. Rep. Randolph responded that the federal and state governments have made agreements with development companies (oil companies) to the exclusion of individual participation. He said oil companies are given a favored position. Randolph said the people of the state have derived a significant share, but the money belongs to the people equally. He felt there is no justification for giving one segment more than another.

Number 275

Rep. Martin asked for a timeframe if a special subcommittee is appointed. Rep. Randolph felt that a good bill could be drafted by the end of session. Rep. Martin asked if members of the Resources Committee could be allowed on the subcommittee. Rep. Randolph felt Labor & Commerce had expertise, and suggested appointing Representatives Rogers, Gardiner, and himself.

Number 303 — Rep. Martin said Phillip Woll requested to be allowed to give input. There was discussion of fiscal notes. A gentleman from the audience said he had written a fiscal note.

Number 319 — Anselm Staack, Comptroller, Division of Treasury, said three fiscal notes were necessary: 1) the amount of revenue reduction to the general fund unrestricted amounts. He said this excluded conservation and severance tax monies; it appeared these may have been addressed in the bill, but not in the resolution. Rep. Rogers said the intent is income derived from being owners as opposed to being a sovereign taxation authority. Rep. Rogers requested a revision be prepared to match the revenue forecast. Staack referred to other fiscal notes: 2) a fiscal note reflecting administrative costs with investment money management; and, 3) administrative costs controlling share certificates, dividend distribution, etc.

Number 407 — Rep. Martin said, regarding a constitutional amendment, that the Attorney General's position on amendments and initiatives on the ballot had been unpredictable, and asked Billy Berrier, director of LAA Legal Services, to clarify. Berrier said a constitutional amendment clearly goes on the ballot. Rep. Rogers asked if the legislature could put an advisory vote on the ballot. Berrier said the legislature could do that, but he couldn't say if it has clear power to do so. Rep. Martin went over past experiences.

Number 632 — Rep. Bylsma asked why people would pay loans back if there is no security required. Rep. Randolph explained it would be similar to banks giving signature loans which require no security. The committee discussed problems with collection and the possibility of people coming to Alaska just to take advantage of "giveaway" money. Rep. Randolph said he sees the loan program taking place only once; after that, the royalty trust would come into effect.

Side B, Number 006 — Rep. Martin expressed concern about constitutionality and funding. Rep. Randolph said there is no question of constitutionality with the loan. Discussion

continued.

Number 033

Rep. Rogers recommended eliminating the sentence referring to estimated income. He expressed his feelings about participation in the program. Rep. Bylsma said he felt the first sentence of the intent section was just an opinion.

Number 059

Lynette Clark, CJ Mining, Inc., Fairbanks, said she supported the bill. She gave her views and examples of how the bill could benefit people She felt the trickle-down effect would benefit everyone. She thought many grants could be eliminated with this type of program.

Number 122

Committee discussed funding of the program. Staack answered questions posed by the committee. Rep. Rogers asked him to go ahead and figure lower costs if they can see modifications to reduce administrative costs.

Number 460

Rep. Martin said he would like to discuss composition of a subcommittee with the House Leadership before appointing a subcommittee.

Number 480

HB 641 was brought before the committee. Rep. Randolph explained the purpose of the bill. He said it is an attempt to establish a program to get money to Alaskans quickly with the least tax problems. It establishes a loan program to allow adult Alaskans to apply for a $10,000 loan, with forgiveness of 20% for each of five years after the loan is acquired for each year of residency. He asked the committee to expedite the bill in order to get it to Finance.

Number 551

Rep. Rogers said he is concerned, first, whether forgiveness makes the loan subject to taxation; and second, although he likes the idea of the loans, it seems only certain people get state loans, and probably the same people will get these new loans. He feels people should have a choice between personal loans, housing, agriculture, mining, or other loans. He said this might cut the cost while serving the same purpose.

Number 590

Rep. Randolph agreed that the loans are taxable, but thought that, with inflation, it would be advantageous. He agrees with

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whichever
this loan
for many
was an eff
and contr

Tape 26, Number 144 Repp. Mart
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discussion
differenc
in proces

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Number 225 Repp. Roge
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Number 383 Repp. Roge
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Randolph;
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Number 430 Repp. Roge
on page 2
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ept of only one state loan,
kind one chooses, but felt that
program could eliminate the need
other loan programs. He felt this
fficient way to get money, power,
ol back to the people.

in using as an example of the
loan program, explained why he felt
ld be fiscal problems. There was
n. Rep. Rogers said he saw a major
e in processing student loans and
sing the proposed personal loans.

ey, Deputy Director, Division of
eterans Affairs, said there was no
uation to be done on the
s. He said it would just be
g the application, which would also
missory note. He said there would
l processing time. There was
n.

rs moved to delete Section 1.
objection by Rep. Randolph. On
ion: for--Rogers, Martin, Bylsma;
-Randolph. Motion passed.

rs moved, on page 2, line 26, to
section (3)): "makes an application
loan on or before August 24, 1982."
ma objected. There was discussion
tting a date and the ramifications
g the legislation.

rs withdrew the motion, and
it, changing the date to "November
. On the question: for--Rogers,
opposed--Martin, Bylsma. Motion

rs moved, page 2, line 10, to
tween the words "for" and
, the words "up to". There was
by Martin. Discussion. On the
for--Randolph, Rogers, Bylsma;
-Martin. Motion passed.

rs moved to insert a new sentence
2, line 5, to read, "If funds
ated to this program are
ent to fully fund all loan
ions, the Commissioner shall reduce
um amount of the loan to an amount

which would allow all loans to be made." There was discussion of availability of funds. On the question: for--Rogers, Randolph; opposed--Bylsma, Martin. Motion failed.

Number 480 — Rep. Rogers moved to incorporate amendments into a committee substitute for HB 641. On the question: for--Rogers, Randolph; opposed--Bylsma, Martin. Motion failed.

Number 488 — Rep. Bylsma said he wanted to add, page 2, line 24, that residency must be verified. There was discussion.

Number 512 — Massey explained the certification used in the veterans program. He said it would be easy to make a form for people to sign verifying residency and establishing penalties for making false statements. Rep. Randolph felt administrative procedures could be easily established. There was discussion of verifying residency and the potential for groups of people to falsely verify each others' residency statements.

Number 592 — Rep. Bylsma moved, on page 2, line 26, to delete subsection (2). There was objection by Rep. Randolph. Rep. Randolph withdrew his objection. Motion passed without objection.

Number 725 — Rep. Randolph moved that the committee rescind its action in not accepting Rep. Rogers' motion to amend page 2, line 5, regarding proration. There was objection by Rep. Martin. On the question: for--Rogers, Randolph; opposed--Martin, Bylsma. Motion failed.

Side B, Number 010 — Rep. Randolph moved to report HB 641 from committee with individual recommendations. On the question: for--Randolph, Rogers; opposed--Martin, Bylsma. Motion failed.

Number 015 — Rep. Randolph moved that the committee rescind its action in not accepting the motion to report the bill from committee. There was discussion. On the question: for--Rogers, Randolph; opposed--Martin, Bylsma. Motion failed.

Number 026 — There being no further business to come before the committee, the meeting was

adjourned at 2:46 p.m.

~~Natural Resources~~ Comm H. Labor & Commerce
Exec Order 52, HB 641, HB 642

1:12 pm

000 START; Call to Order by Ch. Martin

Announced that Bylsma wired chair tom, as well as on his teleconf

010 Exec Order 52 - asked Knight & Cheek-Dir wage for overview

014 Judy Knight - said Cheek wd be dir of prop'd Labor Standards & Safety.
Gave background of need for order. Went over how new name was selected, based on functions of agency.

035 Cheek - agreed w/Knight.

044 Martin requested clarification abt new draft.
- Knight explained new draft was needed because of incorrect stat. citation.
- Martin - quest p2 l. 15; Knight said same error

065 ~~Martin~~ Bylsma moved to accept amdmt to correct p. 2, l. 15
No obj, amdmt passed.

070 Discussed what action to take on order
Rogers mvd comm write ltr to speaker stating comm rcvd EO 52 & find it to be of benefit to admin.

094 HB 642 - Martin noted legal svcs wishes to testify.
Noted HJR 81 is similar to bill.

111 Randolph, prime sponsor of both 642 & HJR 81. Spoke of purpose of legislation - take percentage of resource dept income, aside from tax income, & create trust of which every Alaskan wd be a beneficiary. Motivation - bl~~w~~s wealth ~~abt~~ belongs to people of the state, which shd be shared equitably. affects ~25-30% of total income from resource extraction. Explained; recommended appointing subcommittee to examine bill.

HB 642, cont'd

148 Rogers - co-sponsor - believes this can be done w/o const'l amdmt. Would be xfrg asset & not funds to be rcvd. Concurs w/Randolph that bill shd be worked on by subcommittee.

169 Martin concerned this is similar to a bill by Sen. Gravel (ACOSOC). Randolph explained difference - opposite effect.
Rogers ~~xx~~ noted similarity - xfrg money fm state to indivs - but felt trust ~~was~~ is just a vehicle to xfr funds, not to conduct business. Gave examples of similar royalty trusts. Said advantage of trust is there are good ~~examples~~ precedents of similar trusts. Randolph expanded on justification for trust.

236 ~~Rand moved to ratify~~
Martin - said constitution already says natl resources wealth belongs to all the people. Randolph responded. Govts (fed & state) have made agmts w/dmstic cos (oil cos) to the exclusion of individual participation. Oil companies given favored posn; people of state have derived signif share, but money belongs to people equally. No justification for giving one segment more than another.

275 Martin asked for timeframe of special comm. appointed. Randolph felt by end of session good bill cd be drafted. Martin asked if members of Resource comm cd be allowed in subcomm. Randolph felt L+C had expertise in comm. ~~xx~~ Suggested Rogers, Gardiner & self.

303 Martin said Phillips Wall requested to be allowed to give input; there was discussion of fiscal notes. Gentleman fm audience said he had written fn.

319 Anselm Stock, Comptroller, Treas. Said 3 fn's necessary:

1) ant revenue reduction to gen fnd unrestricted amts
- ~~cater~~ excluded conservation & severance tax monies; appears this may be addressed in bill, but not in resolution.

Rogers - intent is income derived fm being owners as oppd to being sovereign tax'n auth.

- Stock - #s are in millions of $; figures fm 1984-87.
- Rogers requested preparing revision / match revenue forecast.

Stock
2) (fn) admin costs w/ investmt money mgmt

3) admin costs controlling share certificates, dividend distn, etc.

Explained administration fiscal notes. (how figures were arrived at).

~~AGR~~ # 3) - This will be higher, Wall preparing it now; will be higher.

407 Martin, re const'l amdmt - AG's ofc posn on amdmts/ initiatives on ballot ~~has~~ has been unpredictable. Asked Berrier to clarify.

422 Berrier - const'l amdmt clearly goes on ballot.

Rogers - can legis put advisory vote on ballot? Berrier said legis. cd, but can't say ~~they have~~ it has clear power.

Martin went over past experiences.

630 Bylsma - why wd people pay loans back if there's no security
Randolph explained ~~it~~ eg, banks giving signature loans,
collection procedures, etc.
Committee discussion of collection problems & possible problem
w/ people coming up just to take advantage of ~~free~~ giveaway money.
Randolph sees the loan pgm as a one-time deal; royalty
trust wd come into effect after that.
Martin expressed concern abt constitutionality & funding.

Side B

006 Randolph said no qstn of constitutionality w/ loan; people under
18 can't legally contract loans; also, other loan pgms exist.
Discussion continued.

033 Rogers recommended eliminating sentence referring to estimated
income. Gave his feelings abt participation in pgm.

052 Bylsma - felt first sentence of ~~bill~~ intent was just an opinion.

059 Wrote to Clark - CJ Mining Inc, Fox, & retailer - ~~read letter~~
~~from them~~ Supported bill. Gave her views & examples
of how bill could benefit people. Felt trickle-down effect
wd also benefit everyone. Thought many grants cd be
eliminated w/ this type pgm.

102 Resumed committee discussion. Martin asked abt fn fm dept of
revenue. Rogers felt no cost to dept of revenue, fn correct.
Rogers asked what wd be done if ~~too~~ not enough money approp'd
to meet need - first come first serve, or pro ration. Randolph
thought prob'ly pro-rated.

450 Stock smrized. Rogers asked him to go ahead & figure fwr costs if they can see modifications to reduce admin. costs.

460 Martin said he'd like to discuss subcomm. membership w/ leadership.

HB 641

450 Randolph – explained purpose of bill; similar to HB 23. Attempt to est pgm to get money to Alaskans quickly w/ least tax problems. Est's loan pgms to allow adult Alaskans to apply for $10,000 loan; forgiveness of 20% for each of 5 yrs after loan acquired for each yr of residency. Asked committee to expedite bill in order to get it to Finance.

551 Rogers concerned – 1) forgiveness makes it subject to taxation. – 2) likes idea ~~of Alaskans~~ ~~factor~~ seems only certain people get loans, & prob'y same people will get these loans. Feels people shd have choice bet. personal loans, housing, ag, mining, or other loans. Might cut cost while serving same purp.

570 Randolph – agrees loans are taxable, but w/inflation, wd be advantageous.

Re getting loans more than once – agrees w/concept; however such a loan pgm cd eliminate need for many other loan pgms. Efficient way to get money, power, & control back to people.

Rogers

430 p. 2, l. 5 — insert new sentence: If funds appropriated to this pgm are insufficient to fully fund all loan applications, the commissioner shall reduce the max amt of the loan to an amount which wd allow all loans to be made.

seconded by Rand.

Discussion of availability of funds.

476 Qstn: for R, R
opp'd B M
failed

480 Rogers moved to the amdmts into C S for HB 641
for R R against B, M

488 Bylsma ~~moved~~ wanted p 2, l 24, to add that residency must be verified.

Discussion.

512 Mr. Casey explained certification used in veterans pgm; easy to ~~make~~ make form for people to sign verifying residency, & establishing penalties.

Randolph felt administrative procedure easily established.

Discussion of ~~budget~~ verifying residency & potential ~~for~~ for groups of people to lie abt residency.

592 Bylsma delete
p. 2, l. 26; ~~eliminate~~ (2)

objection by Randolph &
discussion. Rand w/drew objection

~~670~~ 701 ~~R suggested~~ Qstn No passed w/o obj

705 Rand moved to rescind action in not accepting Rogers
amdmt to p. 2, l. 5: (prorating)

Tape 2 Side A
007 obj by Martin. Qstn for R, R opp'd B M, failed.

144 Martin - using example of student loan pgm, explained why he felt ~~would be~~ there wd be fiscal problems.
Discussion.

173 Rogers ~~thought~~ sees major differences in processing student loans & ~~the~~ prop'd personal loans.

183 Dave Massey, Dep Dir, Div Loans Veterans affairs - no real evaluation to be done on applicants; just documents processing of application, which wd also be promissory note. Minimal processing time.

204 Discussion.

225 Rogers - Sec 1 - moved to delete Sec 1.
Objection by Randolph; for Rog, ~~Ran~~ Mart, B agst Ran.

Rogers - p. 2, line 26; add #(33) "makes an ~~app~~ application for the loan on or before ~~Aug~~ Aug 24, 1982".
Oklahoma had objection, ~~Randolph~~ discussion.
Randolph moved the amendment.
Discussion about setting date & ramifications of passing legislation.

~~345~~ ~~Motion~~

383 w/drew no; change to "Nov 1, 1982"

392 for: Rog, Ran against: M, B
failed

Rogers p. 2, l. 10 - insert ~~before~~ but "for" & "$10,000" - "up to" (not more than); asked unan consent.
~~No~~ Obj. by Martin. Discussion.

424 Motn: for R. R. B Agst M
passed

610 Kan moved to pass bill fm comm w/ind'l [illegible] recomm.
for RR against B. M
failed

915 Kan moved to rescind action in not moving bill fm comm.
discussion

220 for RR oppd B, M.

006 Adjourned 2:46

To: Speaker Joe Hayes
From: Terry Martin, Chairman
Labor & Commerce Committee
Date: March 4, 1982
Subject: Executive Order 52

Please incorporate another correction into Executive Order 52. This correction was omitted in my previous letter of February 25.

On page 2, line 15, the second statute cited is also incorrect. That statutory reference should read "AS 18.60.105" rather than "AS 18.60.150".

Terry Martin, Chairman
House Labor & Commerce Committee

To: Speaker Joe Hayes

From: Terry Martin, Chairman
Labor & Commerce Committee

Date: February 25, 1982

Subject: Executive Order 52

This committee has reviewed Executive Order 52. We find this order to be of benefit to the administration.

Please note that a correction was made to page 2, line 15, where a statute was incorrectly cited: the first statutory reference on that line should read "AS 18.60.010..."

Contact me if you have any questions.

ltr to Joe Hayes, Speaker
fm Terry Martin, Chmn
H L & C C
re Exec order 52

This committee has reviewed Exec Order 52 & finds it to be of benefit to the administration. Please note that a correction was made to page 2, line 15, where a statute was incorrectly cited: the first statutory reference should read "AS 18.60.010..."

also second cite, p. 2, l. 15, needs to be chngd

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/11/82	01	0010	FIRST READING -- COMMITTEE REPORTS
01/12/82	02	0033	L&C COMM REFERRAL ADDED BY UNAN CONSENT
01/12/82	03	0033	MOVED FROM RES TO L&C BY UNAN CONSENT
			LABOR & COMMERCE
			JUDICIARY
			FINANCE
			RULES
****	**	**	*** *** ***

2-25-82

No Meeting

Lack of Quorum

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
BRAD THOMPSON	POUCH C 99811	RISK MGMT	NO	2180
Bob Cooksey		NEA-Alaska	Probably	586-3090

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 2/25/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:00	
Rep. D. Randolph	✓		1:10	
Rep. B. Rogers				
Rep. T. Gardiner				
Rep. T. Martin, Chair		✓		

Subject Matter:

House Bill No. _____ _____ _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

No meeting for lack of quorum.

COMMITTEE TAPE LOG 1982

tape no. _____

committee: _____ date 2/25/82 to _____

bill numbers: | | | | | | | |

other information:

Date/ Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
2/25/82	000		START; Call to order by V-Ch Byloma
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2-26-82

TELECON-

FERENCE

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
February 26, 1982
1:12 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

TELECONFERENCE HEARING

HB 634 — An Act limiting the amount of damages which may be awarded for personal injury or death in an action brought against an ATC-registered air carrier.

WITNESS REGISTER

L. Ames Luce, attorney
Chairman, Alaska Action Trust
1015 West 7th
Anchorage, Alaska
279-9571
Position Statement: Felt bill does not address air safety problem.

Kent Woodman
AOPA and Alaska Airmen's Association
Box 2386 SRA
Anchorage, Alaska 99507
345-1356
Position Statement: Supported bill.

Tulinda Deegan, President
Alaska Air Carriers
Anchorage, Alaska
Position Statement: Supported bill.

Robert Judy
Van Dusen Air, Inc.
Anchorage, Alaska
Position Statement: Supported bill.

Stephan A. Wilbur, Vice President
Wilbur's Flight Operations
Anchorage, Alaska
Position Statement: Supported bill.

Chuck LaPage
Valdez, Alaska
Position Statement: Supported bill.

Bob Bielefeld
Soldotna, Alaska
Position Statement: Supported bill.

Linda Slaeger
Trailways Flying Service
Seward, Alaska
Position Statement: Supported bill.

Cecil McClain, Chairman
Transportation Committee
Greater Sitka Chamber of Commerce
Box 118
Sitka, Alaska
747-6970
Position Statement: Supported bill.

Mike Ivers
air taxi operator
Yakutat, Alaska
Position Statement: Supported bill.

Joyce Galleher
Munz Northern Airlines
Box 790
Nome, Alaska
Position Statement: Supported bill.

Jim Rowe, President
Bering Air, Inc.
Box 1650
Nome, Alaska
Position Statement: Supported bill.

Millard Ingraham, attorney
1919 Lathrop Street, D 33
Fairbanks, Alaska
456-2157
Position Statement: Opposed bill.

Pete Haggland
Haggland Aviation
Box 81464
Fairbanks, Alaska 99701
479-6737
Position Statement: Supported bill.

Lee Daniels
Delta Aviation, Inc.
Fairbanks, Alaska

Position Statement: Supported bill.

William Nelmes
Department of Aviation Technology
Tanana Valley Community College
Fairbanks, Alaska
Position Statement: Asked legislators to promote safety education.

Don Cogger
Alaska Air Guides
Anchorage, Alaska
Position Statement: Supported bill.

Dave Diamond
President and General Manager
Southcentral Air
Soldotna, Alaska
Position Statement: Supported bill.

Everett Long
private pilot
Fairbanks, Alaska
Position Statement: Felt limit was too high.

Cindy Andrechek
Executive Charter Service
Bethel, Alaska
Position Statement: Supported bill.

Dennis Gunder
Delaire Charter Service
Bethel, Alaska
Position Statement: Supported bill.

PREVIOUS ACTION

HB 634

See minutes of teleconference meeting of 1/21/82.

Statutory Reference: 09.65.

Action Taken: No action taken during meeting.

ACTION NARRATIVE

Tape #27
Recording
Number 000

The meeting of was called to order at 1:12 p.m. by Vice Chairman Bylsma, who chaired this meeting at Rep. Martin's request.

Members present were: Representatives Martin, Bylsma, Rogers, and Randolph. Rep. Gardiner was absent. The committee hearing was teleconferenced statewide. The committee schedule called for the consideration of HB 634.

Number 009

L. AMES LUCE, attorney and pilot, chairman of Alaska Action Trust (a consumer rights group), Anchorage, said the problem of high insurance rates results from the safety record of air taxis. He introduced a National Transportation Safety Board study, AAS 83, "Air Taxi Safety in Alaska". He said the study shows that there are 500% more accidents caused in Alaska, per hours flown, than in the Lower 48, and 200% more deaths. Luce said the FAA compiled statistics, which showed that 14 Alaska operators were responsible for 48 of 81 accidents. He gave the names of specific operators he said were causing most of the accidents. (Luce gave copies of the study to the committee; these are available for inspection from the committee.) Luce said that northwest bush communities have repeated problems with air safety. He felt that eliminating these operators would probably reduce insurance rates by fifty percent. Luce said that the effect of HB 634 would be to deprive the consumer public from compensation. He said it would probably discriminate against Alaska Natives in the Bush. Luce said the bill would not promote air safety or affect insurance rates. He said it would help subsidize major intrastate carriers by permitting them to be self-insured. Luce thought the bill was probably unconstitutional, and did not address the air safety problem.

Number 122

Rep. Rogers said some of Luce's arguments were valid--eg, safety--but to say the bill discriminates against Natives is questionable. Rogers said the bill, if anything, would discriminate against all residents of that part of the state. Rogers also felt that eliminating the operators that Luce said were causing most of the accidents does not address the question. Rep. Rogers felt it is difficult to fly in some areas of the state, and said that air commerce, in some areas of the state, may be an inherent risk. Rogers asked Luce's

opinion of making excess flight insurance available to consumers; limiting liability except in cases of gross negligence; and going to a system similar to Workers Compensation, with a schedule of liability limits.

Number 171

Luce said he could not respond unless they agreed that the bill actually lowers insurance rates, and Luce did not feel that it did. He said that giving people the option to buy additional insurance did not address the problem, which is high insurance rates. Luce said there are air taxi operators in northwest Alaska that have outstanding safety records, and that study showed a small percentage to be responsible for that area's overall bad safety record. Luce said, in regard to taking a workers compensation approach to liability, that it would reduce the amount of compensation received by the injured or survivors of victims. He said adequate and fair compensation won't be found in a workers compensation-type system rather than the fault system.

Number 227

KENT WOODMAN, representing AOPA and Alaska Airmens Association, (testifying from Washington DC LIO), said he wished to correct some errors in testimony taken at the January teleconference. He said, in regard to testimony by Weir of Alexander and Alexander that raising the limit would raise awards: the insurance company's records would not show a settlement that was for more than the insurance limit. For example, if a pilot settles a case for $250,000, and the insurance company pays only $100,000, that $100,000 will be all the insurance company's records will reflect. Woodman went on to say that, of 18,000 underwriters in Lloyd's, only about 6 will establish a lead in Alaska. He said underwriters are investors; when a broker requests coverage, the underwriter obligates a portion of his reserves. Woodman said that, if Alaska has a $250,000 limit, those who have needed more coverage previously will buy small policies, which increases the capacity of the underwriters, which reduces the insurance rate. Woodman said, regarding Luce's testimony, that Luce was correct that the bill would not cure the problem, but Woodman

felt it would provide relief from the symptoms. Woodman said the Alaska Aviation Safety Foundation, AOPA, Alaska Airmen, and others are working on safety programs. This bill would prevent carriers from going out of business. Woodman said, regarding Luce's comment that carriers operating in marginal financial situations deserve to go under: that is unjust. Many operators with no accidents still can't get ahead due to the high costs of insurance.

Number 366

Woodman said he is leaning toward a limit lower than $250,000. He said the purpose of the coverage is not to provide for survivors for the rest of their lives. Woodman said, 1) a liability limit of some sort is required; 2) it must cover all aircraft, not just commercial operators; 3) a proper limit would increase market capacity; and, 4) $75,000 is the current limit on international travel, and adding an increase for cost of living, $97,000, more or less, is a reasonable limit. Woodman said only one other state (Colorado) has a similar provision ($45,000 for wrongful death). He said other states are working on legislation. Woodman said that, constitutionally, the primary difficulty is bodily injury limit. He said a constitutional amendment might get around this. He thought it might be possible to word the legislation to cover medical expenses and make a provision for pain and suffering and defense of claim. Woodman stressed that a bill like this is needed. He said the amounts of claims need to be limited, but it also needs to cover out of pocket costs, reasonable litigation fees, and pain and suffering. Woodman asked Luce if anyone else in his organization is anything but a plaintiff's attorney. Woodman said that all Luce's comments were negative, and that Woodman had never had any input from Luce in support of safety programs.

Number 500

TULINDA DEEGAN, President, Alaska Air Carriers, and Executive Director, Safety Foundation, said that the accident rate in Alaska is not as bad as it seems. She said that, over the past five years, the accident rate has remained steady. She spoke of safety programs being developed, and said

the Association is working on the issue of insurance. Deegan felt the bill would lower premiums. She said the bill has received support from air carriers and private pilots, and opposition from attorneys. She proposed amending the bill to make excess insurance available (she said the Air Carriers will help work toward that); and she said that air carriers agree the limit should not apply to gross negligence; also that attorney's fees should be awarded by the court rather than being on a contingency fee basis.

Number 626 — ROBERT JUDY, Van Dusen Air, Inc., Anchorage, felt a limit is imperative. He said the cost of insurance is ridiculous. He was concerned that the cost would force carriers out of business. He said the opposition comes from lawyers. Judy said placing a limit won't increase or decrease the accident rate; this must come from other sources, and should be explored.

Number 669 — STEPHAN WILBUR, Vice President, Wilbur's, Inc. (Wilbur's Flight Operations), Anchorage, went over increases in the cost of insurance for his business. He said his operation has one of the best safety records in the state, but that if insurance rates keep rising, he will not be able to stay in business much longer. Wilbur said he supported the bill.

Side B, Number 000 — CHUCK LA PAGE, Valdez, said his rates were quadrupled when he went to renew. He said legislation to reduce liability is vitally necessary. He said insurance rates force small operators out, and said he supported the bill.

Number 024 — BOB BIELEFELD, Soldotna, said he had to lower his limits in order to get an affordable premium. He felt private operators and flight schools should be included in the legislation. He said there is no distinction in rates on the basis of safety records. He felt that big operators get lower rates with more coverage than small operators.

Number 042 — LINDA SLAEGER, Trailways Flying Service, Soldotna, went over insurance rate increases for the past several years. She said the

rising costs had forced them to fly without hull insurance, to drop seat capacity, and to close operations for the winter because they had to cancel insurance during the winter. She said, because of that, the area has no air service in the winter. She said the situation creates "bandit" air taxi operators, who fly without ratings or insurance. Slaeger noted that Trailways has had no accidents since beginning operations, but the present system will force them to close.

Number 079

CECIL MC CLAIN, Chairman of the Transportation Committee, Sitka Chamber of Commerce, was concerned about rates. He said present rates are having an adverse impact to the point that many can't adequately insure their aircraft. He favored HB 634, but was not sure if the limit was correct; he thought it should possibly be lower. McClain said many people carry their own insurance. If a limit was placed on liability and posted in offices, with a plaque advising travelers that additional insurance is available, then people would be willing to buy additional insurance. He said the traveling public pays the bill for high insurance rates, which tends to decrease the number of people using air services. He said this hurts the traveling public as well as operators. He said relief is needed or there will be a severe impact on flying in the state. McClain urged the bill be adopted.

Number 140

MIKE IVERS, air taxi operator, Yakutat, went over his insurance rates and increases in the past few years. He said he has to fly 150 hours just to pay for the insurance. He wanted any kind of relief, and said he would appreciate anything that could be done.

Number 205

JOYCE GALLEHER, Munz Northern Airlines, Nome, said bush carriers are faced with destructive insurance rates. She said premiums are the biggest single cost for most small carriers. She said these costs are caused by runaway awards for air crash victims. She felt that attorneys and the courts created the problem. She felt the award should go to victims, not attorneys. She strongly endorsed a limit on wrongful death award.

Number 235

JIM ROWE, President, Bering Air, Inc., Nome, said there is only one possible beneficiary in an aircraft accident: the victim's attorney. He said the state requires an operator to carry only $100,000 insurance. He said the limit would give underwriters more control, and would protect the public. He said subsidies are not needed. If the legislature imposes a reasonable limit of liability, a traveler can decide if he wants unlimited liability or a reasonable limit. If a traveler is aware of the limit and feels it inadequate, he can purchase additional coverage. Rowe strongly supported the bill.

Number 333

MILLARD INGRAHAM, attorney in general private practice in Fairbanks, said he has no direct economic interest in the legislation. He said he opposes the bill; felt it is probably unconstitutional; and opposed it on the basis of policy. He said he is opposed to government intervention to help one group with a problem. He said that, if the government did intervene, their subsidy should not come from another group (namely, widows, orphans, maimed and injured). It should be the obligation of the entire state. He said another problem is that there is no way a consumer could protect himself with additional insurance, as he doesn't think it is available. He said one can buy life or medical insurance, but can't buy liability insurance. Ingraham asked, if air taxis had a limit, what would prevent truckers, doctors, lawyers, and others from doing the same. He said this would set a bad precedent. He added, regarding lawyers being the only group opposing the bill, that only air taxi operators support it. Ingraham recommended another approach to the problem, such as group insurance.

Number 440

PETE HAGGLAND, Haggland Aviation, Fairbanks, said insurance rates are atrocious. He cited an example. He said flying is not as hazardous as it's made out. He pointed out that various organizations are beginning safety programs. He felt there was room for improvement, but said there is definite need for a liability limit.

Number 490

LEE DANIELS, Delta Aviation, Inc.,

Fairbanks, gave a breakdown of his insurance costs on a Cessna 185. He said the general public cannot afford to fly. He said that as utilization of the flight services goes down, the cost goes up. He said if insurance and interest keep going up, the operations must have cheaper maintenance and crews, which will lower safety factors. Daniels said this erodes the industry. He said he is being legislated into an outlaw. Regarding attorneys, Daniels felt their attitude was understandable, as attorneys also oppose deregulation. He agreed that maybe a limit is needed on all liability. People need to take care of themselves rather than depending on the state or the bar association.

Number 620 — WILLIAM NELMES, Department of Aviation Technology, Tanana Valley Community College, said it is a good idea to keep operators in business, but beseeched the legislature to promote safety education. He referred to the Alaska Aviation Safety Foundation project.

Number 645 — DON COGGER, Alaska Air Guides, Anchorage, said that he has been in business over six years; he has had no accidents or claims, yet his insurance increased 875% in three years. He said people with good safety records should not have to pay for people who have poor records. Cogger said that if air taxi operators are put out of business, the public will suffer. He said he couldn't afford insurance through another winter.

Tape 28, Number 000 — DAVE DIAMOND, president and general manager, Southcentral Air, Soldotna, supported the bill. He said it doesn't matter who the broker is, they have a London underwriter. Diamond said there are only 3-5 lead underwriters in London, so there is no competition in the market. He said that premiums have increased drastically. He was forced to drop hull insurance in order to maintain adequate seat liability. He said little or no consideration is given for good safety records.

Number 041 — Rep. Bylsma said there has been a subcommittee appointed which will work on the bill next week. He requested written comments.

Number 050

EVERETT LONG, private pilot, Fairbanks, said HB 634 is a step in the right direction, but he felt the limit was too high. He said Alaska law now requires $100,000 liability limit, and that setting it higher would increase rates. He took exception to excluding costs and attorney's fees. He felt this should be removed from the bill. He could not accept writing a law that protects attorney's fees.

Number 108

CINDY ANDRECHEK, Executive Air Taxi and Charter, Bethel, thanked Kent Woodman for his comments and research. She addressed comments Luce made about Executive Air Taxi and Charter. She said critics of HB 634 look at it as a cure for all the industry's problems. She said that isn't the purpose of the bill. There are steps being taken to address safety through various programs. She said there seems to be a mystique surrounding flying. She said in 1978, the death rate in motor vehicle accidents was four times the rate of aircraft accidents. She said passengers don't discriminate between good and poor operators, they just look at the price, which encourages poor operators.

Number 178

DENNIS GUNDER, Delaire Charter Service, Bethel, said some compensation should be made for those with proven safety records. He felt $250,000 was a fair limit. He felt doctors, lawyers, etc., should all have liability limits. He felt it only reasonable to have rates comparable to a common carrier in ground transportation.

Number 227

As there was no further testimony to be taken, and no further business to come before the committee, the meeting was adjourned at 3:02 p.m.

Absent: Gardiner

2/26/82 Teleconf - Air Taxi Ins (HB 634)

1:10

Intro by Jack

000 ~~Called~~ Call to order by Byloma ~~no quorum~~, but began taking testimony.

009 Anesa Luce, Anc, atty & pilot, chmn of Alaska Action Trust - (people concerned w/ consumer rights). ~~To address~~ prob of high ins co safety record of air taxis. Intd NTSB study AAS 83, "Air Taxi Safety in Alaska". Study shows:

1) 500% more accidents caused in Ak per hrs flown than in lwr 48

2) 200% more deaths

Gen'l aviation 200% & 30%, respectively to above (in Ak)

re People causing prob w/in air taxi industry — FAA compiled statistics - 14 operators responsible for 48 of 81 accidents. (6.5% operators cause 50+ % accidents): (gave names of specific operators causing accidents) Committee has copies of study..) NW Bush communities have repeated problems w/ air safety. Eliminating these operators wd reduce ins rates prbly 50%.

Effect of legis - deprive consumers public for compensation. Will discriminate against natives in bush. Will not promote air safety. Will not affect ins. rates.

Will help subsidize major intrastate carriers by permitting them to be self insured. ~~Will~~

Bill prbly ~~the~~ unconstitutional. ~~No similar bill ever withstood~~

Bill does not address air safety problem.

122 Rogers - said some arguments are valid (safety) - but to say discriminates against natives is questionable: wd discriminate, if anything, against all residents of that part of state. Also point abt eliminating 140b operators doesn't address question. ~~Also~~ He feels it is difficult to fly in some areas of the state; air commerce in some areas of it may be inherent risk

What abt: ① making efforts for ins available to consumers
② limit liability except in case of gross negligence
③ go to system similar to WC w/ schedule of liability limits.

171 Lucc: ~~Doesn't be~~ Can't respond unless they agree that bird actually lowers ins rate. He doesn't feel it does.

~~If~~ giving person choice of ins doesn't address problem -- high ins rates.

There are air taxi ops in NW AK that have outstanding safety record; study shows small % age responsible for bad safety record. Rogers said other ops are paying for the small % of bad operators. Not sure bill answers prob, but wants feelings abt options

206 Lucc - WC approach - if this wd lwr premium, it wd reduce amt of comp recd by injured or survivors. Adequate + fair comp won't be found in WC system rather than fault system.

227 Kent Woodman, (testifying in Wash DC) – AOPA + Ak Airmen's Assoc –
Comments to correct errors intd in January.

1) Re matl intd by Weir that Alexander showed settlements at limit; that raising limit wd raise claims. There is problem in that; gave example – if a pilot settles a case for $50,000 + ins co pays only 100,000, that 100,000 will be all ins co records show.

2) Of 18,000 underwriters in Lloyds, only abt 6 will establish a load in Ak. Underwriters are investors; when broker requests coverage, underwriter obligates portion of reserves. If Ak has $50 000 limit, those who have needed more coverage previously will buy smaller policies, which increases capacity of underwriters, which reduces ins.

~~Compared to~~

3) Re Nome bar ~~as~~ atty in Jan, + Juce ~~comments to~~

1) correct that bill doesn't cure problem; but it does provide relief fm symptoms. Ak Av Safety Foundn, AOPA, Ak Airmen, & others are working on safety programs. This bill will prevent carriers fm going out of business

2) carriers aren't getting rich; bill won't "line pockets" of operators. will help more stay in business.

3) carriers operating in marginal fnl situn deserve to go under is unjust; many operators w/no accidents still can't get ahead due to high costs.

366 Leaning toward lower limit than $250,000. Purpose of coverage is not to provide for survivors for the rest of their lives.

1) Liability limit of some sort is required.

2) Must cover all aircraft, not just comm'l operators

3) Proper limit wd use max market capacity

4) $75,000 is current limit on international travel; adding inc for cost of living is $7,000+.

Only one other state (Colo.) has similar provision ($45,000 for wrongful death. Other states wkg on legion.

Constitutionally primary difficulty is bodily injury limit. Const'l limit might get around this w/ Const'l amdmt to st const'n.

~~Support bill category~~. Possible to word legis to cover medical expenses & make provision for pain & suffering = defense of claim.

Need bill like this; need to limit amts of claims, but also need to cover out of pocket costs, reasonable litigation fees, & pain & suffering.

Asked Luce if anyone else in his org in anything but a TP's atty. Also, all his comments negative. Never had any input in support of safety pgms from him.

500 Anchorage:

Tulinda Deegan, Pres, Ak Air Carriers + Exec Dir Safety Foundn.

1) accident rate in Ak not as bad as it seems; over past 5 yrs, accident rate remained steady.
2) consumer cost - ~~pay~~ 15-20% of fare goes to pay for insurance.
3) safety pgms being developed
4) Assn wkg on issue of insurance
~~5) Cases~~
3) there have been similar laws in this state as well as other states
4) limit will lower premiums
5) ~~opposition~~ support fm air carriers + private pilots, Oppn fm attys
6) urged anyone interested to send comments to comm.
7) prop'd amdmts
   a) making efforts to avail - air carriers will help work toward that
   b) air crs agree limit shd not apply to gross negligence w/ atty fees awarded by ct rather than contingency fees.

626 Anc - Robert Judge, Van Dusen Air Inc -

limit is imperative. Cost of ins is ridiculous. Concerned cost will force carriers out of business. Oppn comes fm lawyers. Placing limit won't inc or dec accident rate; this must come fm other sources, + shd be explored to reduce accident rate.

Vdz
Sold
Swd

Anc
Stephan
669 Steven Wilbur, VP Wilbur's Inc, (Wilburs Flt Opn). Estb 20 yrs ago. During preceding 6 yrs, ins costs:

1977 $90,000

presently $165,000 increase

One of best records in State. If trend keeps up (100% inc fm '81 to '82) wlrs not be able to stay in business much longer. Support bill.

720 Bylsma gave committee's address.
Side B
000 Valdez: Chuck La Page – rates were quadrupled when then went to renew. Legislation to reduce liability vitally necessary. Ins rates force small operators out. ~~Smallops~~ Supports bill

004 Soldotna

Bob Fulapel (?) – had to lwr limits to get affordable premium. Private ops + flt schools shd be included. No distinction in rates on basis of safety records. Big operators get lwr rates w/more coverage than small operators. ~~Stay~~

Seward

042 ~~Ludwig~~ Linda Slaegers Trailways Flying Svc – began opg 1978 ins $5,600/yr for 2 planes. Quoted rate for 1981 – $15,000 for 1 plane. Forced them to fly w/o hull ins + drop seat capacity, + to close operations for winter. Had to cancel ins. Not feasible to stay open in winter, so area has no air svc. Sith creates "bandit" ins taxi operators w/o rating or ins. Trailways has had no accidents since beginning operations. Present system will force them to close.

079 Sitka

Cecil McLean, Chmn Xptn Comm, Sitka Chamber of Commerce.
Concerned abt rates. Present rates having adverse impact
to point that many can't adequately ins a/c. Favor HB634;
unsure if limit is correct. Possibly shd be lower.
Many people carry their own ins; if limit was placed on
liability & pooled in offices & plaque advising add'l ins avail,
people wd be willing to buy add'l ins. Traveling public
pays brkf for ins ~~[illegible]~~. Tends to decrease # p · e using air
svcs; hurting traveling public as well as operators. Need
relief or there will be severe impact on flying in the state.
Urge bill be adopted.

140
~~150~~ ~~Petersburg:~~ Yakutat

Mike Divers, air taxi — ~~[illegible]~~ Lucee ~~Divers~~ said they were
one of the risky a/c operators; they had only 1 accident, it
was on the ground, no people & involved. Since 1979, ins
went up 275%. Gave figures. ~~for [illegible]~~ Have to fly 150
hrs just to pay for ins. Want any kind of relief; resents being
classed as a high risk. $33,775-ins for this yr. Wd
appreciate anything that cd be done.

205 Nome

Joyce ~~Gallagher~~ Gallcher - Munz Northern Airlines - Both carriers faced w/ destructive ins rates. Premiums are biggest single cost for most small carriers. Costs caused by runaway awards for air crash victims. Attys & courts created problem. Award shd go to victims, not attys. Strongly endorse limit on wrongful death award

235 Jim ~~Roe~~ Rowe, Pres, Bering Air Inc, Nome. Only one possible beneficiary in a/c accident: victim's atty. State requires operator to carry only $100,000. Limit wd give underwriters more control; wd protect public. Don't need subsidies &. Legislation imposes reasonable limit of liability. Traveler must decide if he wants unlimited liability or reasonable limit. If traveler is aware of limit & feels it inadequate, he can purchase add'l coverage. Re Knee testimony — how can you fairly compare co operating many a/c who have 2 accidents w/ an operator w/ only 1 or 2 a/c & 2 accidents.

Bering Air has had no liability accidents. Of 5 fatal accidents in Nome in last 10 yrs, only 2 were Nome based air carriers; the rest were large air carriers. Strongly support bill.

Fairbanks

333 Millard Ingraham, a thyr-gen'l private practice in Fbx — no direct economic interest in legis. Opposes bill — probly uncons'tl — & opposed on basis of policy. Opposed to govt intervention to help one group w/a problem. If govt did intervene, subsidy shd not come fm another group (of widows, orphans, maimed, & injured). Shd be obligation of entire state.

Another prob — no way consumer cd protect himself w/addl ins — doesn't think it's available. Can buy life & medical, but can't buy liability ins. Spoke of one man he knew of w/medical bills for $100,000. If air taxis get limit, what wd prevent truckers, drs, lawyers fm doing same — bad precedent.

Re only lawyers opposing — mainly only air taxi operators support it.

~~Shd~~ Shd use another approach, such as gp ins.

440 ~~Mr~~ > Fbx — Pete Hagg[land] Hagglund, akland Aviation — ~~left as soon as~~ flying 24 yrs, comml 14 yrs. Ins rates atrocious — gave example (Supercub — 2 pass. — $4250). Flying not as hazardous as it's made out. Oprgns are beginning safety prgms. Room for improvement, but definitely need liability limit

Hbx

490 Lee Daniels, Delta Aviation Inc – breakdown on costs

C185

hourly breakdown based on 500 hours per year

	1976	1981	
aircraft	21.12	59.82	+36.8%
ins	4.60	26.24	+94 %
eng reserves	5 66	7 33	6 %
maint	2 50	6 00	29 %
~~HRS~~ crew	15	30	
fuel	———		10 %

~~By 1985~~ General public can't afford to fly. As utilization goes down, cost goes up. If ins & interest keeps going up, must have cheaper maintenance & crews, which ~~does~~ brings safety down. Erodes industry. Being legislated into an outlaw. Re attys – understandable; attys also opp'd to de-regln, ins. cap – ~~subdistrict~~ agrees maybe we need to put limit on all liability. People need to take care of themselves rather than depending on state or bar assn

640 William Knowns, Nelnes Dept of Aviation Tech. Tana Valley Comm College
Good idea to keep operators in business, but beseached legis to promote safety education. Ref'd Ak Aviation Safety Foundation project.

645 Anc:
Don Cogger Cotter, Ak Air Guides - ~~people getting~~ in business over 6 yrs, no accidents or claims, increase of 875% in 3 yrs. Inc in liability 62% no accidents. People w/ good safety records shd not have to pay for people who don't. If put air taxi ops out of business, public will suffer. Can't afford ins through winters.

~~700~~

Tape 2
Side A

~~Seward~~
Soldotna -
Dave ~~Dyman~~ Diamond - pres & gen mgr, Southcentral Air - support bills. Doesn't matter who brokers is, London underwriters. Only 3-5 lead underwriters in London; no competition in market. Premiums have increased drastically. Forced to drop hull ins to maintain adequate seat liability. Little or no consideration for good safety records.

~~Kotzebue~~

Bethel
~~Cindy~~ + Dennis Gunder
Cynthia Andrechek

041 Bylsma said there has been a subcomm appointed; will wk on it next wk; requested written comments.

Fbx
050 Everett Long, Esther – private pilot for self. 634 step in right direction; doesn't agree w/ limit – too high.
AK law requires $100,000 limit now; setting higher will increase rates. Takes exception to excluding costs & atty fees. This shd be removed fm bill. Can't accept writing law that protects atty fees.

~~Dillingham~~ Bethel:

108 Cindy Andrechek – thanked Woodman for comments & research. Addressed Luce's comments on Epic Charter Svc (placed them in bad risk category) – had only 2 accidents – one was 1st injury in 5 yrs, is pending claim & has not affected rates to date. Past rates have increased over 600%. ~~Sea plane~~
Critics of 634 look at it as cure for all industry's problems: doesn't & won't supposed to do that. There are steps being taken to address safety thr/ various prgms. High priority.
Seems to be misperceptions surrounding ~~flying~~ flying.
1978 death rate in MV accidents 4 times the rate of A/C accidents. Passengers don't discriminate bet/ good & poor operators, they just look at price, which encourages poor operators.

Delaire Charter Service

178 Dennis Gunder, Bethel, air taxi operator:

Some compensation shd be made for thos w/ proven safety record. $250,000 is fair limit. Drs, lawyers, etc, shd all have liability limits. Only reasonable to have rates comparable to common carrier in ground xptn.

~~215 217~~

227 3:02 Mtg adjourned

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 4/26/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:01	
Rep. D. Randolph	✓		1:18	2:52
Rep. B. Rogers	✓		1:12	2:59
Rep. T. Gardiner		✓		
Rep. T. Martin, Chair	✓		12:58	2:59

Subject Matter:

House Bill No. 634

Senate Bill No. _____

Special Orders:

AIR TAXI

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
DON KOCH + KEN MOORE	POUCH D	DIV OF INS.	NO	456 2515
denise zachary		Rep Carlson		
BEN Rocha	POUCH C	DIV OF P-M.	N	2180
Rick Unis		Wien Air Alaska		

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 2-26-82

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
L. James Luce	1015 G. 7th	Alaska Carbon Trust	YES	279-9571
Eileen Blatz	P.O. Box 1149 Juneau	Dept. of Labor	NO - but available for questions	465-2700

HOUSE LABOR & COMMERCE COMMITTEE AIR TAX. INS - TELECONFERENCE HEARING DATE: 2/26/82

2/26/82 Teleconference Participants

HB 634

Air Taxi Insurance

MSG 82-00010585 PRTY 1 02/26/82 12:52:00 ORIG: LS00 IN= 0009 OUT= 00035
FROM: FALEENF SITKA TO: JUN MODERATOR
TARGET: LJES SUBJ: AIR TAXI [illegible] T/C PAGE 00001

CECIL MCCLAIN, GREATER SITKA CHAMBER BOX 198, SITKA, AK, 747-6970 -TESTIFING
KRIS FUNK, CHAMBER OF COMMERCE, BOX 638, SITKA, AK, 747-8604 - OBSERVER
WE ARE EXPECTING MORE.

NXT MSG U/R/S PREV MSG U/R/S RESEND CANCEL

MSG 82-00010588 PRTY 1 02/26/82 12:55:57 ORIG: LA04 IN= 0004 OUT= 00006
FROM: CANCY/ANCHORAGE TO: JACK JUNEAU T/C
TARGET: LJES SUBJ: AIR TAXI T/C PAGE 00001

PARTICIPANTS:
TULINDA DEEGAN/PRESIDENT - ANAK AIR CARRIERS
ROBERT E. JUDY/EVAN EUSEN AIR, INC.
PEGGY CARRELL/ANK TRAVEL AIR
ALBERT LINDEMUTH/GIFFORD AVIATIONS, INC. & NORTHERN WESTERN AIRLINES, INC.
STEPHAN A. WILMUR/WILBURS FREIGHT OPERATIONS

NXT MSG U/R/S PREV MSG U/R/S RESEND CANCEL

MSG 82-00010592 PRTY 1 02/26/82 12:58:48 ORIG: LN00 IN= 0004 OUT= 00007
FROM: NOME TO: JUNEAU T/C
TARGET: LJES SUBJ: HB 634 AIR TAXI INSURANCE PAGE 00001

NOME HAS TWO PARTICIPANTS AT THIS TIME.
JOYCE CALLAHER NUNZ NORTHERN AIRLINES P.O. BOX 790 NOME, AK
JIM ROUE BERRING AIR NOME, AK
IF I HAVE ANY MORE, I WILL SEEND NAME OR NAMES.

NXT MSG U/R/S PREV MSG U/R/S RESEND CANCEL

MSG 82-00010595 PRTY 1 02/26/82 12:57:07 ORIG: LF00 IN= 0003 OUT= 00008
FROM: DEBBIE/FBX TO: JUNO LTN
TARGET: LJES SUBJ: AIR TAXI T/C PAGE 00001

ONE PARTICIPANT SO FAR, BUT EXPECTING MORE
1. MILLARD INGRAHAM, 1913 LAWHROP ST., D 33, FBX, AK 456-2157
WE ALSO HAVE 3 OBSERVERS

WILLIAM HELMES, TANANA VALLEY COMMUNITY COLLEGE.
PAT HENDERSHOTT, ALASKA 100 INSURANCE

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010597 PRTY 1 02/26/82 12:59:38 ORIG: LA04 IN= 0005 OUT= 0009
FROM: CANDY/ANCHORAGE TO: JACK JNUEAU T/C
TARGET: LJE5 SUBJ: AIR TAXI T/C PAGE 0001

PARTICIPANTS:
TULINDA DEEGAN/PRESIDENT AK AIR CARRIERS
ROBERT E. JUDY/VAN DUSEN AIR
ALBERT LINDEMUTH/GIFFOR AVIATION
PEGGY CARRELL/AK TRAVEL AIR
STEPHAN WILBUR/WILBURS FLIGHT OPERATIONS
OBERSERVOR:
RONALD VANASDLEN/AK JOURNAL OF COMMERCE & PACIFIC RIM REPORTER

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010598 PRTY 1 02/26/82 12:59:38 ORIG. LZ00 IN= 0003 OUT= 0010
FROM: MARY/OTZ TO: JACK AND LJHY
TARGET: LJE5 SUBJ: AIR TAXI T/C PAGE 0001

I DON'T EXPECT ANY PARTICIPANTS FOR THE AIR TAXI
T/C. I DID CONTACT THE PEOPLE BUT THEY ARE UNABLE TO
PARTICIPATE. IF THERE ARE ANY CHANGES WILL SENT AN
OMNI.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010601 PRTY 1 02/26/82 13:05:38 ORIG: LS00 IN= 0010 OUT= 0011
FROM: FALFENE/SITKA TO: JON MODERATOR
TARGET: LJE5 SUBJ: AIR TAXI INSURANCE T/C PAGE 0001

DALE MONTGOMERY, BOX 2305, SITKA, AK, 747-8075 OBSERVER

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010604 PRTY 1 02/26/82 13:14:34 ORIG: LF00 IN= 0004 OUT= 0012
FROM: DEBBIE/FBX TO: JACK/JUNO
TARGET: LJE5 SUBJ: AIR TAXI INSURANCE2/26/82 PAGE 0001

PARTICIPANTS CO 'T
2. PETE HAGGLAND, BOX 81464, FBX, AK 99701 479-6737
3. LEE DANIELS, DELTA AVIATION

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010605 PRTY 1 02/26/82 13:12:06 ORIG: LN00 IN= 0005 OUT= 0013
FROM: ROB/NOME TO: JUNEAU T/C
TARGET: LJE5 SUBJ: T/C PARTICIPANTS PAGE 0001

NOME HAS TWO PARTICIPANTS AND ONE OBSERVER.
BILL WELLBORNE (OBSERVER) KNOM RADIO NOME, AK
JOYCE GALLEHERMUNZ NORTHERN AIRLINES BOX 790 NOME, AK
JIM ROWE BEARING AIR INC. BOX 1650 NOME, AK
EOM.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010607 PRTY 1 02/26/82 13:11:41 ORIG: LB00 IN= 0002 OUT= 0014
FROM: WALLY IN BETHEL TO: JACK
TARGET: LJE5 SUBJ: PARTICIPANT IN BETHEL PAGE 0001

WE HAVE ONE PARTICIPANT HERE IN BETHEL

(BOB IN NOME. SPECIAL HI TO JOYCE, THANKS WALLY)

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010611 PRTY 1 02/26/82 13:15:23 ORIG: LJ01 IN= 0006 OUT= 0015
FROM: LINDA IN JNU FOR DEE SOLDOTNA TO: JACK (SMILING)
TARGET: LJE5 SUBJ: PARTICIPANT 2/16 AIR TAXI T/C PAGE 0001

SOLDOTNA HAS THE FOLLOWING PARTICIPANT:
JOHN STOEHNER ARTIC AVIATION INC. MAY OR MAY NOT WISH TO SPEAK.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010614 PRTY 1 02/26/82 13:18:50 ORIG: LK00 IN= 0007 OUT= 0016
FROM: BONNIE/KETCHIKAN TO: JUNEAU TELECONFERENCE
TARGET: LJE5 SUBJ: AIR TAXI T/C PAGE 0001

I WAS EXPECTING TWO PERSONS FOR THIS AFTERNOON'S T/C RE. AIR TAXI BUT SO FAR NO ONE HAS SHOWN. WILL LET YOU KNOW IF THEY DO. EOM/BCP

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010615 PRTY 1 02/26/82 13:19:40 ORIG: LA04 IN= 0007 OUT= 0017
FROM: CANDY/ANCHORAGE TO: JACK JUNEAU T/C
TARGET: LJE5 SUBJ: AIR TAXI INSURANCE T/C PAGE 0001

ADDITIONAL PARTICIPANTS:
DON COGGER/AK AIR GUIDES

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010620 PRTY 1 02/26/82 13:25:14 ORIG: LJ01 IN= 0008 OUT= 0018
FROM: GAIL JNU T/C TO: JACK
TARGET: LJE5 SUBJ: H LABOR & COMMERCE T/C 2/26 AIR TAXI PAGE 0001

DEE IN SOLDOTNA HAS ANOTHER PARTICIPANT FOR THIS TELECONFERENCE. HIS NAME IS DAVE DIAMOND AND HE IS WITH CENTRAL AIR.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010622 PRTY 1 02/26/82 13:26:54 ORIG: LS00 IN= 0011 OUT= 0019
FROM: SITKA TO: JUNEAU MODERATOR
TARGET: LJE5 SUBJ: AIR TAXI INSURANCE T/C PAGE 0001

OBSERVING:
WADE COTHRAN, BOX 4340, MT. EDGECUMBE AK. 99835
TOTALS:
1 WITNESS (MCCLAIN)
3 OBSERVERS

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010638 PRTY 1 02/26/82 13:46:36 ORIG: LA04 IN= 0013 OUT= 0021
FROM: CANDY/ANCHORAGE TO: JACK JUNEAU T/C
TARGET: LJE5 SUBJ: AIR TAXI INSURANCE T/C PAGE 0001

TROUBLE WITH OUR OMNIS - IN CASE YOU DIDN'T GET OUR ADDITIONAL PARTICIPANT:
DONN COGGER/AK AIR GUIDES

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010639 PRTY 1 02/26/82 13:54:02 ORIG: LS00 IN= 0012 OUT= 0022
FROM: THERESA IN SITKA TO: JUN/MODERATOR
TARGET: LJE5 SUBJ: AIR TAXI INS. T/C PAGE 0001

WE ONLY HAVE ONE PERSON HERE TO TESTIFY HE HAS ANOTHER ENGAGEMENT CAUSING HIM TO HAVE TO LEAVE EARLY. WOULD IT BE POSSIBLE FOR OUR TESTIMONY TO BE HEARD NEXT OR CLOSE TO IT?

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010647 PRTY 1 02/26/82 14:10:51 ORIG: LF00 IN= 0005 OUT= 0023
FROM: DEBBIE/FBX TO: JACK/JUNO
TARGET: LJE5 SUBJ: AIR TAXI T/C 2/26/82 PAGE 0001

WE HAVE A FOURTH PARTICIPANT:
WILLIAM G. NELMES, TANANA VALLEY COMMUNITY COLLEGE, DEPT. OF AVIATION TECH.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010648 PRTY 1 02/26/82 14:11:01 ORIG: LB00 IN= 0004 OUT= 0024
FROM: WALLY IN BETHEL TO: JACK
TARGET: LJE5 SUBJ: ADDITIONAL PARTICIPANT IN BETHEL PAGE 0001

IN ADDITION TO CINDY ANDRECHECK WE HAVE;
DENNIS GUNDER DELAIRE CHARTER SERVICE BETHEL

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00010662 PRTY 1 02/26/82 14:39:18 ORIG: LF00 IN= 0006 OUT= 0001
FROM: DEBBIE/FBX TO: JACK/JUNO
TARGET: LJE5 SUBJ: AIR TAXI INSURANCE PAGE 0001

WE HAVE ONE MORE PARTICIPANT WHO JUST ARRIVED:
EVERETT A. LONG

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00013273 PRTY 1 03/11/82 12:54:12 ORIG: LA00 IN= 0008 OUT= 0001
FROM: CAROL, ANCH. TO: JOAN MATTHEWS, DEL
TARGET: LJHY SUBJ: REQUEST PAGE 0001

DEE IN THE SOLDOTNA OFFICE HAS ASKED ME TO RELAY THIS INFORMATION ON TO YOU AS HER TERMINAL IS NOT WORKING:

HOUSE L&C TELECONFERENCE - 2/26 - AIR TAXI INSURANCE

PARTICIPANT: BOB BIELEFELD

INCIDENTALLY, WE CERTAINLY APPRECIATE YOUR SENDING BY OMNI THE COMMITTEE SCHEDULE FOR THE COMING WEEK - IT'S VERY HELPFUL TO US. THANKS.

CC: DEE, SOLDOTNA

A LIMIT NEEDED ON AVIATION ACCIDENTS -- NOT THE RIGHTS OF VICTIMS

by L. Ames Luce

(Mr. Luce is a private pilot, being involved in private aviation for a period in excess of twenty years, and having been involved in Alaska aviation since 1966. He is a practicing trial lawyer and a member of the firm of Kelly & Luce, specializing in personal injury and products liability litigation, and has been deeply involved and concerned with all aspects of aircraft safety).

During the last ten (10) days, I, along with all of those in Alaska who are involved in both commercial and private aviation, have been shocked at the news that has confronted us daily regarding aircraft safety in Alaska. Each day as we pick up the newspaper or listen to the news, we are confronted with another assault on our sensitivities and realize the appalling pain, suffering and grief that the aircraft accidents as reported are inflicting upon the lives of fellow Alaskans. A Beaver stalls while attempting a formation take-off at Lake Hood, with devastating injuries to its occupants; a 207 enters a box canyon near Ruth Glacier and all persons involved are killed; a C119 crashes when an engine fire burns off part of the tail, and miraculously no one was injured; a DC4 crashes when an engine fire burns through its wing, with the loss of all occupants; a King Air with 8 on board crashes and all are lost, while making an approach in adverse weather conditions to King Cove; and a 207 is involved in a midair collision with another aircraft near Naknek, and all occupants are lost.

These accidents all have certain commonalities. They involve commercial or air taxi operations, and continue an appalling pattern of poor safety practices, which have been well documented by both private and federal concerns for the past ten years. If the frequency of accidents continues as have occurred so far during this year, I have been assured by personnel at the National Transportation Safety Board that a record will be set - one that no one wants - establishing the worst accident record in Alaska aviation history. We can be assured that our insurance premiums will reflect this experience.

The NTSB has been involved for more than a year in a special study regarding the Air Taxi Operators within Alaska. (See NTSB-AAS-80-3, dated September 16, 1980) This report reveals the following statistics regarding commercial aircraft safety:

1) Air taxi operators in Alaska had 15.20 nonfatal accidents per one hundred thousand hours flown. This was over <u>five times</u> the similar nonfatal accident experience in the rest of the United States.
2) Air taxi operators in Alaska experienced 2.75 fatal accidents per one hundred thousand hours flown, which was approximately <u>double</u> the fatal accident experience incurred in air taxi operations in the rest of the United States.
3) Private or general aviation experience shows that nonfatal accidents occurred in Alaska more than <u>twice</u> as often as in the rest of the United States, and that fatal general aviation accidents occurred

one-third more often in Alaska than in the rest of the United States.

The conclusions that can be drawn from these statistics are that while general aviation in Alaska does not measure up well against its counterpart outside, the air taxi operators' record for safe operation is disastrous, and upon their shoulders must rest the responsibility, in great measure, for the insurance premiums we are required to pay in order to insure ourselves for aircraft operation.

In a recent article in "Air Alaska," Mr. Woodman suggests that the Alaska Air Carriers and Air Taxi Operators are in general agreement that some limits need to be placed upon aviation accident liability recovery, which would thus work to reduce our aviation insurance premiums at the expense of the maimed, the injured and the survivors of those killed in Alaska aviation accidents. The inescapable conclusion from such reasoning is that aviation in general, and air taxi operators in particular, are entitled to be treated differently for their negligent acts than the butcher, the baker or the candle-stick maker. This is apparently so because of their inability to prudently and safely operate aircraft within the State of Alaska, and because of this failure, the persons who should bear responsibility are the ones least able to protect themselves - namely, the victims.

Mr. Woodman is right in his conclusion that substantial opposition to such an outrageous proposition will be found in the halls of our legislature. Mr. Woodman further indicates

that "insurance scandal and fraud are big business in other places; we have accomplished it in court as jurors, as plaintiffs and as attorneys". Such a comment by someone presumably as well versed in aviation accident history and causation as Mr. Woodman must have other motivation. This is reflected daily in other insurance industry propaganda, which in effect amounts to institutionalized jury tampering.

Accident awards in Alaska are higher than those experienced outside, but not disproportionately so. They do reflect the difference in Alaska's cost of living, the cost of obtaining medical care, and the general wage earning capacity which is enjoyed by all Alaskans. That awards should thus be greater here than in the lower 48 is not only reasonable but also mandated under our system of jurisprudence. What does not occur, as suggested by Mr. Woodman in his article but subsequently admitted to be a figment of his imagination, are awards of $250,000 or $300,000 for the loss of a little toe or finger.

I pay insurance premiums for liability insurance for two aircraft. I have been alarmed at the fact that the premiums have more than doubled in the last three years, since I have never filed a claim and never have been involved in an incident or an accident in my more than 20 years of involvement in general aviation. The insurance underwriters should be required to examine more critically the risks posed by various operators and to place specific requirements upon those who have appalling accident rates and thus constitute poor insurance risks, making them conduct their operations in such a manner as to minimize their accident experience and thus reduce the risk to the general

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who have a history of failing to properly
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us. It is difficult to imagine that any of
ave our rights as victims regulated by some
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ies a subsistence level of existence or a
ginning for our survivors.
w has evolved from the principles that all
ted equally, and that all men are to be held
e for their actions. The reasons for our
insurance premiums are well known and
These problems must be addressed - a failure
a calamitous result upon all of us who
aircraft as a means of transportation. The
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sector, and that rate must be reduced. Because
and position, the commercial aviation sector
in safe operating practices. When this
our insurance premiums will be brought in line
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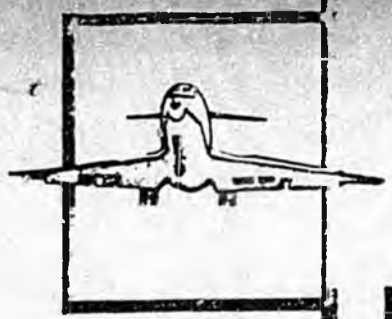

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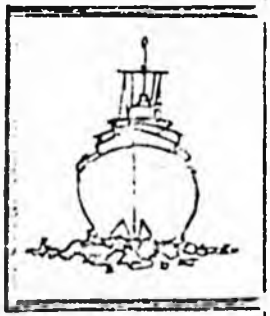
NATIONAL TRANSPORTATION SAFETY BOARD

WASHINGTON, D.C. 20594



SPECIAL STUDY

AIR TAXI SAFETY IN ALASKA

NTSB-AAS-80-3

UNITED STATES GOVERNMENT

TECHNICAL REPORT DOCUMENTATION PAGE

1. Report No. NTSB-AAS-80-3	2. Government Accession No.	3. Recipient's Catalog No.
4. Title and Subtitle Special Study—Air Taxi Safety in Alaska		5. Report Date September 16, 1980 6. Performing Organization Code
7. Author(s)		8. Performing Organization Report No.
9. Performing Organization Name and Address National Transportation Safety Board Bureau of Technology Washington, D.C. 20594		10. Work Unit No. 3052 11. Contract or Grant No.
12. Sponsoring Agency Name and Address NATIONAL TRANSPORTATION SAFETY BOARD Washington, D. C. 20594		13. Type of Report and Period Covered Aviation Special Study 14. Sponsoring Agency Code
15. Supplementary Notes		

16. Abstract

This report details the results of a National Transportation Safety Board study of air taxi accidents which occurred in Alaska from 1974 through 1978. Accident data from the Safety Board's automated aviation accident data system for that period were analyzed by means of frequency distributions. Safety Board staff also visited Alaska and met with officials of the Federal Aviation Administration, the National Weather Service, the Alaska Department of Transportation and Public Facilities, the Alaska Air Carriers Association, and 17 air taxi operators. The data revealed that the nonfatal air taxi accident rate (per 100,000 flying hours) in Alaska is almost five times higher, and the fatal rate more than double, the air taxi accident rate in the rest of the United States.

The Safety Board study concluded that there are three major factors responsible for the high air taxi accident rate in Alaska: (1) the "bush syndrome," (2) inadequate airfield facilities and inadequate communications of airfield conditions, and (3) inadequate weather observations, inadequate communications of the weather information, and insufficient navigation aids.

Five recommendations for corrective action were made to the State of Alaska, four to the Federal Aviation Administration, and one to the Alaska Air Carriers Association.

17. Key Words	18. Distribution Statement
general aviation; air taxi; "bush syndrome"; navigation aids; weather; communications; airfields	This document is available to the public through the National Technical Information Service, Springfield, Virginia 22161

19. Security Classification (of this report)	20. Security Classification (of this page)	21. No. of Pages	22. Price
UNCLASSIFIED	UNCLASSIFIED	35	

NTSB Form 1765.2 (Rev. 9/74)

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NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C. 20594

SPECIAL STUDY

Adopted: September 16, 1980

AIR TAXI SAFETY IN ALASKA

INTRODUCTION

Alaska has many unique characteristics. Probably Alaska's most striking characteristics are its vast size and small population. Alaska covers 586,412 square miles, making it the largest State. On the other hand, it has the smallest population of any State with only slightly over 400,000 inhabitants. Outside of population centers, roads connecting all but a few cities are rare, and there are virtually no roads in western Alaska. Almost everything that is required for survival, including food, clothing, medicine, consumer products, and in some cases heating oil, must be supplied by air transportation to many rural communities. Therefore, flying is a necessary way of life. Alaska has more licensed pilots and aircraft per capita than any other State.

The Civil Aeronautics Board has determined that 233 communities in Alaska, including 102 in western Alaska, are entitled to a minimum level of air transportation service. This essential service is supplied primarily by the air taxi industry which includes commuter air carriers and on-demand air taxi operators. Air taxi aircraft in Alaska account for about 10 percent of the total air taxi flying hours in the United States.

Alaska, however, has an air safety problem. From 1974 through 1978, the general aviation 1/ accident rate (based on 100,000 hours flying time) for Alaska was more than double the rate for the rest of the United States. More importantly, about 30 percent of all air taxi accidents in the United States occurred in Alaska, and their rate of occurrence was four times that of the accident rate for air taxis in the rest of the United States.

Numerous factors could be affecting the safety of air taxi operations in Alaska. They include the unique terrain and weather; the extent of and condition of airway and airport facilities (en route and terminal navigation aids, landing strips, airfield lights, and weather reporting stations); the quality of the air taxi operators (experience of their pilots, adequacy of and maintenance level of their aircraft, and attitudes of the operators and pilots toward safety); and the interaction of the Federal and State authorities with the aviation community. The purpose of this special study was to determine the factors which most significantly affect the safety of air taxi operations in Alaska and to formulate recommendations designed to improve that safety record.

1/ The Safety Board classifies general aviation kinds of flying as air taxi, instructional, pleasure, business, and corporate/executive.

Data about air taxi accidents that occurred from 1974 through 1978 were analyzed by means of frequency distributions. The data were obtained from the National Transportation Safety Board's (NTSB) automated aviation accident data system. Staff from the Safety Board's Washington headquarters and Alaska field office observed the conditions under which the air taxi community operates, the community's attitudes and needs, and the community's interaction with Federal and State agencies. The Safety Board staff met with officials of the Federal Aviation Administration, the National Weather Service, the Alaska Department of Transportation and Public Facilities, the Alaska Air Carriers Association, and 17 air taxi operators.

This report explores the background information on the State of Alaska and its air taxi industry necessary for the analysis of the data collected in the study. Analysis of the Safety Board data on air taxi accidents in Alaska and findings of the survey of conditions in Alaska also are presented. Based on this analysis, conclusions regarding the factors affecting aviation safety in Alaska have been drawn, and recommendations which the Safety Board believes will promote safety have been made to appropriate organizations.

ALASKA AND ITS AIR TAXI INDUSTRY

About Alaska

Alaska is indeed a very large State. It is more than twice the size of Texas and is larger than the States of Washington, Oregon, California, Arizona, and Nevada combined. The distance from the southern panhandle of Alaska to the tip of the Aleutian Island chain equals the distance from the east to the west coasts of the contiguous 48 States of the United States.

The State's topography varies enormously. Alaska contains the highest mountain in North America, Mt. McKinley at 20,320 feet. It contains 18 other mountains over 14,000 feet high. There are thousands of rivers, streams, and lakes, vast areas of flat, rambling tundra, massive forests, active volcanoes, and many glaciers. Its more than 33,000 miles of shoreline are dotted with islands, and there is an extensive system of waterways.

Climatic conditions across this vast area vary as much as the topography. Precipitation ranges from a low of 5 to 10 inches annually in the arctic regions to over 200 inches annually in the coastal regions of southeastern Alaska. Temperatures range from almost 100° F in the summer to more than 70° below zero F in the winter in the interior of the State. In most of the State, the waterways and ground surfaces are frozen and covered with snow or ice in the winter. During the spring and early summer, much of the land is water-saturated tundra. Summer days have 24 hours of sunlight in the north and almost 20 hours of sunlight in the southcentral part of the State. Winter days have 24 hours of darkness in the most northern parts of the State and only about 4 hours of daylight in the southern areas. About one-third of the State is above the Arctic Circle.

Weather hazards for aviators include fog, icing, and turbulence. Whiteout, an optical or visual effect during which all depth perception is lost, is another hazard.

Whiteout, which cannot be forecast, is not a weather phenomenon, but it occurs only under certain weather conditions. Whiteout is unique to the polar regions, and thus, among the United States, it is found only in Alaska.

Scattered throughout this enormous State are cities, towns, villages, and settlements ranging in size from Anchorage, Alaska's largest city with a population of over 200,000, to villages with a population of 25 or less. Alaska's population of about 403,000 2/ includes about 70,000 natives—Indians, Aleuts, and Eskimos. Almost one-third of Alaska's population (and almost 70 percent of its native population) lives outside of its handful of major urban centers. The socioeconomic conditions range from the urban atmosphere of Anchorage to an informal lifestyle in much of southeast Alaska to a harsh, subsistence existence in many remote villages in western Alaska and much of the arctic regions of the State.

Alaska has only three major cities: Anchorage; Fairbanks, the second largest city with a population of over 30,000; and Juneau, the State capital, with a population of about 20,000. Other important centers include Ketchikan, south of Juneau in Alaska's panhandle, Bethel in the southwest, and Nome in the northwest. The locations of these cities and other centers serving as regional hubs in the aviation transportation system of Alaska are shown in figure 1.

Aviation in Alaska

Air transportation is essential to Alaska to an extent that is difficult for those in other States to comprehend. The considerable distances between the State's larger population centers, the remoteness of hundreds of small villages, the dearth of highways or even crude roadways, and the freezing of many waterways during much of the year have made air transportation indispensable to Alaska. In fact, traveling by airplane is as ordinary and routine to most Alaskans, especially those in rural Alaska, as traveling by car is to most residents of other States. Adults travel by air to larger cities to shop or to visit friends and relatives. Children are flown to schools, medical clinics, sporting events, or other activities to which children in other States routinely would be transported by automobile or schoolbus.

Freight and mail, especially in the rural areas of Alaska, are moved almost exclusively by air during most of the year, and totally by air when the waterways are frozen. Mail often includes food, medicine, clothing, and other essentials for life. Oil for heating houses is often shipped by air in the winter to supplement the supply transported by barge when the waterways are open. Sometimes the waterways are not open long enough to transport even the basic supplies needed for a small village to survive the winter. The remaining necessities must be transported by air.

Table 1, based on Federal Aviation Administration (FAA) data for 1978, illustrates the extent of general aviation activity in Alaska in relation to that in the rest of the United States. In 1978 there were almost 16 times as many active aircraft, and almost 8 times as many pilots, per 1,000 inhabitants in Alaska as there were in the rest of the United States. Further, the number of general aviation hours flown annually per 1,000 inhabitants in Alaska was nearly 16 times that of the rest of the United States.

2/ 1978 estimate.

Figure 1.--Geographic areas of Alaska.

Table 1.--U.S. General Aviation Activity, 1978.

	Alaska		United States (excluding Alaska)	
	Total	per 1,000 1/	Total	per 1,000 2/
Active aircraft	6,616	16.4		
Pilot certificates	10,914	27.0		
General aviation hours flown 3/	1,137,000	2,820.0	38,272,000	180.00
Air taxi hours flown	485,000	1,200.0	4,013,000	17.00

1/ Estimated 1978 population: 403,000.
2/ Estimated 1978 population: 217,662,000.
3/ Including air taxi hours flown.

The 233 Alaskan communities which are entitled to a minimum level of air transportation service according to a January 1980 Civil Aeronautics Board (CAB) decision are served primarily by Alaska's air taxi industry. In 1978, air taxi flying accounted for almost 43 percent of all general aviation flying hours in Alaska compared with about 10 percent in the rest of the United States. Further, in 1978, the number of hours flown by air taxi operators in Alaska per 1,000 inhabitants was 1,200. This was more than 70 times the rate of 17 hours per 1,000 inhabitants for the rest of the United States.

As of July 1980, there were 218 air taxi operators in Alaska 3/ operating 1,496 aircraft. Sixty-nine of these operators have authority to fly multiengine aircraft. Thirty-five of the 218 air taxi operators are commuter air carriers.

Airports

In 1978, Alaska had 756 airport facilities on record according to the FAA. 4/A comparison of the airport facilities in Alaska and in the rest of the United States by type of facility is shown in table 2. A high percentage of Alaskan facilities are seaplane bases because early in Alaska's aviation history there were few airfields and most general aviation flying was done in seaplanes. Even today in some parts of Alaska, such as the southeast panhandle area, most general aviation flying, including air taxi flying, is done in seaplanes.

Most airports in Alaska are publicly owned or located on publically owned land, while most airports in the other States are privately owned. (See table 3.) 5/

3/ Certificated Air Taxi List, July 1980, Alaska Region, Flight Standards Division, FAA.
4/ FAA Statistical Handbook of Aviation, Calendar Year 1978.
5/ FAA Statistical Handbook of Aviation, Calendar Year 1978.

Table 2.--Comparisons of U.S. Airport Facilities

	Alaska		United States (excluding Alaska)	
	Facilities	Percentage	Facilities	Percentage
Airports	520	68.8	11,452	83.2
Heliports	42	5.5	1,933	14.0
STOLports	---	---	46	0.3
Seaplane bases	194	25.7	338	2.5
Total	756	100.0	13,769	100.0

Table 3.--Ownership of U.S. Airport Facilities

	Alaska		United States (excluding Alaska)	
	Facilities	Percentage	Facilities	Percentage
Public Ownership	537	71.0	4,183	30.4
Private Ownership	219	29.0	9,586	69.6
Total	756	100.0	13,769	100.0

Most of the 756 airport facilities of record are not often used, and little or nothing is known about them. The Department of Transportation and Public Facilities (DOT/PF) of the State of Alaska estimates that the State is responsible for about 320 airport facilities and that it actively maintains about 260 of these facilities. 6/ According to the July 1979 FAA Alaska Region Ten Year Plan for fiscal years 1981 through 1990, the current airport system in Alaska consists of 277 existing and projected facilities. Thirty-eight are major air carrier and general aviation airport facilities, and 239 are existing and projected airport facilities in rural communities with less traffic. Some 230 of these 277 locations are on the CAB's list of essential service determination. One of the 38 major facilities is a seaplane base, and 52 of the 239 lesser facilities are seaplane bases. Another 13 of the 277 total facilities are future facilities, including one major facility. Thus, of the 277 total facilities, 211 are existing, landbased airports.

Of these 211 landbased airports, 125 have a runway length of 3,000 feet or less, 41 have a runway length of 3,001 to 4,999 feet, 42 have a runway length of 5,000 to 10,000 feet, and 3 have a runway length of over 10,000 feet. 7/ Of the 211 runways, 38 have a paved surface, 132 have a gravel or partial gravel surface, 39 have a dirt or turf surface, and 2 have other surfaces.

6/ These figures were given by the DOT/PF Director of Central Division Planning and Research. However, other DOT/PF personnel cited different statistics. One DOT/PF employee indicated that the State owned about 250 airports and maintained 229 of them.

7/ Data from the July 1979 FAA Alaska Region Ten Year Plan.

Navigation Aids

The Alaska Region of the FAA lists about 90 FAA-owned and -operated, en route navigation aids (navaids) in Alaska including 54 NDBs 8/ (including 3 NDB/DMEs 9/), 7 VORs 10/ (including 4 VOR/DMEs), and 26 VORTACs. 11/ In addition, there are 70 to 75 non-FAA-owned navaids of various types. The FAA owns and operates over 2,000 en route navaids in the rest of the United States; half of the navaids are VORs or VORTACs and slightly less than half are NDBs. There are about 1,000 additional en route navaids in the other States not owned and operated by the FAA. The 54 NDBs and 33 VOR/VORTACs in Alaska are spread over an area of about 586,000 square miles. In comparison, the more than 2,000 NDB and VOR/VORTAC facilities in the other States are spread over 3.7 million square miles

Terminal navaids in Alaska include 28 ILSs 12/ and LOCs 13/ compared with over 700 in the rest of the United States. Most of the 36 existing, landbased, major airports in Alaska are serviced by some type of en route and terminal navaids. However, only 22 of the 175 landbased airports serving Alaska's rural communities have any navaids. These include 18 airports with NDBs (including two privately owned), 3 airports with VORs, and 1 airport with an NDB/DME.

While it is not feasible to compare in detail the entire system of navaids in Alaska with the system in the rest of the United States, it is possible to compare a geographical subarea for each. For example, Bethel, Alaska, and Des Moines, Iowa, have similar weather characteristics and topography. Both have weather with better than 1,000-foot ceilings and 3-mile visibility approximately 85 percent of the year, and both have relatively flat terrain. The number of air taxi operations per year at Bethel is more than 50,000 14/ but only 12,816 at Des Moines. 15/ Within a 100-nmi radius, the Bethel area has only 1 VORTAC and 2 NDBs while the Des Moines area has 12 VORTACs and 33 NDBs. The Bethel area has approximately 600 nm of airways and Des Moines has over 1,300 nmi. The Bethel area has only 3 airports with any terminal navaids for instrument approaches while Des Moines has 45.

8/ Nondirectional radio beacon--a low- or medium-frequency radio beacon that transmits nondirectional signals with which a pilot of aircraft equipped with a receiver can determine his bearing and "home in" on the station.

9/ Distance measuring equipment--a device that indicates how far the aircraft is from the ground station.

10/ Very high frequency omnidirectional range--a line-of-sight electronic navigational guidance aid considered superior to the NDB.

11/ VOR with tactical area navigational capability--a combined aircraft and ground base electrical system which provides a visual presentation of azimuth and distance for the pilot.

12/ Instrument landing system--an electronic system which provides the pilot with an approach path for exact alignment and descent of the aircraft.

13/ Localizer facility--provides course guidance during descent; can be used separately or in combination with an ILS.

14/ Estimated by the Alaska Region of the FAA.

15/ FAA Air Traffic Activity, 1978.

In addition to the system of navaids discussed, there is another system of NDBs which was installed in western Alaska by Wien Air Alaska, one of the two major Alaskan air carriers. This en route system, which is still in place, was deactivated in 1978 when Wien stopped flying in the area and subcontracted its service to air taxi operators. The Wien system included a total of 13 NDBs located at rural village airfields in western Alaska, from Platinum in southwest Alaska (about 125 miles south of Bethel) to Kobuk, 600 miles north (about 100 miles east of Kotzebue). Two of the NDBs were located on St. Lawrence Island (at Gambel and Savoonga) about 175 miles west of Nome. The current condition of the equipment in this system is not known.

Airfield Lighting

Most of the 36 existing, landbased, major airports in Alaska are lighted. Of the 45 airports in Alaska with runways of 5,000 feet or more in length, 40 have some form of lighting. Twelve of the 24 airports with runways of 4,000 to 5,000 feet in length have some form of lighting. The remaining 154 landbased airports have no lighting.

Weather Reporting

To service the weather information needs of the aviation community, there were a total of 122 weather observation stations in Alaska as of January 1980. 16/ These included 42 contracts with persons in rural communities to observe and report the weather regularly using government-furnished equipment. These National Weather Service (NWS) trained and certificated observers are paid on the basis of the number of observations they make. Also included were 19 supplemental aviation weather reporting stations (SAWRS), 18 FAA and 18 NWS manned weather stations. In addition, there were 25 other various reporting facilities including 18 automated weather observation stations.

The NWS in Alaska also airs an early evening television show. This daily program gives aviation weather forecasts for the next day. The show can be seen throughout Alaska. Furthermore, the FAA is experimenting with weather observations using remote television cameras. A camera is located on the airport at Unalakleet and another camera is located in the waterway narrows at Valdez. The Unalakleet information is transmitted to a television screen at the Nome FAA flight service station (FSS), and the information at the Valdez narrows is transmitted to the Cordova FSS and the Valdez tower.

FACTORS AFFECTING SAFETY

Safety is important in any transportation system, but because of the extreme dependence of Alaska on its air taxi industry, a high level of safety is particularly important. Alaskans should be provided an air taxi system which is as safe as that enjoyed by their fellow citizens in other parts of the United States. The Safety Board expressed its concern for the level of safety of the commuter air carrier segment of the air taxi industry in the United States at its January 1980 hearing on

16/ These data were obtained from the National Weather Service, Anchorage, Alaska.

the safety of the commuter segment of the air taxi industry, and in its July 1980 special study report on commuter airline safety nationwide. 17/ Statistics derived from the files of the Safety Board's automated aviation accident data system clearly indicate that the Alaskan air taxi system is not as safe as the air taxi system of the rest of the United States.

The annual trend of total and fatal air taxi accidents in Alaska for the 10-year period 1969-1978 18/ is presented in figure 2. The annual number of total accidents and fatal accidents varied considerably over the period with an increasing trend since 1972. During the most recent 5-year period for which data is available, 1974-1978, there were 311 air taxi accidents in Alaska, of which 266 were nonfatal and 45 were fatal. During the same period, there were 753 air taxi accidents, 562 nonfatal and 191 fatal, in the rest of the United States.

The rate of occurrence of nonfatal air taxi accidents in Alaska per 100,000 hours of air taxi flying between 1974 and 1978 was almost five times, and the fatal accident rate more than double, that of the rest of the United States. (See table 4.) Thus, air taxi operators in Alaska are experiencing accidents (per 100,000 hours of flying) considerably more often than their counterparts in the rest of the United States.

To identify the factors that contribute to the high rate of occurrence of air taxi accidents in Alaska, statistical data and actual accident cases from Safety Board aviation accident investigations were analyzed. Safety Board staff members interviewed a number of owners, pilots, and mechanics in Alaska who were asked for their views on why the air taxi accident rates in Alaska were so much higher than in the rest of the United States and on what is needed to improve safety. The Safety Board staff members also flew on several air taxi flights into remote village airstrips in rural southwest Alaska. The Alaska Air Carriers Association was also asked for its views.

FAA personnel in the FAA's Alaska Region headquarters, controllers and supervisors at the Anchorage Air Route Traffic Control Center, personnel at the Anchorage TRACON and tower, and Principal Operations and Maintenance Inspectors at the Anchorage General Aviation District Office (GADO) discussed air taxi safety with the Safety Board staff. The Bethel FSS and Nome FSS were also visited. NWS personnel in Anchorage provided data on the existing weather information system and on the future plans for the system. The Alaska DOT&PF staff and Mr. Walt Parker of Parker Associates of Anchorage, consultants to the House Committee on Finance of the Alaska State Legislature, discussed the State involvement in aviation transportation.

The Safety Board's aircraft accident data were analyzed extensively in an effort to identify any consistent problem areas. The types of accidents, the phases of operation during which the accidents occurred, the Safety Board-determined probable causes and contributing factors, the types of aircraft involved, the location, terrain, and weather of the accident sites, and the experience level of the pilots were all examined.

17/ "Special Study--Commuter Airline Safety," July 22, 1980 (NTSB-AAS-80-1).
18/ The latest year for which complete accident and exposure data were available at the time of this study was 1978.

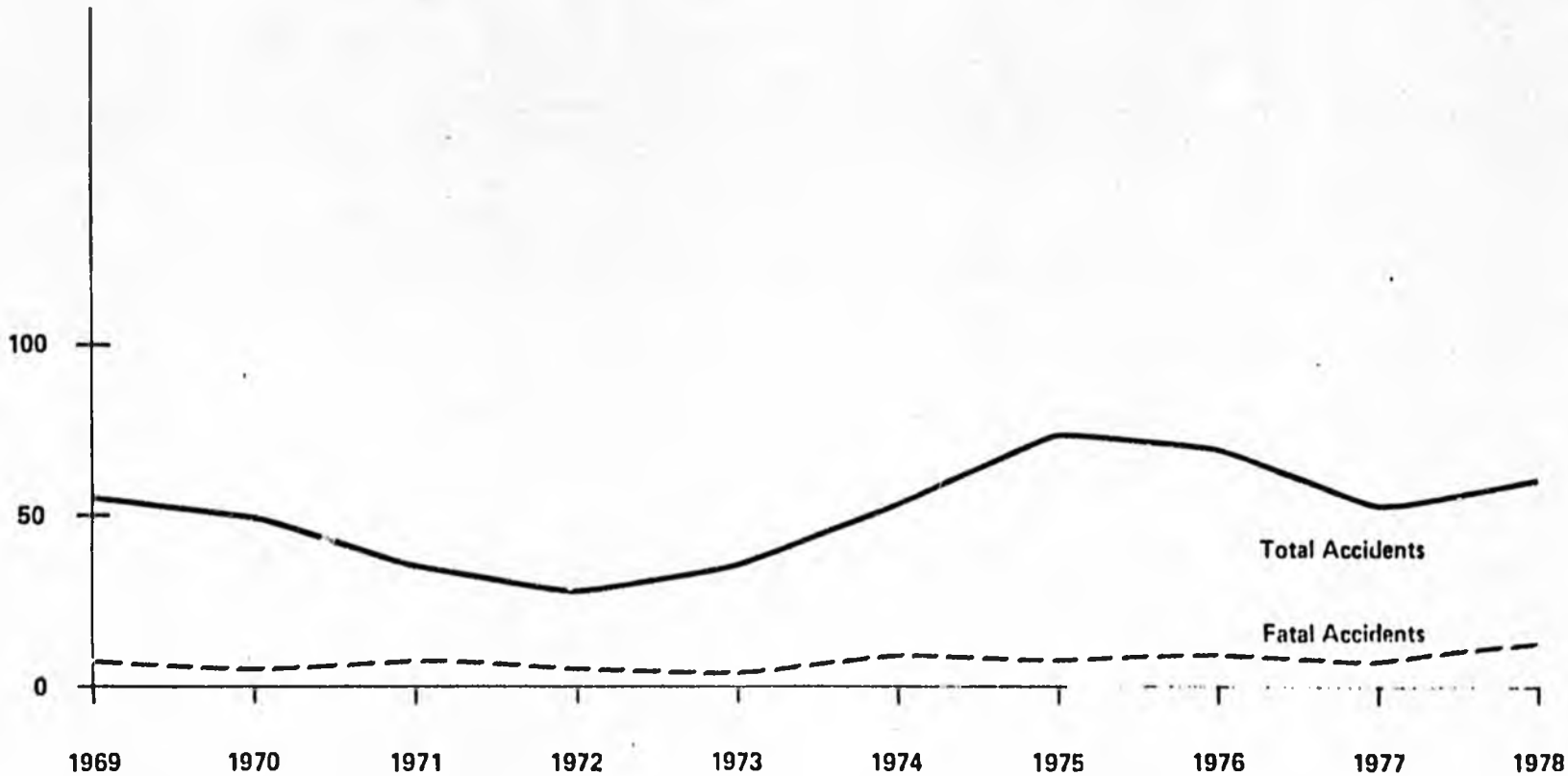

Figure 2.--Total and fatal Alaskan air taxi accidents, 1969-1978.

Table 4.--Comparison of air taxi accident rates for 1974-1978.

	Alaska		United States (excluding Alaska)	
	Total	Per 100,000 hours 1/	Total	Per 100,000 hours 1/
Nonfatal general aviation accidents	1,083	23.54	18,041	10.74
Fatal general aviation accidents	168	3.65	3,594	2.14
Nonfatal air taxi accidents	266	15.20	562	3.29
Fatal air taxi accidents	45	2.57	191	1.11

1/ Flight hours, obtained from the FAA, were (in 100,000 hours):

	Alaska	United States (excluding Alaska)
General aviation	46.0	1,679.6
Air taxi	17.5	170.9

Hours were not available for Alaska for 1977 and had to be estimated from the data for 1974-1976 and 1978. All data are subject to some error. The estimate of air taxi hours in Alaska for 1978 is subject to the largest standard error--12.8 percent. Overall, the errors are believed to be considerably less for the 5-year totals. More importantly, the small magnitude of the errors is believed to have a minimal effect on the comparisons shown above.

Table 5 presents data about the types of air taxi accidents which occurred in Alaska from 1974 through 1978 and the phase of operation during which they occurred. Similar data for air taxi accidents in the rest of the United States are presented in table 6. The data show that air taxi accidents in Alaska involve a slightly larger percentage of landing types of accidents, particularly noseover and rollover accidents, than air taxi accidents in the rest of the United States. Alaska has a larger percentage of collisions with obstacles, collisions with ground or water, and stalls, but has fewer engine failures or malfunctions.

A significantly larger percentage of air taxi accidents occur during the takeoff phase of operation in Alaska than in the rest of the United States. Table 5 also shows that takeoff and landing types of accidents and accidents involving collisions with obstacles occurring during the takeoff and landing phases of operation accounted for 46 percent of all air taxi accidents in Alaska. Table 6 shows that the same type of accidents occurring during the takeoff and landing

Table 5.--Total Air Taxi Accidents in Alaska, 1974-1978

Accident Type	Phase of Operation						Total Aircraft	Total Accident	Percentage of Total Aircraft
	Static	Taxi	Takeoff	Inflight	Landing	Other			
Takeoff and Landing									
Ground/Water Loop/Swerve	-	1	8	-	15	-	24	24	7.72
Dragged Wing Tip Pod or Float									
Wheels-Up Landing	-	-	1	-	-	-	1	1	0.32
Wheels-Down Landing in Water	-	-	-	-	4	-	4	4	1.29
Gear Collapsed	-	2	1	-	6	-	9	9	2.89
Gear Retracted	1	-	1	-	5	-	7	7	2.25
Hard Landing	-	-	-	-	10	-	10	10	3.22
Nose-Over/Down	-	2	5	-	12	-	19	19	6.11
Roll-Over	1	-	1	1	6	-	9	9	2.89
Overshoot	-	-	-	-	7	-	7	7	2.25
Undershoot	-	-	-	-	9		9	9	2.89
Total	2	5	17	1	74	-	99	99	31.83
Collision with Obstacles	-	6	33	5	19	-	63	63	20.26
Engine Failure or Malfunction	-	-	16	26	4	-	46	46	14.79
Propeller or Rotor Failure	-	-	2	5	3	-	10	10	3.22
Collision with Ground/Water	-	-	7	29	10	2	48	48	15.43
Stall	-	-	19	4	3	-	26	26	8.36
Collision with Aircraft	-	-	-	2	1	-	3	3	0.96
Fire or Explosion	-	-	-	-	-	-	-	-	-
Airframe Failure	-	-	-	1	-	-	1	1	0.33
Other	3	2	5	-	3	2	15	15	4.82
Total	5	13	99	73	117	4	311	311	100.00
Percentage of Accidents	1.6	4.2	31.8	23.5	37.6	1.3			

Table 6.--Total Air Taxi Accidents in U.S. (excluding Alaska), 1974-1978

Accident Type	Phase of Operation						Total Aircraft	Total Accident	Percentage of Total Aircraft
	Static	Taxi	Takeoff	Inflight	Landing	Other			
Takeoff and Landing									
Ground/Water Loop/Swerve	-	10	16	-	34	-	60	60	7.93
Dragged Wing Tip Pod or Float Wheels-Up Landing	-	-	-	-	26	-	26	26	3.43
Wheels-Down Landing in Water	-	-	-	-	-	-	-	-	-
Gear Collapsed	-	8	2	-	16		26	26	3.43
Gear Retracted	1	4	5	-	14		24	24	3.17
Hard Landing	-	-	-	-	25	-	25	25	3.30
Nose-Over/Down	1	4	-	-	5	-	10	10	1.32
Roll-Over	-	1	3	1	3	-	8	8	1.06
Overshoot	-	-	-	-	25	-	25	25	3.30
Undershoot	-	-	-	-	17	-	17	17	2.25
Total	2	27	26	1	165	-	221	221	29.19
Collision with Obstacles	-	33	26	27	41	-	127	127	16.78
Engine Failure or Malfunction	-	-	35	97	26	-	158	158	20.87
Propeller or Rotor Failure	2	-	7	16	3	-	28	28	3.70
Collision with Ground/Water	-	-	15	53	26	-	94	94	12.42
Stall	-	-	14	4	12	-	30	30	3.96
Collision With Aircraft	4	10	3	5	2	-	24	20 1/	3.17
Fire or Explosion	-	4	-	17	3	-	24	24	3.17
Airframe Failure	-	-	5	10	2	-	17	17	2.25
Other	4	3	3	10	5	9	34	34	4.49
Total	12	77	134	240	285	9	757	753	100.00
Percentage of Accidents	1.6	10.2	17.7	31.7	37.6	1.2			

1/ The difference in totals is due to four collisions between eight occupied aircraft.

phases of operation account for only 34 percent of the air taxi accidents occurring in the rest of the United States. Thus, it appears that accidents involving takeoff and landing are more of a problem in Alaska.

The distribution of air taxi accidents on a monthly basis as a percentage of the total for Alaska and for the rest of the United States are shown in figure 3. These data show that the percentage of air taxi accidents that occur during the summer months in Alaska is larger than that in the rest of the United States. Also, the percentage of accidents that occur during the winter months is lower in Alaska than that in the rest of the United States. One reason for this may be drawn from figure 4, which presents the 5-year (1974-1978) cumulative monthly distribution of accidents for Alaska and for the rest of the United States. Figure 4 also presents the distribution of Alaskan air taxi accidents involving amphibious aircraft and aircraft equipped with hulls or floats (seabased aircraft). These data show that the number of air taxi accidents in Alaska peaks during the summer months of June through September as does the number of such accidents involving seabased aircraft. This peak of accidents involving seabased aircraft obviously reflects the significantly increased use of such aircraft in Alaska during these months. The monthly accident distribution for the rest of the United States, while varying significantly from month to month, does not exhibit the marked seasonal fluctuation of the Alaskan accident distribution.

A comparison of the percentages of accidents involving a given type of landing gear-equipped aircraft in Alaska with those of the rest of the United States is shown in table 7. The data show a much larger percentage of air taxi accidents in Alaska involve aircraft equipped for water landing and ski-equipped aircraft. The data further show that a larger percentage of air taxi accidents in Alaska involve aircraft with tailwheels (combined fixed and retractable gear). These facts indicate the extent of the waterbased and rough-field operations in Alaska.

Table 7.--Comparison of Accidents by Landing-gear Type

Landing Gear Type	Alaska (percentage)	United States (excluding Alaska) (percentage)
Hull/Float	19.29	4.22
Amphibious	3.22	3.03
Ski	6.43	1.06
Skid	15.11	10.82
Tricycle Gear Retractable	13.83	46.83
Tricycle Gear Fixed	17.68	17.41
Tail Wheel Retractable	2.57	14.38
Tail Wheel Fixed	21.22	1.72
Other/Unknown	0.64	0.53

Also, about 20 percent of the accidents in Alaska involve rotary-wing aircraft (helicopters) compared with about 15 percent in the rest of the United States. This fact reflects the higher use of rotary-wing aircraft by air taxi

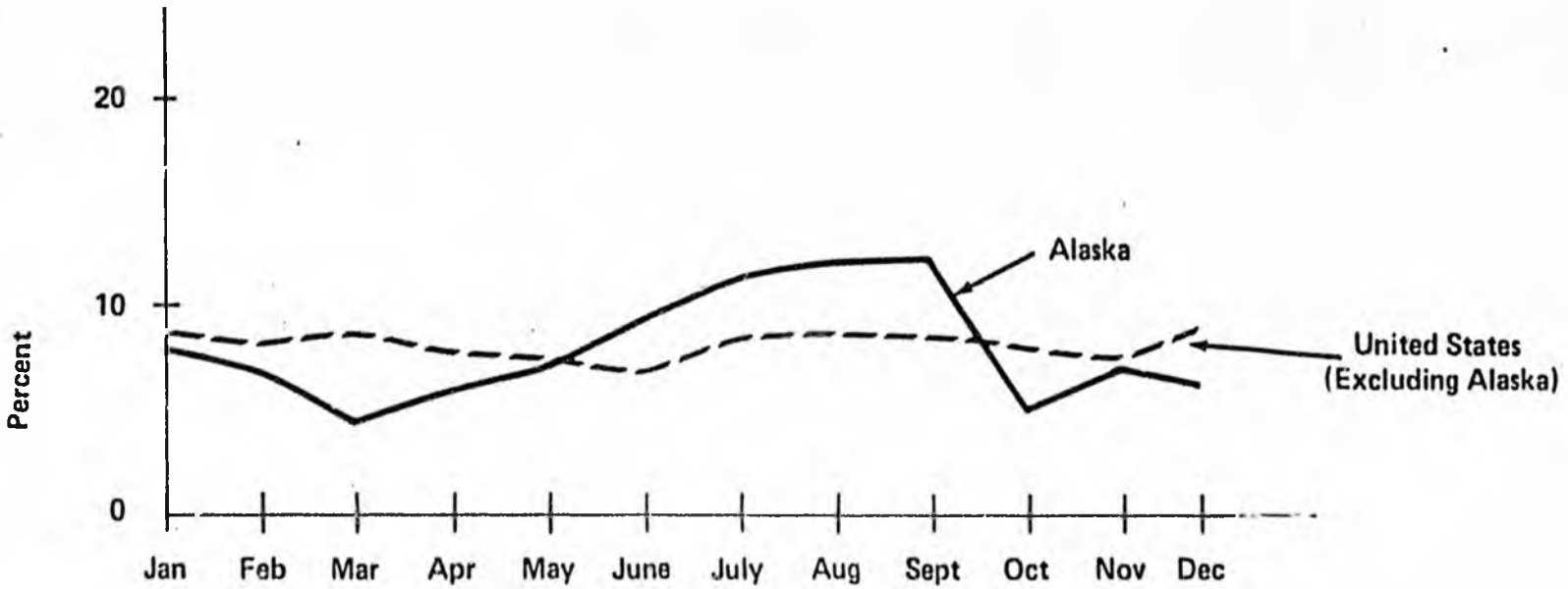

Figure 3.—Percentage of annual accidents occurring monthly.
Data from 1974-1978 for Alaska and the U.S. (excluding Alaska).

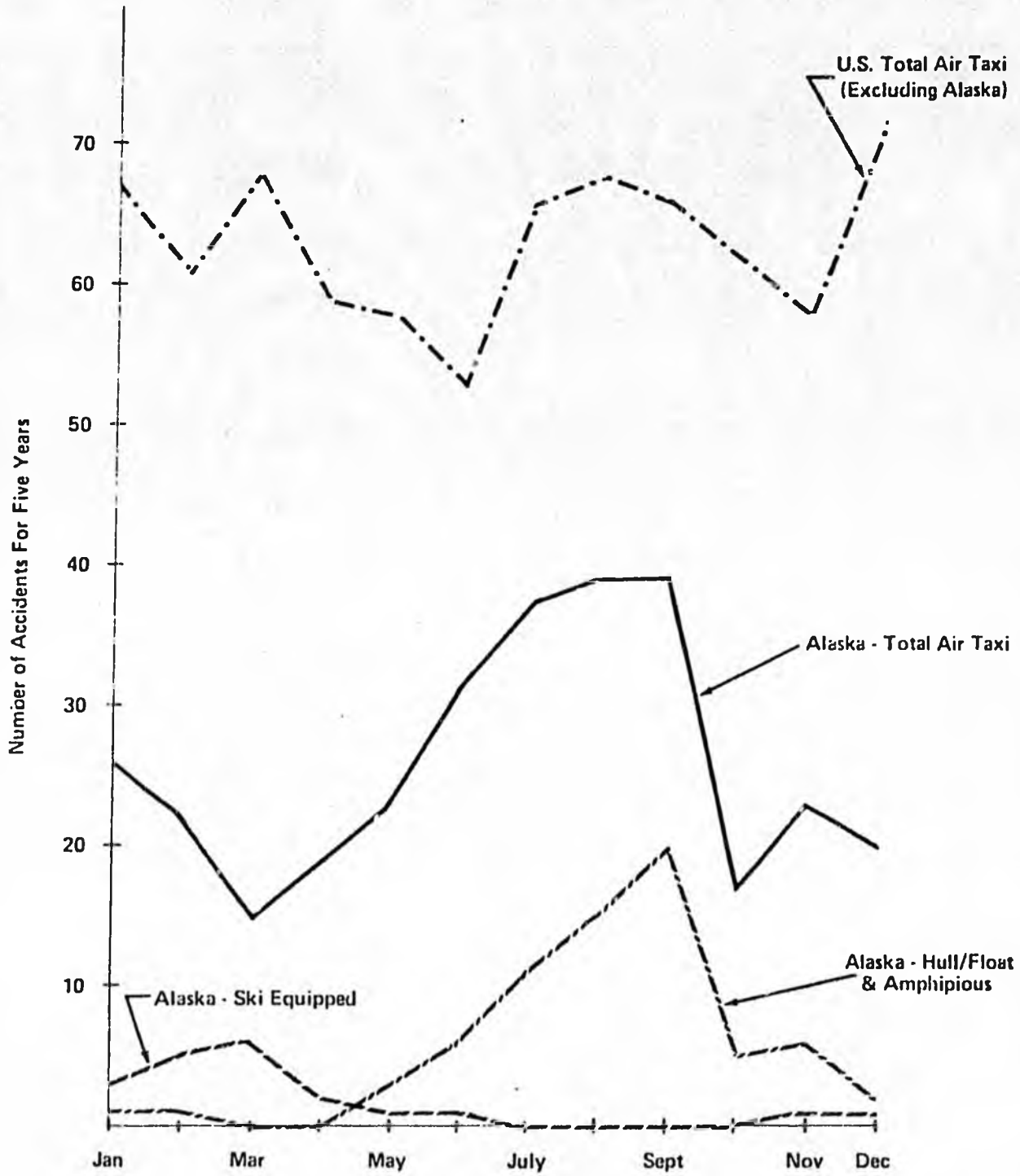

Figure 4.—Air taxi accidents for 1974-1978 on monthly basis. Comparison of Alaska with U.S. (excluding Alaska).

operators in Alaska 19/ due, in part, to the less developed conventional airport system.

In carrying out its Congressional mandate to determine the probable causes of all aircraft accidents that occur on United States territory, the Safety Board has established 13 broad categories of cause/factors. 20/ The broad categories have been subdivided further into numerous detailed cause/factors. For example, the broad category of cause/factor could be cited as the "pilot," and the detailed cause/factor could be that the "pilot continued VFR [visual flight rules] flight into adverse weather." Furthermore, a single accident could have more than one cause/factor assigned to it. In some cases, where the aircraft is never located or insufficient facts are available, the Safety Board is unable to determine a probable cause.

Of the 266 nonfatal air taxi accidents in Alaska from 1974 to 1978, the cause of 1 was undetermined because the aircraft was not located. Of the 45 fatal Alaskan air taxi accidents, the aircraft involved in 1 accident was never found, and 3 accident investigations developed insufficient data, for a total of 4 accidents in which the probable cause was not determined. Of the 562 nonfatal air taxi accidents in the rest of the United States, the probable cause could not be determined for 31 accidents, and of the 191 fatal air taxi accidents, 5 resulted in an undetermined probable cause.

A comparison of the broad categories of cause/factors assigned by the Safety Board to air taxi accidents in Alaska and to air taxi accidents in the rest of the United States is presented in table 8. While this comparison does not unequivocably identify the factors contributing to the higher accident rates in Alaska, there are several differences in the distribution of causal assignments that provide direction in the search for these factors.

Table 8 shows that the pilot is cited as a cause/factor in a larger percentage of all air taxi accidents in Alaska than in accidents in the rest of the United States. The assignment of "personnel" as a broad cause/factor is less in Alaskan accidents. Airports/airways/facilities are cited in a slightly larger percentage of all air taxi accidents in Alaska. Terrain is cited as a cause or related factor substantially more often in Alaska than it is in the rest of the United States. Mechanical causes such as powerplant, landing gear, and systems are cited considerably less often in Alaska. Weather is the assigned factor in the same percentage in both.

19/ Over 25 percent of the air taxi fleet in Alaska are rotary-wing aircraft; about 12 percent of the air taxi fleet in the rest of the United States is rotary-wing aircraft.

20/ The 13 broad categories of cause/factors are: pilot, personnel, airframe, landing gear, powerplant, systems, instruments/equipment and accessories, rotorcraft, airport/airways/facilities, weather, terrain, miscellaneous, and undetermined.

Table 8.—Comparison of Air Taxi Accidents
By Broad Cause/Factor Categories

	Alaska		United States (excluding Alaska)	
	Accidents	Percentage[1/]	Accidents	Percentage[2/]
Pilot	263	85.1	518	70.4
Personnel	39	12.6	156	21.2
Mechanical[3/]	57	18.4	228	31.0
Rotorcraft	10	3.2	20	2.72
Airport/Airways/Facilities	44	14.2	88	12.0
Weather	92	29.8	219	29.8
Terrain	101	32.7	155	21.1
Miscellaneous	5	1.62	36	4.9
Undetermined	5	1.62	36	4.9

1/ Based on 309 air taxi accidents, some of which had more than one cause/factor assigned, for which probable cause was determined.
2/ Based on 736 air taxi accidents, some of which had more than one cause/factor assigned, for which probable cause was determined.
3/ "Mechanical" is not a Safety Board broad category of cause/factors. It is a consolidation, used here only for convenience, of the Safety Board broad categories of airframe, landing gear, powerplant, systems, and instruments/equipment and accessories.

A review of the geographical distribution of the air taxi accidents within Alaska shows that accidents occur fairly uniformly throughout the State, but with an apparent bias toward those areas which are known to have more air taxi operations. The percentages of air taxi accidents that occurred in Alaska from 1974 to 1978 by geographical areas within the State (see figure 1) were:

Area	Percentage
Southwest	25
Northwest	11
Arctic Circle	19
Central Interior	7
Southcentral	16
Southeast	14
Aleutians and Kodiak Islands	8

The southwest area, where Bethel is the most important transportation hub, has the highest percentage of accidents. This area has a substantial amount of air taxi activity. The combined areas of western Alaska have over one-third of all air taxi accidents within the State. This area also has very few navaids and many poorly maintained runways.

The area above the Arctic Circle also has a significant portion of the accidents. It too has substantial air taxi activity and few navaids. The southeast, in which the air taxi flying involves significant float operations, also has a substantial portion of the State's accidents. This area has over 160 inches of rainfall each year, and the air taxis operate almost solely under visual flight rules. The southcentral area, with Anchorage at its center, is the most congested area and involves a mixture of landbased and seabased operations.

Although the perspectives of the air taxi operators and pilots and Federal and State government agency personnel interviewed during this study varied widely and their emphasis on particular aspects of problems affecting safety was slightly different, a review of the opinions expressed, coupled with an analysis of the accident data, revealed three recurring problem areas. They are: (1) pilot/operator/passenger attitude ("bush syndrome"), (2) inadequate airfield facilities/communications, and (3) inadequate weather information/communications/navaids.

Pilot/Operator/Passenger Attitude--"Bush Syndrome"

One comparison that particularly stands out, especially in light of the opinions gathered in Alaska, is the larger percentage (86 percent to 72 percent) of all air taxi accidents in Alaska in which the pilot was cited as a cause/factor. Further examination of the pilot involvement in these accidents was prompted by both the large percentage of accidents in which the pilot was assigned as a cause/factor, and by the fact that it was cited more often in Alaska.

A review of the total hours of flight time, flight time flown in the accident type of aircraft, and certificates and ratings held revealed that the majority of the pilots involved in air taxi accidents in Alaska were experienced pilots. Almost all pilots involved in these accidents had more than 1,000 hours of total flight time and approximately 80 percent of those pilots had more than 2,000 hours of total flight time. Approximately 80 percent of those pilots for whom the number of hours flown in the accident type of aircraft could be determined had more than 100 hours in type. About 20 percent had airline transport pilot certificates in addition to their commercial certificates, and almost 80 percent of the pilots had instrument ratings.

Although these pilots generally had considerable flight experience, it is not known how much of their experience was gained in Alaska. Unfortunately, these data are difficult to obtain and generally are not collected. Obviously, if the flight experience of these pilots was not obtained in Alaska where many unique flying problems exist, then the "effective" level of their experience would not be as high as it appears to be.

While these statistics illustrate the extensive involvement of the pilot in the accidents, they do not identify specific problem areas. However, statements from operators, pilots, and regulatory personnel in the Alaskan aviation community suggest that the "bush pilot syndrome" may be an integral factor not only in the high pilot involvement but also in the high accident rate in Alaska.

Descriptions of the "bush pilot syndrome" range from a pilot's casual acceptance of the unique hazards of flying in Alaska to a pilot's willingness to take

unwarranted risks to complete a flight. In Alaska, it is not uncommon for pilots to fly in extremely poor weather or to attempt to land on runways that are in bad condition or off the airport on snow-covered strips or frozen lakes marginally suited for landing. Stories abound about pilots who have been involved in numerous accidents and have survived. These pilots have become near legends and are spoken of almost reverently by some young pilots, especially those who have arrived only recently in Alaska. Taking chances is considered a part of flying in Alaska by many Alaskans--not just the pilots, but also the passengers. Passengers affected by the "bush syndrome" demand to fly even in hazardous weather conditions, and if one pilot or operator will not fly, the passengers will go to another operator; occasionally they find one who will fly in hazardous weather conditions.

The "bush syndrome" goes beyond the realm of poor judgment compounded by pressures and into the area of unreasonable risk-taking. Although the "bush syndrome" apparently exists, it cannot be unequivocably demonstrated by statistical data. However, it is clear that most operators, pilots, and others associated with Alaskan aviation believe that it does exist. The review of accident cases further supports the contention. The following case history helps to illustrate the "bush syndrome" attitude.

In November 1978, two persons asked to be flown from McGrath to Tatalina. They asked one air taxi operator who refused because it was a "pitch dark night" and the dirt strip at Tatalina was not lighted. A pilot for another operator agreed to take the flight even though he did not have the operator's permission. Immediately after takeoff, the aircraft, a Piper PA-32, entered a steep right bank and descended into trees approximately 1 mile from the McGrath airport.

The accident pilot had already been involved in three other accidents, and on the day of the accident he had argued with another pilot about not getting his share of the flying. On this flight, he violated Federal Aviation Regulations (FARs) because he did not have an air transport rating or an instrument rating required to fly 14 CFR 135 flights at night. This case illustrates the "bush passenger" attitude of wanting to fly under any conditions and the "bush pilot" attitude of total disregard for rules and safe operating practice.

Although the pilot is cited in a higher percentage of air taxi accidents in Alaska, that statistic does not tell the entire story and may even be misleading. The Safety Board determinations of detailed cause/factors in air taxi accidents in Alaska were compared with the determinations for accidents in the rest of the United States. This comparison indicated that when the pilot was cited as the broad cause/factor, several detailed cause/factors pointing to two general problem areas frequently appeared. These problem areas are: (1) inadequate airfield facilities and inadequate communications of airfield conditions, and (2) inadequate weather observations, inadequate communications of the weather information, and insufficient navaids.

Airfield Facilities and Communications

Observations from participants in the Alaskan air taxi system indicate that inadequate airfield facilities and communications are a significant factor in the air taxi accidents in Alaska. A close look at the detailed cause/factor of "pilot selection of unsuitable terrain" reveals that although this detailed cause/factor

may be the result of poor pilot judgment, it is, in part, a manifestation of the problems of inadequate airfield facilities and communications in Alaska.

Selection of unsuitable terrain was cited as a cause/factor in over 13 percent of all air taxi accidents in Alaska in which the pilot was cited as the broad cause/factor, but in less than 4 percent of such accidents in the rest of the United States. Further review reveals that pilot selection of unsuitable terrain is almost always associated with nonfatal accidents and almost never associated with a forced landing due to an engine failure or malfunction. Of the 43 Alaskan air taxi accidents in which unsuitable terrain was cited, 42 were nonfatal accidents. Only one accident involved an engine failure or malfunction. It is apparent that those accidents in which the pilot was cited for selection of unsuitable terrain involved an intentional effort by the pilot to either take off or land.

There was virtual unanimity of opinion among operators and pilots that runway conditions present a problem in much of rural Alaska. Inadequate runway length and width, inferior runway surface construction, poor surface condition, and a lack of lighting often make takeoffs and landings difficult, if not dangerous. This problem of runway conditions was cited time after time not only by operators and pilots but also by FAA personnel and even by State DOT/PF staff personnel.

Many runways are either too narrow or too short, or both, and cannot handle safely the aircraft needed to adequately serve the villages near the airport/strip. The State has established a minimum length of 3,000 feet and a minimum width of 100 feet. Unfortunately, the geography and topography of many villages physically preclude the construction of a runway of minimum size.

Gravel is considered to be the best surface composition for use in rural Alaska because of the weather and terrain, but gravel is expensive and difficult to obtain. Therefore, almost half of the rural runways have little or no gravel covering the dirt surface. Thus, the surfaces often become a quagmire of mud during rain or during the spring breakup, when the tundra thaws and the ice melts. Many of these dirt strips have ruts and potholes.

The problem most consistently cited by operators, pilots, and the FAA, however, is that of inadequate maintenance of the runway surfaces. Removal of snow and grading of the dirt surfaces after rain are often inadequately performed and occasionally not done at all. If snow is not plowed completely from an already short and/or narrow runway, it leaves a runway of even more marginal dimensions, often with patches of snow, soft snow, or ice still remaining on the surface.

It is under these conditions that the Alaskan air taxi pilot functions. The pilot must decide whether to attempt a takeoff or landing or lose a revenue-producing flight. If the trip is not completed satisfactorily, the operator will not receive revenue. There are many pressures on the pilot to attempt a landing, including those from passengers on board or waiting at the destination airport; those from the local villagers awaiting food, mail, or medicine; or those from the operator. Decisions have to be made, and pressure can affect the pilot's judgment, sometimes distorting his assessment of the runway conditions. Analysis of the accidents in which the pilot was cited for selection of unsuitable terrain shows that the condition of the airfield may be more significant in these runway-related accidents than poor pilot judgment or attitude.

Many of these accidents resulted from taking off or landing on runways that were either snow- or ice-covered because they were inadequately cleared. The following case history helps to illustrate this point. The pilot, a certified flight instructor with over 2,200 hours of total flight time and over 45 hours in the type aircraft, a Cessna 185, successfully landed his aircraft at 1340. During landing the pilot noticed that the runway was covered by 6 to 7 inches of loosely packed snow. The pilot requested that the runway be plowed and a caterpillar tractor made two passes on the runway and packed down approximately 2,000 feet of its length. At 1545, during the attempted takeoff, the aircraft was unable to obtain liftoff speed because too much snow still covered the runway and the aircraft ran off the runway into a snow bank.

Many of the accidents involve intentional off-airport takeoffs and landings, often on frozen waterways or on snow/ice strips, because of inadequate runways or poor runway conditions. The following case history illustrates this point. In December 1978, a wheel-equipped Cessna U-206 was dispatched on an air taxi flight from Bethel to Sheldon's Point with a cargo of supplies needed by the village. The pilot had approximately 1,000 hours of total flight time and over 100 hours in the Cessna U-206. Upon reaching his destination, the pilot landed on the frozen lake adjacent to Sheldon's Point because the runway/landing area was not maintained. The landing was uneventful even though the lake was covered by 6 inches of snow. During the takeoff from the snow-covered and frozen lake, the aircraft struck a snowdrift after an unsuccessful attempt to obtain flying speed. While skis may have been better suited for this terrain, wheels were better suited for the home base of Bethel.

Adequate maintenance of airfields is a difficult problem for Alaska. According to the State DOT/PF officials, sufficient funds are not available for full-time State employees to maintain rural airports. Therefore, the State generally contracts with a local villager to operate the State-supplied equipment and maintain the runways. Sometimes the work is not performed adequately. The runway-related air taxi accidents already discussed show the magnitude of this problem.

Another example of an accident during an intentional off-airport landing, where the Safety Board cited pilot selection of unsuitable terrain, involved a ski-equipped Cessna 180 aircraft. The pilot, with over 1,500 hours total flight time and over 1,500 hours in type, successfully landed at a ski strip near Kwigillingok. During the attempted takeoff about 1 hour later, the aircraft never obtained sufficient speed because of the wet, sticky snow. Similar accidents have involved float-equipped aircraft landing on shallow waterways and then running into sandbars or submerged debris. In one accident, a float-equipped Cessna 185 flown by a pilot with over 18,000 hours in type struck a submerged log during landing.

A greater percentage of nonfatal air taxi accidents in Alaska than in the rest of the United States involved collisions with obstacles on takeoff or landing. In fact, almost 19 percent of the nonfatal accidents in Alaska are of this type compared with less than 10 percent in the rest of the United States. It also should be noted that pilot selection of unsuitable terrain is often cited in these accidents. These statistics support the contention that many of these accidents occur because operators use float- and ski-equipped aircraft, in part, to compensate for the lack of adequately maintained runways.

Operators and pilots also stated that the lack of airfield lights at most rural airports contributes to the high accident rate. Since much of Alaska is shrouded in darkness, or near darkness, for several months of the year, operations at unlighted airfields are hazardous and often illegal. The installation of lights is a problem, but the maintenance of lighting at airports is even more of a problem. Lights are sometimes accidently plowed out during snow removal or occasionally shot out by local villagers engaging in target practice.

Information on runway conditions is occasionally inaccurate, often untimely for operator and pilot needs, and sometimes not available at all. Villagers who are in desperate need of supplies or who must make a trip out of the village will sometimes optimistically report conditions to be better than they really are. This problem is further compounded by an inadequate communications system. The following two accident cases highlight this information reporting/communications problem.

The first accident, which occurred in January 1978, involved a wheel-equipped Cessna 180 flown by a pilot with over 5,000 hours total time and over 350 hours in that type aircraft. In preparation for the flight to Kipnuk, the pilot learned that there was a 20-knot crosswind at Kipnuk and there was poor braking action on the runway. The air taxi operator called Kipnuk and was informed by villagers that the lake surface was satisfactory for landing. Upon arriving at Kipnuk the pilot flew over the lake at 250 feet, and again at 50 feet, to check the surface. The pilot did not observe any shadows or definitions of snow berms (a protruding shelf or ledge of snow) because of overcast skies. However, upon landing, the aircraft struck a snow berm and flipped over. The information communicated to the pilot concerning the landing area's condition was incorrect.

The second accident also occurred in January 1978. This accident involved a Piper PA-31 Navajo that was flown by a pilot with over 500 hours of multiengine flight time and 50 hours in the PA-31. The pilot was unable to learn the condition of a runway. The aircraft touched down on its destination airstrip within 100 feet of the threshold. However, the 2,800-foot runway was very icy and the pilot was unable to stop the aircraft. It finally went off the end and struck a large frozen outcropping while the pilot was attempting to go around. Once again, inadequate communication of information to the pilot was a factor in an accident.

Weather Observation/Communications/Navaids

Certain detailed cause/factors related to accidents in adverse weather conditions and whiteout were assigned in a greater percentage of air taxi accidents in Alaska than in the rest of the United States. (See table 9.)

Based on the 309 total air taxi accidents in Alaska and the 736 such accidents in the rest of the United States for which the Safety Board determined probable causes, these weather- and whiteout-related detailed cause/factors were assigned more than twice as often (24.3 vs. 10.1 percent) in air taxi accidents in Alaska. These cause/factors could be a manifestation of poor pilot judgment or the "bush pilot syndrome" discussed previously. However, these detailed cause/factors might also reflect, in part, inadequacies in weather observations, communications, and the navaid system.

Table 9.—Comparison of Accidents by Detailed Cause/Factors Related to Certain Adverse Weather Conditions and Whiteout

	Alaska	United States (excluding Alaska)
Whiteout	19	0
Continued VFR into adverse weather	33	47
Initiated flight into adverse weather	9	12
Spatial disorientation	9	11
Became lost or disoriented	5	4
	75	74

There is general agreement that the current system of en route and terminal navigational aids serving the major hubs of Anchorage, Fairbanks, and Juneau and the regional hubs such as Bethel, Nome, Kotzebue, McGrath, and Ketchikan is satisfactory. However, partly because of the scarcity of navaids, flights between the regional hubs and the outlying villages operate almost completely on VFR flight plans and thus are severely limited by weather. Weather in many areas of Alaska is poor much of the time and often causes delays resulting in frustration on the part of operators, pilots, and passengers. Typical of this weather is constant rain, fog, or low clouds often found in southeast Alaska, Kodiak Island, and the Aleutian Peninsula or island chain; fog, low clouds, snow, or whiteouts in rural western Alaska; and the snow and whiteout conditions of the arctic region.

During the interviews in Alaska, the lack of navaids and inadequate weather reporting and inadequate communications of the weather information were repeatedly cited by operators and pilots flying in the more rural areas as being significant factors in weather-related accidents. The pilots in western Alaska stated that the installation of navaids would greatly enhance their ability to cope with the unanticipated low ceiling and poor visibility often encountered during whiteouts or when weather suddenly deteriorates. Also, navaids would reduce the number of accidents that occur when attempting, in marginal weather conditions, to fly into villages that are in desperate need of air service.

VFR flight in adverse weather is not uncommon in Alaska. Many operators stated that they did not want their VFR flights flown in adverse or even marginal weather, but, at times, the pressures of operating in rural areas did result in such operations. The risk of losing unrecoverable business often results in pressure on the operator or pilot to fly when good judgment dictates otherwise. Occasionally, poor decisions are made and unwarranted risks are taken. The accident involving the flight on a "pitch black night" into an unlighted dirt strip by a noninstrument-rated pilot after another operator had refused to make the flight is a glaring example of the pressures which many operators claim they have to face.

Another point made by many operators was that the lack of FAA inspectors permanently on site at the regional hub airports--FAA inspectors are permanently stationed only in Anchorage, Fairbanks, and Juneau--does little to discourage these unwarranted and often illegal flights. There is no one of authority available to discourage or stop those operators or pilots with a "bush mentality" from flying when others choose not to do so.

The interviews revealed that relations between the FAA General Aviation District Office and the air taxi operators and pilots involve considerable mutual distrust. The FAA appears to believe that the most serious safety problem is operator and pilot attitude, and the operators and pilots seem to feel that the FAA, rather than working with them to solve their problems, is "violation" oriented. Evidence of friction in this relationship was found in most areas of the State, but it was more pronounced in rural areas.

Although State and Federal officials placed greater emphasis on operator and pilot attitude and less on the physical infrastructure, they did agree that improvements in weather reporting and additional navaids were needed.

Another problem which the operators and pilots face is inadequate reporting of weather conditions. The problem is twofold and involves both inadequate official weather observations and inadequate communication of the observations. Many operators believe that the official weather reporting system set up by the NWS, using certified weather observers, has deteriorated over the years. Almost all agreed that some improvements are necessary and that a system based only on actual human observation of weather would be satisfactory. Remote automated weather observation stations were considered by the operators as being inadequate to satisfy the needs of air taxi pilots for timely observation of actual local conditions.

Communications of the weather observations are often poor. In villages where weather observations are taken by an NWS-certified observer, usually the only method to communicate this information from the village to the NWS and the flight service station (FSS) is by telephone. A significant problem can develop because there is generally only one telephone in the smaller villages and another villager may be using the telephone or it may not be functioning. Therefore, the weather observer in some cases is delayed or prevented from relaying the current weather to the NWS or the FSS.

To alleviate the communication problem and the lack of a certified weather observer in a particular village, many operators have set up their own weather observation and communications networks. These operators supply a high frequency (HF) radio with frequencies used in ground-to-ground communications to a villager who is paid to supply weather information to the operator. This villager not only provides unofficial weather reports to the operator but also supplies information on runway conditions. Operators have a HF radio at their home base and even have installed some in their aircraft. However, even this private system is not perfect. Communication equipment often malfunctions or the villager responsible for observing and communicating the weather is not available. Sometimes weather conditions and runway conditions are reported as being significantly better than they are.

The NWS and FSS facilities do not have HF radios with the same frequencies used in the operator network, so information from this operator network often does not get into the official FAA/NWS system. Further, the weather observers usually are not trained or certified by the NWS. Thus, the flights based on these weather data are often in violation of Federal Aviation Regulations. This system has been tolerated because of the lack of an alternative system.

According to the NWS, while the official NWS system needs to be improved, its observer network has not really deteriorated. The NWS argues that demands of the system have increased and its resources have not been increased accordingly. In support of its contention that the system has not deteriorated, the NWS pointed out that in January 1970, there were only 16 weather observation stations under NWS contract (contract stations) and 18 supplemental aviation weather reporting stations (SAWRS) in Alaska. By February 1980, there were 42 contract stations and 19 SAWRS. Further, in October 1974, there were only 1,500 contract weather observations per week in Alaska, and by February 1980, the number of observations per week had reached 3,427.

Following is a brief summary of an accident which occurred in Alaska in January 1978. It is typical of many air taxi accidents in Alaska involving adverse weather or whiteout conditions. A Britten-Norman BN-2A Islander on a nonscheduled air taxi/cargo flight departed Bethel on a VFR flight plan for Tanunak. Before departure the pilot received a weather briefing for the local area. No official weather reporting facility exists for Tanunak or Toksook Bay, and no weather information on these areas was available to the pilot at the time of departure because attempts to contact the destination village by radio failed. Bethel weather was 1,500 feet overcast, visibility 7 miles in light snow, and wind 220° at 17 knots. The station agent at Bethel received weather information on Tanunak about 20 minutes after the Islander departed. Tanunak weather was reported as 1,000-foot ceiling and overcast with 10- to 15-mile visibility. Two other aircraft departed Bethel for the same general destination area about the same time as the Islander, one probably slightly before and the other about 5 minutes after the Islander. A third aircraft departed Bethel for the same area about 2 hours later. The pilot of the first aircraft stated that Bethel weather was good at departure and that en route weather was generally good with ceiling and visibility variable, occasionally down to 500 feet and 1 mile, respectively, but that he maintained visual contact with the ground. The pilots of the second and third aircraft both reported that the weather en route deteriorated rapidly. The pilot of the second aircraft stated that VFR flight eventually became impossible and he landed his aircraft on a frozen lake and waited 30 minutes until weather conditions improved. The pilot of the third aircraft (2 hours later) encountered ceilings of 500 feet with visibility of less than 1 mile and whiteout conditions. He aborted his flight and returned to Bethel. The Islander aircraft wreckage was found several hours later that day in the area where the second flight landed to wait out the storm and near the area where the third flight was aborted.

The pilot of the Islander had a commercial pilot certificate, with single- and multiengine land and sea ratings and was instrument rated. He had a total of 1,783 flight hours--179 hours in the Islander, and 7 hours in the last 24 hours.

This accident illustrates a number of problems facing Alaskan air taxis, especially those operating in rural western Alaska. The attempt to contact the destination village for a report on weather conditions failed. Existing conditions provided no indication or forewarning of potential weather problems. Weather conditions en route deteriorated rapidly and severely; no navaids were available. These conditions, which are typical of rural Alaska, are certainly conducive to an accident.

CURRENT EFFORTS TO IMPROVE SAFETY

In the July 1979 update of its Ten Year Plan for Alaska, the Alaska Region office of the FAA recommended major improvements to the aviation infrastructure, including the navaid system, weather observation and reporting system, and the airport system. Most operators interviewed for this study believed the recommended improvements in navaids to be adequate for their needs but they were concerned about the long lead time in the implementation of the improvements to the system. In its Ten Year Plan, the FAA has proposed the installation of 10 TVORs (terminal-area VORs) and 17 NDBs. Funding has been committed for four TVORs and seven NDBs. The TVORs are attractive because approaches to several neighboring villages often can be made from one well-located TVOR. Obviously, the installation of the funded and the planned TVORs would be of significant benefit to the air taxi system.

Some air taxi operators have applied to the FAA for an exemption which will allow them to use the radar on board their aircraft to assist in making instrument approaches at lower minimums. During the interviews, the operators serving western Alaska repeatedly stated that they need navaids now and suggested that the existing beacon system that was installed and operated by Wien Air Alaska be reactivated immediately.

In June 1980, the State Legislature of Alaska enacted Chapter 50, containing the Fiscal Year 1981 Budget. Chapter 50, SLA 1980 contained appropriations of $51,357,600 for further development of the State aviation system. Amounts appropriated by development category are:

Airport lighting	$ 4,719,000
Navigational aids	2,775,000
Rural airport runway improvement	35.247,000
Southwest air transportation and facilities 21/	6,137,600
Airport weather reporting equipment	300,000
Airport terminal and storage buildings	1,950,000
Air-to-ground radios	199,000
Emergency medical supplies	30,000
	$ 51,357,600

This appropriation package is unprecedented for this or any other State. In comparison, Federal Airport Development Aid Program (ADAP) funding for general aviation in Alaska was less than $4 million for FY 1979.

21/ Includes runway improvement, runway lighting, navaids, weather reporting, airport terminal and storage buildings, air-to-ground radios, and emergency medical supplies for 22 villages in the southwestern part of the State.

Funding allocations for aviation in rural Alaska in Chapter 50, SLA 1980 were based on recommendations provided to the 1980 State legislature by Parker Associates of Anchorage, aviation transportation consultants to the State. These recommendations were the result of a 1979 study of the problems of air service to rural Alaska. 22/

Chapter 50, SLA 1980 incorporated a number of conditions on the use of the appropriated funds. For example, runways constructed with the funds must meet, where possible, the minimum State standard for runways of 3,000 feet in length by 100 feet in width. Another requirement is that runway lighting must have a power source that complies with a State DOT/PF design document. 23/ Perimeter lighting and marking systems must also meet certain requirements.

Among other conditions specified by Chapter 50, SLA 1980 there is a requirement under the appropriations for navaids that "Beacon installation plans shall be implemented immediately for those villages where Wien Air Alaska has agreed to turn over its existing frequencies and licenses to the State." Implementation of this requirement would be an immediate response to some of the needs and desires of the air taxi operators serving rural Alaska. Further, Chapter 50, SLA 1980 appropriates money for the installation of considerably more navaids than are proposed overall in the FAA Alaska Region's Ten Year Plan. Similarly, Chapter 50, SLA 1980 appropriates funds for establishing significantly more weather reporting stations than the NWS projected in the near future.

Chapter 50, SLA 1980 apparently appropriates sufficient funds to make a significant improvement in the airport and airway facilities serving Alaska's air taxi industry. In combination with the FAA Ten Year Plan, the improvements could have a substantial impact on the safety of Alaska's aviation system, depending on the application of the State funds and the implementation of the FAA Ten Year Plan.

An improvement in safety would require the development of a program for application of the funds based on a well-designed plan coordinated with the FAA, the NWS, and the users of the system. Further, implementation of even the best-designed program will produce the maximum safety benefits only if the managers, regulators, and users of the system do so with the proper attitude toward safety. The improved system must be maintained adequately by the State and the FAA, and the air taxi operators and pilots who use the system must improve their adherence to sound safety practices. Finally, the regulators of the system, primarily the FAA, must work together with the managers and users to enforce safe operation within the system.

Presently, the NWS and the FAA are working together in the area of weather observations. The NWS is recruiting and training 50 additional observers and the FAA is supplying the funds for equipment. This is an excellent example of an interagency cooperative effort that will help to alleviate the problem of inadequate weather observations. The Safety Board believes this type of effort should continue.

22/ "Air Service to Rural Alaska, A Study in Inadequacy," Parker Associates, October 20, 1979.
23/ "Feasibility Report and Design Guide for Remote Airport Lighting Systems," Alaska DOT/PF.

Although the experimental remote TV cameras for weather observation at Unalakleet and Valdez have not been completely successful, the concept merits further work. The FAA and the NWS are presently exploring the possibility of using "meteor burst" technology to relay weather observations to a central receiving antenna. It would then be automatically transmitted within seconds to all FAA and NWS teletype machines in Alaska and would eliminate many of the problems with current methods of disseminating weather observations. The exploration of these two new technologies is clearly worthwhile and should yield valuable results.

As one of its contributions to improving air safety in Alaska, the Alaska Air Carriers Association (AACA) has an ongoing safety program aimed at management, operations, and maintenance. Inspection teams are sent to various air taxi operators to point out areas where improvements are warranted. The AACA also holds a safety seminar at its annual conference.

SAFETY CONCERNS YET TO BE RESOLVED

Discussions with State DOT/PF personnel, with Federal officials, and with Mr. Walt Parker of Parker Associates suggested that the State of Alaska does not yet have in place an organization which is adequate to implement the apparent intent of the State legislature for application of the fiscal year 1981 funds appropriated for improvements in the aviation transportation system. The State DOT/PF has divided the planning and programming of its transportation system into three regions, which are responsible for all modes of transportation. While it appears that there are efforts to coordinate and work together, to the extent possible, in planning for the use of the funds and for developing a comprehensive program, there appears to be a lack of overall control of the process. No comprehensive program for an aviation system in Alaska was available from the DOT/PF when the Safety Board staff met with DOT/PF staff officials in Alaska. It is not clear that a complete, up-to-date inventory of airports in Alaska exists. Further, effective coordination between the DOT/PF and the State legislature in developing the appropriations bill seemed to be missing.

Recently, the FAA held hearings in several areas of rural Alaska to learn the needs of the users of the aviation system. Much of the information has been incorporated in FAA planning policy in Alaska, including the most recent update of the Ten Year Plan. While a dialogue exists between the FAA and the State DOT/PF, the degree of coordination among the State and Federal agencies (particularly the FAA and the NWS) does not appear to be sufficient to develop and implement an adequate aviation infrastructure.

An action plan for implementation of Chapter 50, SLA 1980 is being developed by the State DOT/PF. However, the time and resources available make it unlikely that this action plan will be an adequate substitute for the development of a comprehensive plan for the Alaskan aviation system. A central organization with complete and exclusive authority and responsibility for the aviation portion of transportation is needed in the Alaska DOT/PF. Coordination between the DOT/PF and the State legislature, the FAA, the NWS, and the user community is necessary to develop such a comprehensive program.

Inadequate maintenance of existing airfield facilities continues to be a problem. The State must determine how to improve the quality and reliability of its current runway maintenance. In addition, the State, in cooperation with the FAA, must develop and implement an effective maintenance program for newly installed navaids, weather reporting facilities, and communications facilities. Failure to do so could lead to a further degradation in safety rather than providing anticipated improvements in safety, because pilots and operators will come to depend on the newly installed facilities, and inadequte maintenance could result in accident-producing system errors.

Another problem which must be resolved is that of the attitude toward safety of some participants in the system. Elimination of the "bush syndrome" exhibited by pilots, operators, and passengers must accompany the improvements in airway and airfield facilities. This is perhaps the most important facet in terms of its potential contribution to safety, and is probably the most difficult area in which to achieve success. Further, the Safety Board recognizes that the "bush syndrome" is, in part, a manifestation of the deficiencies in the aviation system infrastructure (such as inadequate runways and insufficient aids to navigation and weather observation stations) and that the correction of these deficiencies would likely result in the elimination of a part of the "bush syndrome" problem.

Operators and pilots, especially those young pilots who are relatively new to Alaska, should be reminded continually of the hazards of flying in Alaska. They should also be reminded that the results of not respecting those hazards are accidents and violations of the Federal Aviation Regulations. The FAA must relate to the operators and pilots in an atmosphere of trust and respect. Operators must view the FAA not only as enforcers of the regulations but also as being helpful to them in accomplishing their mission of providing safe air service for Alaskans. Friction and antagonism between the FAA and the operators and pilots is often found in Alaska. This does not create an environment conducive to safety.

The permanent relocation of FAA principal operations and maintenance inspectors from the Anchorage, Fairbanks, and Juneau offices of the FAA to the regional hubs such as Bethel, Nome, McGrath, Ketchikan, and Kotzebue undoubtedly would be effective in reducing some of the unwarranted flying in adverse weather conditions and would relieve some of the pressure on the majority of operators who would prefer not to operate under such conditions. It may be difficult to find FAA inspectors who are willing to live in the conditions found in the rural areas. However, it is not an impossible task; FAA flight service station personnel are assigned to these areas now.

Federal and State officials must also develop programs to impress upon the village inhabitants, especially the youth, the importance of the air taxi service to them and the relevance of operating that service safely. They must be helped to understand the significance of the pressures that are often put on operators and pilots and the dangers associated with these pressures. They also must be helped to clearly understand the need to respect the airport facilities provided for them, including runway lights and communications equipment. This task will not be easy, but the Safety Board believes it to be absolutely necessary.

The NWS must reevaluate the usefulness of the automated weather observation stations for aviation purposes in Alaska. Operators and pilots believe this system to be inadequate and often misleading. It is apparent that the current

state-of-the-art of these systems is not sufficient to warrant the replacement of human observers.

CONCLUSIONS

1. The State of Alaska is heavily dependent on its air taxi industry to transport food, medicine, mail, and many other necessities of life to rural villages.

2. The nonfatal air taxi accident rate in Alaska is almost five times higher than the nonfatal air taxi accident rate in the rest of the United States, and the fatal air taxi accident rate in Alaska is more than double the fatal air taxi accident rate in the rest of the United States.

3. Air taxi flying in Alaska is unique because of a number of factors, such as, whiteouts, very rapid changes in weather, a scarcity of navaids that cause most air taxi operations to be made under visual flight rules (VFR), and the large number of off-airport takeoffs and landings in float-equipped and ski-equipped aircraft.

4. The three major factors which probably contribute most to the high air taxi accident rate in Alaska are: (1) the "bush syndrome," (2) inadequate airfield facilities and inadequate communications of airfield conditions, and (3) inadequate weather observations, inadequate communications of the weather information, and insufficient navigation aids.

5. The "bush syndrome" is an attitude on the part of air taxi operators, pilots, and passengers in Alaska that ranges from a casual acceptance of risks to a willingness to take unwarranted risks.

6. The State owns and operates most of the active airports in Alaska, and many of its runways are inadequately maintained.

7. The collection and dissemination of weather information and current runway condition information is hampered by a shortage of trained personnel and by an inadequate communications system in rural Alaska.

8. The State of Alaska has recently appropriated through Chapter 50, SLA 1980 substantial funds for the improvement of the State aviation system, including capital outlays for improvements of runways and for the installation of navaids, weather reporting equipment, and communications equipment.

9. A comprehensive State aviation system plan adequate to implement the intent of Chapter 50, SLA 1980 does not appear to exist. Further, centralized control over and authority for developing such a comprehensive aviation plan does not appear to exist within the State DOT/PF.

10. The relationship between the State's air taxi operators and the FAA appears to be strained. Furthermore, because of a lack of permanent FAA inspectors at the rural hubs, there is insufficient opportunity for the FAA to provide guidance to the air taxi operators.

11. Cooperation among the State of Alaska, the FAA, the NWS, and the air taxi operators must be increased if the State is to develop and implement an adequate aviation system plan.

RECOMMENDATIONS

Based on the results of this study, the National Transportation Safety Board recommended:

— to the State of Alaska:

Coordinate with the Federal Aviation Administration and the National Weather Service to facilitate the rapid implementation of the air transportation projects contained in Chapter 50, SLA 1980. (Class I, Urgent Action) (A-80-96)

Improve the level of maintenance of the runway facilities at the rural villages within the State airport system. (Class II, Priority Action) (A-80-97)

Centralize authority and responsibility for planning, operating, and maintaining the State's aviation facilities. (Class II, Priority Action) (A-80-98)

Develop, in cooperation with the Federal Aviation Administration and the system users, a comprehensive aviation system plan and a program for the implementation of the plan. (Class II, Priority Action) (A-80-99)

Establish, in cooperation with the Federal Aviation Administration and the air taxi operators, a program to impress upon the public, particularly those living in rural villages, the importance of respecting and properly maintaining airfield facilities. (Class II, Priority Action) (A-80-100)

-- to the Federal Aviation Administration:

Evaluate, in cooperation with the State of Alaska and the National Weather Service, the feasibility of equipping its flight service stations and the NWS-certified weather observers in rural villages with high-frequency transceivers that have the appropriate frequencies to facilitate the ground-to-ground communication of weather and runway conditions. (Class II, Priority Action) (A-80-101)

Locate and maintain permanently a Principal Operations Inspector and a Principal Maintenance Inspector at Nome, Bethel, Ketchikan, and at as many other regional hubs as possible. (Class II, Priority Action) (A-80-102)

Continue to develop, in cooperation with the National Weather Service, the concept of "meteor burst" technology for transmission of weather observations from rural villages to regional aviation hubs in Alaska. (Class II, Priority Action) (A-80-103)

Continue to develop and improve, in cooperation with the National Weather Service, the technology of the television weather observation system in Alaska. (Class II, Priority Action) (A-80-104)

-- to the Alaska Air Carriers Association:

Extend its safety program to reiterate the hazards of air taxi operations in Alaska and to overcome, in particular, the "bush pilot syndrome." (Class II, Priority Action) (A-80-105)

BY THE NATIONAL TRANSPORTATION SAFETY BOARD

/s/ JAMES B. KING
Chairman

/s/ PATRICIA A. GOLDMAN
Member

/s/ G.H. PATRICK BURSLEY
Member

ELWOOD T. DRIVER, Vice Chairman, and FRANCIS H. McADAMS, Member, did not participate.

September 16, 1980

3-1-82

HB 722

HB 704

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 1, 1982
1:07 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph
Rep. Gardiner

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 704 — An Act continuing the existence of the Real Estate Commission; and providing for an effective date.

HB 722 — An Act relating to landlord remedies.

WITNESS REGISTER

Representative Metcalfe
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-4947
Position Statement: Prime sponsor of HB 722; explained bill.

Lance Youngquist, Chairman
Real Estate Commission
195 South Franklin
Juneau, Alaska 99801
586-1612
Position Statement: Offered suggestions for changes to HB 704.

PREVIOUS ACTION

HB 704 — No previous action.

Statutory Reference: AS 08.03.010(c)(18). After amendments during meeting, references also include AS 08.88.221; AS 08.88.401.

Action Taken: The committee adopted portions of a document entitled, "Proposed Statutory Changes in AS 08.88 Presented to the House Labor and Commerce Committee by the Alaska Real Estate Commission, March 1, 1982"; specifically:

Rep. Rogers moved, on page 1 of the proposed changes, referring to Sec. 08.88.241: to change statutory reference to read, "AS 08.88.221"; and after the word "FEES", to delete the remainder of the first line and insert "(a) The following fees shall be charged a", and to add, after the word "applicant" on the second line, the words "when applicable:", and to delete the third line; and to add fees to the subsections as follows: (1) $50; (2) $100; (3) $100; (4) $100; (5) $50; and to add a new subsection (b), which would correspond to subsection (d) of existing statutes.

Rep. Randolph moved to amend Rep. Rogers motion by deleting subsection (6). There being no objection, both motions passed.

Rep. Rogers moved to repeal and reenact AS 08.88.401, as set forth on pages 2 and 3 of the proposed changes, and add a new subsection (e). Motion passed without objection.

Rep. Rogers moved to incorporate the amendments into a draft committee substitute and bring the bill before the committee at the earliest possible time. Rep. Rogers amended his motion, on page 1, line 10 of HB 704, to delete "1984" and insert "1986". There being no objection, the motions passed.

HB 722

No previous action.

Statutory Reference: AS 34.03

Action Taken: Rep. Rogers moved to delete everything after page 1, line 27. He withdrew the motion.

Representatives Bylsma and Gardiner were appointed to a subcommittee. Rep. Rogers moved the bill be reported back to the committee only by unanimous vote of the subcommittee. There being no objection, the motion passed.

ACTION NARRATIVE

Tape #29
Recording

Number 000

The meeting was called to order by Chairman Martin at 1:07 p.m. Members present were: Representatives Martin, Bylsma, Randolph, and Rogers. Representative Gardiner arrived later in the meeting. Representative Metcalfe was attending to testify on HB 722.

Number 008

Rep. Metcalfe, prime sponsor of HB 722, went over changes the bill would make to the landlord/tenant act.

Number 064

Rep. Rogers said he was concerned about the section dealing with disturbances. Rep. Martin felt there were other remedies--police, etc. As Rep. Metcalfe had to leave the meeting, Rep. Martin said he would delay action until Rep. Metcalfe could return to give further testimony.

Number 095

HB 704 was brought before the committee. Lance Youngquist, Chairman of the Real Estate Commission, went over the commission's history and past dealings regarding sunset provisions. He told of the committee's activities: seminars, educational booklets, newsletter. He spoke of problems such as the surety fund and investigations (see Legislative Audit Report) and resolutions of problems. He gave a list of proposed statutory changes to the committee which he asked the committee to consider. He went over these proposed changes, section by section. There was discussion.

Number 174

Rep. Rogers said he was concerned about fees, and asked Youngquist for clarification. There was discussion of fees and status (active and inactive).

Number 454

Rep. Rogers moved, on page 1 of the proposed changes, referring to Sec. 08.88.241, to change the statutory reference to read, "AS 08.88.221"; and after the word "FEES", to delete the remainder of the first line and insert "(a) The following fees shall be charged a", and to add after the word "applicant" on the second line, the language "when applicable:", and to delete the third line; and to add fees to the subsections as follows: (1) $50; (2) $100; (3) $100; (4) $100; (5) $50; and to add a new subsection (b), which would correspond to subsection (d) of existing statutes. There was

discussion.

Number 556 — Rep. Randolph moved to amend the motion to delete subsection (6). There being no objection, both motions passed.

Number 575 — There was discussion of fees to charge for inactive licenses.

Number 727 — Rep. Rogers moved and asked unanimous consent to repeal and reenact AS 08.88.401, as set forth on pages 2 and 3 of the proposed changes, and to add a new subsection (e). The motion passed without objection.

Side B, Number 030 — Rep. Rogers moved to incorporate these changes into a draft committee substitute and bring the committee substitute before the committee at the earliest possible time. Rep. Rogers amended his motion, on page 1, line 10 of HB 704, to delete "1984" and insert "1986". There being no objection, the motions passed.

Number 079 — HB 722 was brought back to the committee's attention. Rep. Rogers moved, page 1, to delete everything after line 27 (including all of page two). There was discussion. Rep. Rogers withdrew the motion. He then suggested appointing a subcommittee. There was discussion of what to do with bills and problems of landlords/tenants.

Representatives Bylsma and Gardiner were appointed to a subcommittee to consider the bill. Rep. Rogers moved the bill be reported back to the committee only by unanimous vote of the subcommittee. There being no objection, the motion passed.

Number 150 — Rep. Rogers reported on progress on HB 159 and the fiscal note. He said the bill would be back to the committee early the next week.

Number 165 — There was discussion of HB 641 and HB 642. No action was taken.

Number 187 — There being no further business to come before the committee, the meeting was adjourned at 2:08 p.m.

3/1

Amendments to HB 704

Please incorporate the following amendments into a draft committee substitute for HB 704.

Amendment #1:
Line 10--Change "1984" to "1986".

Additions to bill:

See attached document which was entitled "Proposed Statutory Changes in AS 08.88 presented...by the Alaska Real Estate Commission".

Sections to be incorporated, with changes noted, are marked by yellow highlighter running along the margin. Please note one change which may be confusing; that is, p. 1, last change says to add sub (b) which is the same as old sub (d). This is referring to present AS 08.88.221(d), which will now become AS 08.88.221(b).

If you have any questions, please contact me at 465-3657. You may prepare this as a draft committee substitute, as there may be other changes.

Joan Mathews
Committee Secretary

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Lance Gourgquist	195 S. Franklin, Juneau	Real ~~ESTATE~~ Com	Yes	586-1212

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3/1/82

Absent:

1:07 3/1/82

Metcalfe present

000 Call to order

HB 722 — Intro to bill

008 Metcalfe, prime sponsor - minor amdmts to landlord/tenant act. went over changes & examples of situations bill would remedy.

064 Rogers - concerned abt section dealing w/disturbances - what is unreasonable; ~~he~~ concerned that 1/2 the neighbors in a duplex is just one person.

Metcalfe said he had no objection to ~~per~~ excluding landlord from this.

Martin felt there were other remedies - police, etc.

Metcalfe said this does not cover recovery of property.

Chmn said he wd delay action until Rep. Metcalfe ed return to give further testimony. (Metcalfe had to leave for another mtg)

075
HB 704 Lance Youngquist, Chmn, Real Estate Commission went over his commission's history & past dealings re sunset provisions. Told of the commission's activities - seminars, educational booklets, newsletter. Spoke of problems - surety fund & investigations (see Legislative Audit Report) - & resolutions of problems. Requested statutory changs (see handout given to committee)

.091 - want authority to charge printing costs of manuals, etc

.101 - wd like to set by regn when renewals occur; having problems w/Dec. renewals, prefer 1/31

.201 - clarification

.221 - want to set fees by regn.

174 Rogers requested clarification of who wd set fees - Occ'l Licensing or Commission.

~~Discussion~~ Youngquist explained reason

.251 – chng inactive status to 2 yrs – same as lapsed license

.361 – add "or fee" because many use fees rather than commission

.401 – clarification

.401(b) – clarification

.401(c) – "

(d) – gives authority to issue stop orders

211 Rogers – concerned alt fees issue; asked Youngquist which fees he wants chngd

Y – renewal fees for active & inactive both $100

244 Randolph said cost is same, but svc recd isn't same.

Discussion.

243 Y – want salesmen & brokers both to pay $100 ~~rather than fix~~

Rand suggested reducing brokers to $50 (same as salesmen) rather than raising salesmen

Y said they wanted to increase their funds.

Discussion.

275 Rogers – under (d) – there are other sections of that section which ~~they~~ refer to fees of testing svcs – requested clarification of wherein. This wd be repealed.

Y – explained procedure

Rogers said keeping this procedure in wd require amdmt. [221(c)]

320 Martin gotmd fees

Y explained statuses of licensed – lapsed, inactive

feel both shd have same re-testing reqmts (2 yrs for both)

341 Martin asked how many of the 4,000 licenses are inactive

Y thought abt 1,000.

Discussion.

359 Bylsma – 88.251 – asked what inactive person wd pay to become active; Y said only fee wd be $5 for changing license.

373 Martin felt this wd encourage everyone to remain active

Y said this is not so – liability is a factor, didn't think money was important consideration

Discussion. Y said broker had to hire them before they cd go active.

400 Rogers asked for clarification of deletion of .261; Y said shd have been done 1980; housekeeping.

409 Rogers noted conflict w/new sec (8-) 40:. (d); said

(435?) we shd repeal & reenact all of .401. Shd add new (e): a person who violates any prov of this act or art 16 of this Chapter is guilty of a Class A (?) misdemeanor

454 Rogers – p.1 shd read AS 08.88.221 [241]

Fees – after FEES – delete word

(a) The following fee shall be chgd a-

after applicant

add (b), which wd be old (d)

520 Discussion of what to chg for amending or xfring license, or whether to chg anything.

Rand moved to amend mo to delete (6); Rogers asked unan
556 consent; no objection; passed

575 Discussion of fees to chg for inactive license.

636 Martin - re "30 days before renewal" language - said this had come up before, was found to be cumbersome & complicated. Y said intent is to move renewal date to 1/31 for everyone; no plans to stagger.

678 Bylsma - asked clarification of licensing dates & methods of determining status

727 Rogers - re .401 - moved & asked unan consent to repeal & reenact .401 (as set out) adding new (e)
side B motion passed w/o objection

005 Martin requested further clarification of activ/inactiv status.

030 Rogers moved to inc these chgs into a draft CS & bring bill before committee at ~~earliest~~ earliest possible time.

036 Rogers moved p. 1, ln 10, (of bill) delete 1984, insert 1986. No obj, mo passed.

048 Barry requested clarification - wondered if legis. audit findings cd be inc'd into report to (spkr?); Rogers said there is problem w/that.

069 Rogers asked unan consent; no obj; mo passed to have CS drafted to be brought before comm at later date.

079 HB 722

Rogers - landlord/tenant act is to provide balance - not sure bill does this.

p. 1, ln 28, delete sec. .227 (bottom p. 1, all of p. 2)

095 Gardiner commented on unresolvable bills.

100 Rogers w/drew motion. Suggested appointing subcommittee. Discussion of what to do w/bills & of problems of landlords/tenants.

~~HB Bycoma Disc~~

Gardiner & Bycoma were appointed to subcom.

Rogers moved bill be reported back to comm only by unan vote of subcomm; no obj.

150 Rogers reported on HB 159 & fiscal note; said bill would be back to committee Tues or Wed.

165 Discussion of HB 641(?) & 642. No action taken.

187 Adjourned 3:08

!mDOCID!xHLC 0301821307
!mHLC!x
March 1, 1982
1:07

!mMP1!xRep. Martin, Chairman
!mMP2!xRep. Bylsma, Vice Chairman
!mMP2!xRep. Rogers
!mMP2!xRep. Randolph
!mMP2!xRep. Gardiner

!mMA1!xNo members absent.

!mCAL!x
HB 704 An Act continuing the existence of the Real Estate Commission; and providing for an effective date.

HB 722 An Act relating to landlord remedies.

!mREG!x
!mWI!xRepresentative Metcalfe
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-4947
!mPS!xPrime sponsor of HB 722; explained bill.

!mWI!xLance Youngquist, Chairman
Real Estate Commission
195 South Franklin
Juneau, Alaska 99801
536-1612
!mPS!xOffered suggestions for changes to HB 704.

!mPA!x
HB 704 No previous action.

Statutory Reference: AS 08.03.010(c)(18). After amendments during meeting, references also include AS 08.88.221; AS 08.88.401.

Action Taken: The committee adopted portions of a document entitled, "Proposed Statutory Changes in AS 08.88 Presented to the House Labor and Commerce Committee by the Alaska Real Estate Commission, March 1, 1982"; specifically:

Rep. Rogers moved, on page 1 of the proposed changes, referring to Sec. 08.88.241: to change statutury reference to read, "AS 08.88.221"; and after the word "FEES", to delete the remainder of the first line and insert "(a) The following fees shall be charged a", and to add, after the word "applicant" on the second line, the words "when applicable:", and to delete the third line; and to add fees to the subsections as follows: (1) $50; (2) $100; (3) $100; (4) $100; (5) $50;

and to add a new subsection (b), which would correspond to subsection [illegible] of existing statutes.

Rep. Randolph moved to amend Rep. Rogers motion by deleting subsection (6). There being no objection, both motions passed.

Rep. Rogers moved to repeal and reenact AS 08.88.401, as set forth on pages 2 and 3 of the proposed changes, and add a new subsection (e). Motion passed without objection.

Rep. Rogers moved to incorporate the amendments into a draft committee substitute and bring the bill before the committee at the earliest possible time. Rep. Rogers amended his motion, on page 1, line 10 of HB 704, to delete "1984" and insert "1986". There being no objection, the motions passed.

HB 722 No previous action.

Statutory Reference: AS 34.03

Action Taken: Rep. Rogers moved to delete everything after page 1, line 27. He withdrew the motion.

Representatives Bylsma and Gardiner were appointed to a subcommittee. Rep. Gardiner moved the bill be reported back to the committee only by unanimous vote of the subcommittee. There being no

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/1/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:01	
Rep. D. Randolph	✓		1:09	
Rep. B. Rogers	✓		1:03	
Rep. T. Gardiner	✓		1:58	
Rep. T. Martin, Chair	✓		12:55	

Subject Matter:

House Bill No.	727	704			
Senate Bill No.					

Special Orders:

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

Amendments to HB 704

Please incorporate the following amendments into a draft committee substitute for HB 704.

Amendment #1:
Line 10--Change "1984" to "1986".

Additions to bill:

See attached document which was entitled "Proposed Statutory Changes in AS 08.88 presented...by the Alaska Real Estate Commission".

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If you have any questions, please contact me at 465-3657. You may prepare this as a draft committee substitute, as there may be other changes.

Joan Mathews
Committee Secretary

PROPOSED STATUTORY CHANGES IN AS 08.88 PRESENTED TO HOUSE LABOR AND COMMERCE COMMITTEE BY THE ALASKA REAL ESTATE COMMISSION, MARCH 1, 1982:

* Sec. 08.88.091 is amended by adding a new paragraph to read:

(3) The commission may make available to the public manuals, texts or other materials prepared with funds from the surety fund. When these materials are made available the commission may make a reasonable charge for them designed to recover the actual costs of the item provided. Funds collected under this section shall be paid at least once a month into the general fund. These payments shall be credited to the real estate surety fund.

* Sec. 08.88.101 (11) is repealed and reenacted to read:

(11) print and distribute duplicate license certificates to replace lost certificates;

* Sec. 08.88.101 (12) is amended to read:

(12) send notice 30 days before (, BEFORE DECEMBER 1 OF EACH YEAR,) the date that licenses must be renewed;

* Sec. 08.88.201 is repealed and reenacted to read:

08.88.201. REEXAMINATION. A person who fails an examination may apply for a subsequent examination, but shall pay the examination fee each time he applies.

AS 221
* ~~Sec.~~ 08.88.~~241~~ is repealed and reenacted to read:

08.88.221. FEES. (a) the following fees shall be charged ~~Fees for the following categories for~~ a real estate broker, associate broker, or salesman licensee or applicant when applicable: ~~are established by regulations adopted under AS 08.01.065:~~

(1) examination; $50
(2) reciprocity; $100
(3) initial license; $100
(4) renewal of an active license; $100
(5) renewal of an inactive license; $50
~~(6) amending or transferring a license;~~ 25

(b) — old subsection (d)

(b) pymt of fees or commissions: does this cover gov citizen? If so, is this a knowing violation (~~does gov~~ ~~knowingly~~ is person guilty of misdemeanor if he doesn't know whether broker is licensed or not?)

Diane Colvin
2450

* Sec. 08.88.251 is amended to read:

(c) A person who is inactive may become active by applying for an active license and paying the required fees. In the application form he shall state the date on which he intends to become active. His active status begins on the date stated. The commission shall send him a license certificate. A person is entitled to change from an inactive to an active status without examination if he has not been inactive more than two (THREE) years. If he has been inactive more than two (THREE) years, he is required to take an examination.

* Sec. 08.88.261 is repealed:

* Sec. 08.88.361 is amended to read:

Sec. 08.88.361. WHEN COMMISSION IS EARNED. A commission or fee is earned when the real estate broker fulfills the terms of a written personal services contract.

AS 08.88.401 is repealed + reenacted to read

* ~~Sec.~~ AS 08.88.401 ~~(a) is repealed and reenacted to read:~~

Sec. 08.88.401 (a) a licensee may not in any way represent that he holds or has been awarded any degree or designation to which he is not entitled nor may he represent himself as being a member or affiliate of any professional organization to which he does not belong.

* ~~Sec. 08.88.401 (b) is repealed and reenacted to read:~~

~~Sec. 08.88.401~~ (b) commissions or fees for performance of acts specified in Section 161 of this chapter may be paid only to a licensed Alaska real estate broker except when a real estate broker properly licensed in another state assists an Alaskan real estate broker, the out-of-state broker's commission or portion of the commission may be paid directly to the out-of-state broker by the seller or escrow holder. Commissions or portions of commissions paid to a licensed real estate salesman must be paid by the broker or under the authorization of the broker with whom the real estate salesman is licensed.

* ~~Sec. 08.88.401 (c) is amended to read:~~

(c) knowlingly make, authorize, direct or aid in the publication of a false statement or misrepresentation concerning land or a subdivision of other real estate offered for sale or lease;

~~* Sec. 08.88.401 is amended by adding a new paragraph to read:~~

(d) The commission or its executive director may issue a stop order to any person or firm who is or appears to be about to pay a commission or fee for acts specified in Section 161 of this chapter to a person who is not a licensed real estate broker in another state authorized to receive commissions under part (b) of this section.

covered by sec. 037

(e) a person who violates any provision of this section or Section 161 of this chapter is guilty of a Class A misdemeanor.

PROPOSED STATUTORY CHANGES IN AS 08.88 PRESENTED TO THE HOUSE LABOR AND COMMERCE COMMITTEE BY THE ALASKA REAL ESTATE COMMISSION, MARCH 1, 1982:

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08.88.221. FEES. ~~Fees for the following categories for a~~ (a) The following fees shall be charged a real estate broker, associate broker, or salesman licensee or applicant ~~are established by regulations adopted under AS 08.01.065:~~ when applicable

(1) examination; 50

(2) reciprocity; ~~50~~ 100

(3) initial license; 100

(4) renewal of an active license; 100

(5) renewal of an inactive license; ~~50~~ 50

~~(6) application for transfer from a license~~

(b) — old (d)

* ~~Sec.~~ AS 08.88.251 is amended to read:

(c) A person who is inactive may become active by applying for an active license and paying the required fees. In the application form he shall state the date on which he intends to become active. His active status begins on the date stated. The commission shall send him a license certificate. A person is entitled to change from an inactive to an active status without examination if he has not been inactive more than two (THREE) years. If he has been inactive more than two (THREE) years, he is required to take an examination.

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~~Sec. 08.88.401~~ (b) Commissions or fees for performance of acts specified in Section 161 of this chapter may be paid only to a licensed Alaska real estate broker except when a real estate broker properly licensed in another state assists an Alaskan real estate broker, the out-of-state broker's commission or portion of the commission may be paid directly to the out-of-state broker by the seller or escrow holder. Commissions or portions of commissions paid to a licensed real estate salesman must be paid by the broker or under the authorization of the broker with whom the real estate salesman is licensed.

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(c) knowlingly make, authorize, direct or aid in the publication of a false statement or misrepresentation concerning land or a subdivision of other real estate offered for sale or lease;

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(d) The commission or its executive director may issue a stop order to any person or firm who is or appears to be about to pay a commission or fee for acts specified in Section 161 of this chapter to a person who is not a licensed real estate broker in another state authorized to receive commissions under part (b) of this section.

(e) A person who violates a provision of this section or ~~the~~ section 161 of this chapter is guilty of a class A misdemeanor.

3-2-82

HB-159

HB-595

HB 832

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD DYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

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House of Representatives
LABOR AND COMMERCE COMMITTEE

Contact: Joan Mathews
465-3657/3783

FOR IMMEDIATE RELEASE

REGULATION OF CONTRACTORS SUBJECT OF TELECONFERENCE

The House Labor & Commerce Committee has scheduled a statewide teleconference hearing of HB 832 on Tuesday, March 23, at 1:00 pm PST (Juneau time).

House Bill 832 addresses problems that some consumers have had in their dealings with home contractors and specialty home contractors, as well as concerns of legitimate contractors that a small minority of contractors are giving the entire industry a bad name. The bill was originally requested by the Consumer Protection Agency.

The bill would expand registration requirements of general home or specialty home contractors to include construction experience and business history. This information would be available for public inspection.

The bill would also create a home construction surety account. A person who has a complaint against a home contractor for loss of money, personal property, or real property could file a claim for loss against this fund.

Claims could be made for loss resulting from misrepresentation; nonpayment to materialmen, subcontractors, or laborers; defective

--more--

materials, or negligent workmanship, among other things.

Terry Martin, chairman of the House Labor & Commerce Committee, said the teleconference hearing had been scheduled after several groups and individuals had indicated they wished to give additional testimony.

"We're hearing a lot of horror stories about problems consumers have had with builders," Martin said. "Many builders, as well, are concerned that a few bad contractors might undermine the reputations of all builders. We hope this bill will resolve some of those problems."

Persons interested in testifying should contact the House Labor & Commerce Committee in Juneau, or call their local Legislative Information Office.

-30-

~~Gilbert~~ Gilchrist

3/2/82

HB 595
HB 832
HB 159

1:08

000 Call to order. Gave brief intro to both bills

004 Rogers added that HB159 is also ready to pass fm committee;
Rogers moved to adopt CS HB 159 & report bill out of comm.; w/drew
HB 595 ~~595~~ to wait till end of mtg when comm can rw bill.

018 Martin moved not to continue WB; send ltr to spks & gov
(listen to tape) necessary corres be xmtd to approp people.
Rogers objected; trying to get more info before taking action.
Discussion; Martin noted that all corres. wd be forwarded
with bill when reported fm committee.
Vote: for Randolph Bycoma Martin Opposed - Rogers
Mo passed.

HB 832
053 Martin asked Barry for overview.

056 Barry - bill is technically deregulation.
first act says contractors will register; says what type work
they will be in business to perform.
also ~~gives~~ registers. officers of company as public
Sets forth surety fund ~~for~~ so people have redress for damages;
& establishes mechanism making of responsible for taking
approp. action.

093 Terry Dale - Reg Reform Pgm, Ofc of Special Projects, Gov —
identified problem areas bet contractors & cud's;
went over past attempts to rectify problems, & ~~status~~ progress
to date, & what they had planned at time bill
was int'd. Think bill is in right direction, but may
have problems.

130 Rogers asked if his ofc helped draft bill; Dale said partly. Discussion of some sections of bill Rogers foresees difficulties with.

155 Connie Sikes, Asst AG, Consumer Protection - have handled cases such as those addressed in bill. Went over examples. Drafted bill for gov's consideration, but took it out in Dec. Spoke with people affected, got suggestions. Concern about surety fund - gave examples. ~~Most~~ Some (Anc) builders, supported testing concept, some even on statewide basis, rather than surety fund. ~~Dept~~

203 Dept of Revenue had gotten re surety fund; said this well, Dept Rev, shd speak to that.

230 Feels bill is step in right direction, but might need further work, more input. Supports ideas of bill, especially public information portions. Industry feels there shd be more involvement of lending instns, perhaps AHFC — they have interest in seeing homes are well-built. Feel, except on owner-built home, certification of licensing, bonding, etc, shd be done by [illegible].

1) certificates of occupancy
2) proof of licensure of contractor/subcontractor
3) certn by contractor that home is built to code

280 Rogers - concerned abt bill, but more concerned abt alternatives suggested. Next to impossible to devise state-wide rules dealing w/homes that take into account regional building differences. A test might make sense in larger cities, but local govts shd do that. Gave examples of other problems.

300 ~~Discussion~~ Response by Sikes - clarified what surety fund wd cover. Discussion of surety fund, & funding of fund. Rogers suggested setting fund up similar to medical malpractice (?) fund.

360 Gardiner asked how this wd affect owner-built homes. Sikes felt it shd not directly affect them. Saw possible abuse if owner built home every summer & sold it every winter. Discussion of possible situs.

395 Rogers concerned that defn of contractor means building more than one house per yr. Gave example of situs.
Martin asked abt some kind of bond to be posted at time of sale. Talked about options.

457 Joe Guthrie - had difficulties w/contractor last yr. ~~Commit~~ Think bill is excellent; will help people solve serious problems. Need regulation. Problem probably can't be remedied by testing; product of bad faith, poor negligence, cutting corners, misrepresentation, extortion, etc.

500 Referred to sections dealing w/ ~~public~~ customer evaluations - p. 2, l 14-15 shd have stmt that customer complaints & evaluations shd be kept in file; shd not be limited to incidents arising after date of act; shd apply to previous experiences as well.

571 re p. 4, l. 17 re liens - feels ~~that [illegible] home const~~ contractors & those wkg ~~for contractors~~ (materialmen, subcontractors & laborers) ~~shd~~ not be allowed to file mechanics liens - ~~failure~~ of contractors to pay is one I had problems w/ owner paying for liens filed by materialmen, subcontractors, & laborers. Owner has no control over contractor paying them.

640 p. 7, l 4-7, re contractor not required to furnish waiver until dispute is settled; one is unable to get permanent financing w/ mechanics lien efects against home. Contractors use this to force pymt; ~~[illegible]~~ used as extortion.

704 p. 7, l. 22 re estimated date of completion - this shd be a definite date.

p. 8, l. 2 - there shd be some kind of agmt between parties re wk chngs necessary

Side B
005 p. 9, 9-15 - doesn't solve problem where dispute concerns quality of work.

083 Gardiner - wants assessment of how widespread these problems are. Guthrie said Sikes might have more info; thought area worthy of study. Discussion.

086 Rogers asked abt good contractors independently assessing themselves $1,000 & advertising. Builders wd keep bad apples out; self-regulating. Wd eliminate need for laws. Guthrie felt that was ~~[illegible]~~ best solution.

124 Martin said he'd like to set up telecony w/Ariz & Flx & allow addl time for public input.

138 Paul Troch — p. 3, Sec. 5 (2) — all for requiring WC ins for contractors; however, discreet problem — can't get comp ins unless you have an employee. One can be a contractor & have no emp's at all. Rogers asked if this cd be corrected by chng "as" to "if".

186 Jim Mc Conegy — Pres, Jnr Homebuilders Assoc — (spoke fm prepared testimony ✓; first spoke to comm. qstns) — Almost never have satisfied customer because of misplaced expectations & human nature.

216 (fm sheet:) Said most builders only make 4-5% profit. HB 833 attempts to control crooks in homebuilding industry. Local homebuilders want this, too. High % of local builders participate in national educational pgms. Don't get much assistance fm banks, govt entities.

1) new classes of gen & specialty contractors unnecessary & undesirable.

2) listing supervisory employees not sensible; chng freqly & have no interest

3) p. 2, l. 16 — oppose

4) new fee schedule shd apply to all classes of contractor

5) 08.18.002 (p. 3, l. 15) — commented

6) p. 8, l. 16 — compared to maintaining similar types of records for politicians in effort to show that this wd be unfair to builder.

322 Requested committee not pass bill.

329 Discussion of [redacted]
builder's problems & consumers complaints.

410 Rogers asked if Homebuilders assn wd consider coordinating
statewide w/other assns to self-insure & try to keep
out undesireable types.
———— felt they wd, & spoke of past attempts to do such
things. Rogers felt that wd eliminate need for surety
fund in legislation. Discussion re. ———— wasn't sure
how that wd work w/o ins backing them.

496 Martin said again they'd set up telecon
Rogers suggested homebuilders meet w/AG to discuss
possibility of setting up self-insured type of pgm.
———— asked we contact him.

H3159
525 Rogers moved to adopt & report out CSHB 157 L&C
w/ FN adopted - $32,000 GF and $450,000 2d Inj' Fnd
No obj; Asm — passed unanimously.

567 Adjourned 3:32

1/15/82

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
* James A. McConaghy	Box 273 Anchorage Ak	Homebuilders Assn	Yes	789-9547
Ben Van Linden	Box 1044 Anchorage Ak		No	789-9805
Jeffrey A Magg	General Delivery, Haines, AK		NO	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE:

HB 832

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
P. Troen	5921 Sunset, Hon.	Self	~~NO~~ Yes	586-2521

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3-2-82

SIGN-IN SHEET

HB832

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
OK Terry Dale	Pouch A Juneau	Regulatory Reform Program		465 3538
Judy Gilmore	Pouch A Juneau 99811	Regulatory Reform Program	No.	465-3538
Steve Hamilton	POBox 495 Auke Bay Ak.	Quick Draw Const.		789-0258
Teresa Mead	RO Box 2786 Juneau	Nowlen Const.		789-2729
Jeff Hamilton	POBox 971 AUKE BAY, AK. 99821	Quick Draw Const.		789-0052
Doris Swanson	P.O. Box 3172 Juneau	Century 21-Nugget Realty		789-0992
Darrel Dees	Box 2206 Juneau 99803	Dees Const		789-9767
Kenneth Moore	Pouch D. Juneau	Div of Ins		465-2515
HARRY TREAGER	POUCH D JUNEAU	DIV. Occ Lic		465-2534
Jackie McClintock	P.O. Box 1149 Juneau	Dep. of Commerce Comp.	?	465-2790
Judy Knight	— —	Dept. of Labor	?	465-2700
LEE VAN SICKLE	Box 1040 AUKE BAY	CONTRACTOR		789-9995
Connie U Sipe	420 L St Anchorage #100	Dept. CAW - Cons. Protection	yes	276-3550
DWIGHT PERKINS	P.O. Box 2868 Juneau	Plumbers and Pipefitters L.U. 262		586-2874
Tom Cashen	3200 Fosrer Juneau	IBEW Local 1547		586-3050
DARLENE STEPHENS	604 W WILLOUGHBY	CAPITAL REALTY		586-2300

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

SIGN-IN SHEET

HB 832

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Preston Burnett	9352 Cent. Cl.	Burnett & Son Const	No	789-9143
GORDON J. GRIFFIN	PO Box 383 Juneau Ak	G+G Con.	NO	789-0307
Kok CARTE	2895-87 MEND.LP.RD. JUNEAU	M & R CONST	NO	789-9997
STEVE BURNETT	3059 MTWD CIRCLE	BURNETT & SON CONST	NO	7890352
Joe Mantone	725 Fifth Street	Juneau	Yes	586-6250

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

Welding BOARD

SIGN-IN SHEET HB-595

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
HARRY D TREFGETC	POUCH D JUNEAU	DIV OCC LIC	NO	2534
Lowell MACNATT	2700 porcupine, ANCH	Anchorage Tank Welding	Yes	272-3543
Louis J. Hamilton	2700 Porcupine, Anch.	WAM Welding application Methods	Yes	272-3543
DON STATTER	3151 McGinnis Juneau	self	yes	789-7844

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/2/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:00	
Rep. D. Randolph	✓		1:00	
Rep. B. Rogers	✓		1:00	
Rep. T. Gardiner	✓			
Rep. T. Martin, Chair	✓		1:17	
			1:00	

Subject Matter:

House Bill No. 595 832 159 _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

MR. CHAIRMAN,
Members of the Committee;

One of the few things that I remember from my college education is that you should always proceed from the known to the unknown. With that in mind I am going to make a few statements that may, at first glance, appear to be unrelated to the matter before this group, but please bear with me and I will try to reach the main point quickly.

There are many things that <u>everyone</u> knows. For example:

1. Everyone knows that all Puerto Ricans and Cubans are dope smugglers.
2. Everyone knows that all teenagers are no good rebels that should either be drafted or placed in reform school.
3. Everyone knows that all bureaucrats are drones and parasites.
4. There is a growing concensus that all politicians are "on the take".
5. And certainly everyone knows that all homebuilders are not only incompetent but are outright cheats and frauds.

After all the current Reader's Digest states on page 81, (<u>Building Your Own Home Makes Sense</u>), "But even those who just act as contractors and finish the insides of their homes can save from 30 percent to 45 percent of what a developer built home would cost."

Let me digress a moment. The real truth revealed in a nation wide study is that less than 10% of all builders are able to exceed a 10% profit margin. The vast majority are in the 4 to 5 percent profit margin. One well known local real estate agent told me that he was not in the side line of building homes because, "it would be stupid to invest that much money for a 3 month period then have to stand behind the product for at least 1 year for no more than a real estate commission." Now I will return to my theme.

House Bill No. 832, before you today, is an effort to control all of the crooks in the home building business. I assure you that the local Homebuilders Association as well as the State and National groups are in sympathy with that objective over the last 4 or 5 years. We have consistently urged enforcement of the existing

regulations
~~legislation~~ because we believe that the out-of-state fly-by-night builder is not good for the local business man; he is not good for the consumer; and he is not good for the state. Generally he does not even buy a vehicle license, but takes all wages and profits back outside with him while leaving everyone else with the problems. Beyond our opposition to the unlicensed builders we have continously striven for adherence to a strict code of ethics and business practice among the licensed contractors. A very high percentage of our local builder members partici pate in the nationwide education programs.

To date our pleading has met with very little response. The City and Borough flatly refuses to even ask for the contractors license number on a building permit application. The banks have been no help whatsoever. The Juneau office of the Department of Occupational Licensing does not have adequate staff; occasionally when inspectors are brought in from Anchorage, they do nothing but check on contractors that are already licensed. Therefore, we are glad to see some thought being given to our problems.

In making a few specific comments on HB832 I would observe the following;

a.) The new classifications of "general home contractor" and "specialty home contractor" are not necessary because the current classifications are adequate, The new classifications, are not desirable because of the vast amount of paper work and staff required to establish and maintain the distinction. There is probably an organization chart already in existence that shows a Director and Assistant Director of the Division of Home Contracting.

b.) The listing of "supervisory employees" to obtain the construction experience and history of the applicant make no sense to me as these people change constantly and have no financial stake in the business apart from their day to day jobs.

c.) Line 16 of page 2 indicates that the applicants file will be more of a matter of public record and open to more public inspection than is normal for such information.

d.) If the new fee schedule is valid for General Contractors because of increased cost of administration it should be valid for all classifications. Again, I do not believe that the new classifications are justified.

e.) It would be easy to discuss the proposed Section 08. 18. 102 for at least an hour, but I will limit myself to 3 comments:

1. There is no protection given the consumer that he does not already have under existing contract law. The new feature is that he does not have to use due process of law to prove damages, and collect money
2. In view of the over all intent of the legislation, I suppose we should be thankful for the nice after thought at line 17 on page 5 where the contractor shall be given an opportunity to present evidence in opposition to the claim.
3. May I rephrase the requirements of paragraph 6 on page 8 in terms that you might identify with more closely?

SECTION 08, 18, 107 REQUIRED PRACTICES FOR STATE LEGISLATORS

6) provide to a prospective voter a brochure which the opposition party shall prepare providing the following information:

(A) a statement that the candidicacy of the politician is not an endorsement or an evaluation of that candidates qualifications.

(B) an evaluation form (to be filled out after 2 years).

(C) the address and phone number of at least two party offices where all voter opinions, complaints and accusations regarding the candidate are maintained and routinely circulated to the press.

(D) an explanation of complaint procedures, including instructions on how to tap the political surety account established by AS 08. 18. 102.

Ladies and gentlemen, the point is this: If you watched the McNeil Lehrer Report last night you must realize that the American Home Builder is currently an endangered species ———— please do not put a $20,000 bounty on his hide.

It has often been said that it is impossible to make a silk purse out of a sow's ear. Likewise, it is impossible to make House Bill No. 832 into legislation that is acceptable to the Home Builders Association. We respectfully request a strong "do not pass" endorsement from this committee. Thank you.

Bill No. House Bill 832

Date March 2, 1982

Title "An Act Relating to the Regulation of Contractors; and providing for an effective date."

Contact: Judy Knight 465-2700

The Department of Labor supports the proposed addition to AS 08.18.101, which would require contractors to provide evidence of Workers' Compensation insurance coverage before a certificate of registration is issued. While there are triggers in the Workers' Compensation Act to provide for the department to be notified when an employer cancels or fails to renew his Workers' Compensation insurance coverage, historically it has been difficult to identify those employers who do not initially secure the required insurance. The provision proposed in House Bill 832 in this regard will assist the department in identifying uninsured employers and in enforcing the provisions of AS 23.30.045.

The department also supports the concept of a single agency assuming responsibility for both contractor licensing and enforcement functions. The existing separation of these functions is confusing to the public and creates a variety of administrative barriers which hamper effective enforcement of the licensing requirements. A lack of funding has prevented the department from developing an enforcement plan for contractor's licensing; however, the department's inspectors and investigators do enforce contractor licensing in connection with other inspections or investigations.

POSITION PAPER/Department of Labor

CENTRALIZED LICENSING ACT, AS 08.01

MISCELLANEOUS PROVISIONS, AS 08.02

TERMINATION, CONTINUATION AND REESTABLISHMENT
OF REGULATORY BOARDS, AS 08.03

CHAPTER 01
CENTRALIZED LICENSING

Section
10. Applicability of chapter
20. Board organization
25. Public members
30. Quorum
40. Transportation and per diem
50. Administrative duties of department
60. Application for license
70. Administrative duties of boards
80. Department regulations
87. Powers and duties of department
90. Applicability of the Administrative Procedure Act
100. License renewal, lapse and reinstatement
105. Penalty for improper payment
110. Definitions

Sec. 08.01.010. Applicability of chapter. This chapter applies to the

(1) Board of Public Accountancy;
(2) Board of Barbers and Hairdressers;
(3) Repealed by Sec. 6 ch 32 SLA 1971.
(4) Board of Chiropractic Examiners;
(5) Board of Dental Examiners;
(6) Board of Electrical Examiners;
(7) State Board of Registration for Architects, Engineers and Land Surveyors;
(8) State Medical Board;
(9) Board of Nursing;
(10) Board of Examiners in Optometry;
(11) Board of Pharmacy;
(12) Real Estate Commission;
(13) Board of Veterinary Examiners;
(14) Board of Psychologist and Psychological Associate Examiners;
(15) Collection Agency Board;
(16) Board of Welding Examiners;
(17) Board of Marine Pilots;
(18) Board of Dispensing Opticians;
(19) Guide Licensing and Control Board;
(20) State Physical Therapy Board. (Sec 1 ch 59 SLA 1966; am Sec 2 ch 136 SLA 1967; am Sec 2 ch 101 SLA 1968; am Sec 6 ch 143 SLA 1968; am Sec 2 ch 151 SLA 1968; am Sec 1 ch 106 SLA 1970; am Sec 6 ch 32 SLA 1971; am Sec 4 ch 179 SLA 1972; am Sec 2 ch 45 SLA 1973; am Sec 14 ch 65 SLA 1973; am Sec 1 ch 43 SLA 1975; am Sec 1 ch 43 SLA 1977; am ch 159 SLA 1980)

Effect of amendments.—The first 1973 amendment added paragraph (18).
The second 1973 amendment inserted "and Psychological Associate" in paragraph (14).
The 1975 amendment added paragraph (19).
The 1977 amendment added paragraph (20).
The 1980 amendment created the Board of Barbers and Hairdressers.

Sec. 08.01.020. Board organization. Unless otherwise provided, all board members are appointed by the governor and serve at his pleasure. Unless otherwise provided, the governor shall designate the chairman of the board, and all other officers shall be elected by the board members. (Sec 1 ch 59 SLA 1966)

Sec. 08.01.025. Public members. No public member of a board may:

(1) be engaged in the occupation which the board regulates;

(2) be associated by legal contract with a member of the occupation which the board regulates except as a consumer of the services provided by a practitioner of the occupation; or

(3) have a direct financial interest in the occupation which the board regulates. (Sec 1 ch 258 SLA 1976)

Sec. 08.01.030. Quorum. A majority of the membership of a board constitutes a quorum unless otherwise provided. (Sec 1 ch 59 SLA 1966)

Sec. 08.01.040. Transportation and per diem. A board member is entitled to transportation expenses and per diem as set out in AS 39.20.180. (Sec 1 ch 59 SLA 1966)

Sec. 08.01.050. Administrative duties of department. (a) The department shall provide the following administrative and budgetary services when appropriate:

(1) collect fees and issue receipts;

(2) maintain records and files;

(3) issue and receive application forms;

(4) notify applicants of acceptance or rejection of applicants as determined by the board;

(5) designate dates examinations are to be held and notify applicants;

(6) public notice of examination;

(7) arrange space for holding examinations;

(8) notify applicants of results of examinations;

(9) issue licenses and certificates or temporary licenses or certificates as authorized by the board;

(10) except as otherwise provided in this title, issue duplicate licenses or certificates upon proof by the licensee of loss of the original and payment by the licensee of a fee of $2;

(11) notify licensees of renewal dates at least 30 days before the expiration date of their licenses;

(12) compile and maintain current a register of licenses;

(13) answer routine inquiries;

(14) maintain files relating to individual licensees;

(15) arrange for printing and advertising;

(16) purchase supplies;

(17) employ secretarial help when needed;

(18) perform other services which may be requested by the board;

(19) provide investigative services to the boards established under (AS 08.13) AS 08.20, AS 08.36, AS 08.64, AS 08.68, AS 08.71, AS 08.72, AS 08.80, AS 08.84, and AS 08.86, for the purpose of assisting those boards in matters of professional discipline.

(b) The form and content of a license, authorized by a board listed in Sec. 10 of this chapter, including any document evidencing renewal of a license, shall be determined by the department after consultation with and consideration of the views of the board concerned. (Sec 1 ch 59 SLA 1966; am Sec 1 ch 102 SLA 1976; am Sec 39 ch 218 SLA 1976; am Sec 2 ch 258 SLA 1976; am ch 49 SLA 1980)

Sec. 08.01.060. Application for license. All applications for examination or licensing to engage in the business or profession covered by this chapter shall be made in writing to the department. (Sec 1 ch 59 SLA 1966)

Sec. 08.01.070. Administrative duties of boards. Each board shall perform the following duties in addition to those provided in its respective law.

(1) keep minutes and records of all proceedings;

(2) hold a minimum of one meeting each year;

(3) hold at least one examination each year;

(4) request, through the department, investigation of violations of its laws and regulations;

(5) prepare and grade examinations;

(6) pass on qualifications of applicants for examination and license;

(7) forward minutes of meetings to the department within 20 days;

(8) forward results of examinations to the department;

(9) notify the department of meeting dates at least 15 days before meeting. (Sec 1 ch 59 SLA 1966)

Sec. 08.01.080. Department regulations. The department shall adopt regulations to carry out the purposes of this chapter including but not limited to describing

(1) how an examination is to be conducted;

(2) what is contained in application forms;

(3) how a person applies for an examination or license. (Sec 1 ch 59 SLA 1966)

Sec. 08.01.087. Powers and duties of department. (a) The department may, upon its own motion, conduct investigations to determine whether any person has violated a provision of this chapter or a regulation adopted under it or a provision of a charter in this title dealing with one of the boards listed in Sec. 10 of this chapter or a regulation adopted by one of those boards, or to secure information useful in the administration of this chapter.

(b) If it appears to the commissioner that a person has engaged in or is about to engage in an act or practice in violation of a provision of this chapter or a regulation adopted under it, or any of the laws pertaining to or regulations adopted by the boards listed in Sec. 10 of this chapter, he may, if he considers it in the public interest, and after notification to all board members by telephone or telegraph of a proposed order or action unless a majority of the members of the board object within 10 days;

(1) issue an order directing the person to stop the act or practice; however, reasonable notice of and an opportunity for a hearing must first be given to the person, except that the commissioner may issue a temporary order before a hearing is held; a temporary order remains in effect until a final order affirming modifying, or reversing the temporary order is issued or until 15 days after the person receives the notice and has not requested a hearing by that time; a temporary order becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receiving the notice; the commissioner or his designee shall be the hearing officer at the hearing and shall issue a final order within 10 days after the hearing;

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter, a regulation adopted under it, or an order issued under it, or any of the laws pertaining to or regulations adopted by the boards listed in Sec. 10 of this chapter;

(3) examine or have examined the books and records of any person whose business activities require licensure by a board listed in Sec. 10 of this chapter and he may require that person to pay the reasonable costs of the examination; and

(4) issue subpoenas for the attendance of witnesses, and the production of books, records and other documents. (Sec 3 ch 258 SLA 1976)

Sec. 08.01.090. Applicability of the Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) applies to regulations adopted and proceedings held under this chapter, except those under AS 08.01.087(b). (Sec 1 ch 59 SLA 1966; am Sec 4 ch 258 SLA 1976)

Sec. 08.01.100. License renewal, lapse and reinstatement. (a) Except as otherwise provided in this title, licenses shall be renewed biennially on the dates set by the department with the approval of the respective board.

(b) A registration, license, permit or certificate requiring renewal to continue effective must be renewed on or before the date set by the department or it will lapse. A penalty of $10 shall be charged in addition to all delinquent renewal fees for reinstatement for a registration, license, permit or certificate which remains lapsed for more than 60 days. (Sec 1 ch SLA 1966; am Sec 2 ch 94 SLA 1968)

Sec. 08.01.105. Penalty for improper payment. An applicant shall pay a penalty of $10 each time a negotiable instrument is presented to the department in payment of an amount due and payment is subsequently refused by the named payor. (Sec 3 ch 258 SLA 1976)

Sec. 08.01.110. Definitions. In this chapter

(1) "board" includes the boards and commissions listed in Sec. 10 of this chapter;

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

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

(4) "license" means any license, certificate, permit, or registration or similar evidence of authority issued by one of the boards listed in Sec. 10 of this chapter;

(5) "licensee" means any person who holds a license;

(6) "occupation" means any of the trades or professions for which licensure is required by one of the boards listed in Sec. 10 of this chapter. (Sec 1 ch 59 SLA 1966; am Sec 40 ch 218 SLA 1976; am Sec 5 ch 258 SLA 1976)

CHAPTER 02
MISCELLANEOUS PROVISIONS

Section
10. Professional designation requirements
20. Limitation of liability for members of licensing boards

Sec. 08.02.010. Professional designation requirements. (a) A person licensed in the state as a chiropractor as defined in AS 08.20.220, a dentist as defined in AS 08.36.360, a medical practitioner or osteopath as defined in AS 08.64.380, a professional nurse as defined in AS 08.68.410, an optometrist as defined in AS 08.72.300(3), a registered pharmacist under AS 08.80, a registered physical therapist under AS 08.84, or a psychologist under AS 08.86, shall professionally identify himself by the use of appropriate letters or a title after his name which represents his specific field of practice. The letters or title shall appear on all signs, stationery or other advertising in which the person offers or displays his professional services to the public. In addition, a person engaged in the practice of medicine or osteopathy under AS 08.64.380(2), or a person engaged in any manner in the healing arts who diagnoses, treats, tests, or counsels other persons in relation to human health or disease and identifies himself by using the letters "M.D." or the title "doctor" or "physician" or any other title which tends to show that the person is willing or qualified to diagnose, treat, test or counsel another person, shall clarify the letters or title by adding the appropriate specialist designation, if any, such as "dermatologist," radiologist," "audiologist," "naturopath," or the like.

(b) A person subject to (a) of this section who fails to comply with the requirements of (a) of this section shall be given notice of his noncompliance by his appropriate licensing board. If, after a reasonable time, with opportunity for a hearing, his noncompliance continues, the board may suspend or revoke his license or registration, or administer other disciplinary action which in its determination is appropriate. (Sec 1 ch 6 SLA 1973)

Sec. 08.02.020. Limitation of liability for members of licensing boards. No person is liable for damages or other relief in an action by reason of his performance of a duty, function, or activity as a member of a licensing board or by reason of a recommendation or action of the board when the person acts in the reasonable belief that his action or recommendation is warranted by facts known to him or to the board after reasonable efforts to ascertain the facts upon which the action or recommendation is made. (Sec 45 ch 102 SLA 1976)

CHAPTER 03
TERMINATION, CONTINUATION AND REESTABLISHMENT OF REGULATORY BOARDS

Under Sec. 08.03.010, the following boards have the following termination dates:

Guide Licensing and Control Board	June 30, 1980
Collection Agencies	June 30, 1980
Board of Welding Examiners	June 30, 1981
Board of Psychologist and Psychological Associate Examiners	June 30, 1982
Board of Electrical Examiners	June 30, 1982
Board of Dental Examiners	June 30, 1982
Real Estate Commission	June 30, 1982
Board of Marine Pilots	June 30, 1983
State Medical Board	June 30, 1983
Board of Nursing	June 30, 1983
Architects, Engineers and Land Surveyors	June 30, 1984
Board of Pharmacy	June 30, 1984
Board of Optometry	June 30, 1984
Board of Public Accountancy	June 30, 1984
Board of Barbers and Hairdressers	June 30, 1984
Board of Chiropractic Examiners	June 30, 1984
Board of Dispensing Opticians	June 30, 1985
Board of Veterinary Examiners	June 30, 1985
Board of Nursing Home Administrators	June 30, 1986
Physical Therapy Board	June 30, 1986

Section 08.03.020. Procedures governing termination, transition and continuation. (a) Upon termination, each board listed in AS 08.03.0 0 shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities.

(b) The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050.

(c) A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years unless the board is continued or reestablished for a longer period under AS 08.03.010. (Sec 2 ch 74 SLA 1979; am ch 42 SLA 1980)

CHAPTER 99
BOARD OF WELDING EXAMINERS

Section
10. Creation and membership of board
20. Term of office
30. Source of appointments
40. Removal from office
50. Qualifications of board members
60. Meetings
70. Quorum
80. Powers and duties of the board
90. Applicability of Administrative Procedure Act
100. Expenses
110. Codes
120. Penalty

Section 08.99.010. Creation and membership of board. There is created the Board of Welding Examiners, consisting of seven members appointed by the governor. (Sec 1 ch 151 SLA 1968)

Sec. 08.99.020. Term of office. Board members serve a term of five years. However, of the members first appointed, one shall be appointed for a term of one year, one for two years, one for three years, one for four years, and three for terms of five years. (Sec 1 ch 151 SLA 1968)

Sec. 08.99.030. Source of appointments. The governor shall appoint board members from a list of persons prepared by the Alaska Chapter of the American Welding Society and the Alaska Society of Professional Engineers and submitted at least 30 days before the expiration of a term and not more than 60 days after a vacancy occurs in an unexpired term. The list shall contain not less than two recommended candidates for each appointment. The governor shall make appointments within 30 days after receiving the list. (Sec 1 ch 151 SLA 1968; am Sec 1 ch 151 SLA 1970)

Sec. 08.99.040. Removal from office. Each member holds office at the pleasure of the governor notwithstanding the member's term. (Sec 1 ch 151 SLA 1968)

Sec. 08.99.050. Qualifications of board members. Each member of the board shall be a citizen of the United States and a resident of the state. At least three members shall be persons with engineering degrees or registration as an engineer and each engineer member shall have at least five years engineering experience. All members shall have extensive experience in welding. (Sec 1 ch 151 SLA 1968; am Sec 2 ch 151 SLA 1970)

Sec. 08.99.060. Meetings. The board shall meet at least once a year. (Sec 1 ch 151 SLA 1968)

Sec. 08.99.070. Quorum. A majority of the board constitues a quorum. (Sec 1 ch 151 SLA 1968)

Sec. 08.99.080. Powers and duties of the board. (a) The board shall

(1) establish and promulgate rules and regulations concerning certification of welders in the state;

(2) establish and define certification tests as they apply to various types and categories of work done in or for the state;

(3) work with federal and private agencies and specifying engineers to establish uniform testing and certifying methods for all welders throughout the state;

(4) work with federal agencies and the agencies of other states to establish reciprocity agreements;

(5) set up criteria and define experience and documentary requirements which may be accepted in lieu of physical certification tests in the state;

(6) set the fees for the welder certification tests;

(7) examine, certify, and renew the certification of qualified applicants;

(8) keep a record of its proceedings, and submit annual reports to the governor and the legislature;

(9) promulgate regulations concerning the quality of welds and qualifications of welders required in specific areas of industry and contruction and designate reporting procedures necessary to certify compliance with these quality standards;

(10) designate and approve persons qualified to administer welding tests, and designate and approve persons qualified to administer welding tests, and designate and approve shops, laboratories, or other establishments qulified for testing coupons and weldments.

(b) The board may request technical personnel from the Department of Labor for the purpose of reviewing and analyzing reports and may request field inspection by the department for the purpose of assuring compliance with, and enforcement of the regulations, rules and orders promulgated under Secs. 10—110 of this chapter. (Sec 1 ch 151 SLA 1968; am Secs. 3—5 ch 151 SLA 1970)

Sec. 08.99.090. Applicability of Administrative Procedure Act. The board shall comply with the Administrative Procedure Act (AS 44.62). (Sec 1 ch 151 SLA 1968)

Sec. 08.99.100. Expenses. Members of the board are entitled to the per diem and travel expenses allowed by law. (Sec 1 ch 151 SLA 1968)

Sec. 08.99.110. Codes. The United States of America Standards Institute Codes listed below are established as the piping codes for the state:

(1) B 31.1.0 — 1967 power piping;

(2) B 31.2 — 1968 fuel gas piping;

(3) B 31.8 — 1968 gas transmission and distribution piping system;

(4) B 31.3 — 1966 petroleum refining piping;

(5) B 31.4 — 1966 and B 31.4a — 1968 liquid petroleum transportation piping systems. (Sec 6 ch 151 SLA 1970)

Sec. 08.99.120. Penalty. A person who violates a regulation adopted under Secs. 10—110 of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $500. (Sec 7 ch 151 SLA 1970)

VOCATIONAL REGULATIONS 12 AAC 72.

BOARD OF WELDING EXAMINERS

CHAPTER 72
BOARD OF WELDING EXAMINERS

Article
1. Codes
2. Welders
3. Welding Inspectors
4. General Provisions

ARTICLE 1
CODES

Section
5. Rating
10. (Repealed)

12 AAC 72.005. RATING FOR WELDERS. Ratings for welders shall be governed by the code requirements in the job specifications. In the absence of code requirements, welders shall be certified in accordance with the applicable American Welding Society Code. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1), (2) and (9)

12 AAC 72.010. Repealed 8/21/78.

ARTICLE 2
WELDERS

Section
15. Welder qualification certificate required
20. (Repealed)
25. Requirements for welder qualification certificate
30. (Repealed)
35. Welder qualification certificate issued
40 (Repealed)
45. Requirements for maintaining a current welder qualification certificate

12 AAC 72.015. WELDER QUALIFICATION CERTIFICATE REQUIRED. A person may not perform a welding operation in the state for compensation, in which the failure would involve hazard to life or property or cause economic loss unless he or she holds a current, valid welder qualification certificate in the appropriate rating. (Eff. 8/21/78, Reg. 67; am 12/10/81, Reg. 80)

Authority: AS 08.99.080(a)(1), (2), (5), and (9)

12 AAC 72.020. Repealed 8/21/78.

12 AAC 72.025. REQUIREMENTS FOR WELDER QUALIFICATION CERTIFICATE. (a) Testing of welders shall be done under the direct supervision of a licensed welding inspector.

(b) An applicant for a welder qualification certificate or a company desiring to have a welder qualified shall

(1) submit to the welding inspector the welding procedure specifications or the welding performance specifications, or both when indicated, for the appropriate rating; and

(2) complete the welding test for the appropriate rating according to the terms of the welding procedure specifications or the welding performance specifications, or both when indicated.

(c) Prequalified procedure specifications may be used for test administration according to applicable codes. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1), (2), (5) and (9)

12 AAC 72.030. Repealed 8/21/78.

12 AAC 72.035. WELDER QUALIFICATION CERTIFICATE ISSUED. The welding inspector shall issue the welding qualification certificate in the appropriate rating to the applicant or company upon the applicant's successful completion of the examination. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1), (7) and (10)

12 AAC 72.040. Repealed 8/21/78.

12 AAC 72.045. REQUIREMENTS FOR MAINTAINING A CURRENT WELDER QUALIFICATION CERTIFICATE. (a) A welder qualification certificate is valid if it is kept current in compliance with the code under which it is issued unless stated other-

wise in the job specification. (Eff. 8/21/78, Reg. 67; am 12/10/81, Reg. 80)

Authority: AS 08.99.080(a)(1), (5) and (10)

ARTICLE 3
WELDING INSPECTORS

Section
- 50. (Repealed)
- 55. Welding inspector license required
- 60. (Repealed)
- 65. Requirements for welding inspector license
- 70. (Repealed)
- 75. Application for welding inspector license
- 80. (Repealed)
- 85. Examination fof welding inspector license
- 90. (Repealed)
- 95. Welding inspector license issued
- 105. Welding inspector license expiration and renewal
- 115. Duties and responsibilities of welding inspector
- 125. Prohibited conduct of welding inspector

12 AAC 72.050. Repealed 8/21/78.

12 AAC 72.055. WELDING INSPECTOR LICENSE REQUIRED. A person may not test a welder for the purpose of issuing a welder qualification certificate or inspect a welding operation in the state in which weldment failure would involve hazard to life or property or cause economic loss unless he or she holds a current, valid welding inspector license. (Eff. 8/21/78, Reg. 67; am 12/10/81, Reg. 80)

Authority: AS 08.99.080(a)(7) and (10)

12 AAC 72.060. Repealed 8/21/78.

12 AAC 72.065. REQUIREMENTS FOR WELDING INSPECTOR LICENSE. (a) An applicant for a welding inspector license must

(1) be a high school graduate or hold a state or military approved high school equivalency diploma;

(2) have no less than five years's experience at the technical level in an occupational function that directly involved

(A) design experience such as preparation of plans and drawings for weldment construction according to a code, standard or specification;

(B) construction experience such as actual construction or fabrication and erection of weldments in accordance with a code, standard, specivication or drawing;

(C) maintenance experience such as detection and measurement of weld inadequacies or discontinuities in accordance with specified procedures; and

(D) repair experience such as repair or replacement of welds that were determined inadequate or defective by reference to a code, standard, specification or drawing;

(3) be familiar with and understand the fundamentals of shielded metal arc welding, stud arc welding, submerged arc welding, flux cored arc welding, electroslag welding, oxyfuel gas welding, brazing, thermal cutting and mechanical cutting;

(4) be capable of writing clear and concise reports and maintaing records;

(5) pass an eye examination to prove natural or corrected near distance acuity for reading J-1 letters at a distance of not less than 12 inches on Jaeger's standard test type chart for near vision, or equivalent test, and natural or corrected far distance acuity of 20/40 as evidenced by a written, signed statement from a physician or an optometrist;

(6) pass a closed book test on welding inspection fundamentals such as welding processes, nondestructive testing methods, and interpretation;

(7) pass an open book test on general code or standard requirements such as fabrication tolerances and preheat requirements;

(8) pass a demonstration of competance in the use of tools, gauges, and instruments pertaining to weld inspection; and

(9) submit evidence of having previously passed on all position welding qualifiation test in at least one welding process.

(b) The requirements of (a)(1)—(8) of this section will be waived for an applicant possessing a current walding inspector certificate issued by the American Welding Society in accordance with AWS QC 1-78 "Standard for Qualification and Certification of Welding Inspectors."

(c) An applicant may substitute up to two years of post-high-school education for two years of the five-year experience relevant to any of the functions covered by (a)(2) of this section and approved by the board. (Eff. 8/21/78, Reg. 67; am 7/22/79; Reg. 71)

Authority: AS 08.99.080(a)(5) and (10)

12 AAC 72.070. Repealed 8/21/78.

12 AAC 72.075. APPLICATION FOR WELDING INSPECTOR LICENSE. Application for a welding inspector license must be made to the department on a form provided by the department and must be accompanied by a fee of $50. (Eff. 8/21/78, Reg. 67; am 12/10/81, Reg. 80)

Authority: AS 08.99.080(a)(6) and (10)

12 AAC 72.080. Repealed 8/21/78.

12 AAC 72.085. EXAMINATION FOR WELDING INSPECTOR LICENSE. Examinations for welding inspector licenses will be conducted four times a year. Additional examinations may be conducted if the applicant furnishes all necessary facilities and pays all expenses incurred by the examiners. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1), (2), (7) and (10)

12 AAC 71.090. Repealed 8/21/78.

12 AAC 72.095. WELDING INSPECTOR LICENSE ISSUED. The department will issue a welding inspector license to an applicant who meets the requirements of Sec. 65 of this chapter. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(7) and (10)

12 AAC 72.105. WELDING INSPECTOR LICENSE EXPIRATION AND RENEWAL. (a) A welding inspector license is valid until March 1 of each even-numbered year unless revoked for reasons stated in 12 AAC 72.125 or unless the license lapses under (d) of this section.

(b) Application for renewal of a welding inspector license must be made to the department on a form provided by the department no later than March 1 of each even-numbered year and must be accompanied by a fee of $50.

(c) An application for renewal of a welding inspector license must contain

(1) proof of a current welding inspector certificate issued by the American Welding Society as specified in 12 AAC 72,065(b); or

(2) evidence of compliance with the requirement of 12 AAC 72.065(a); and

(3) evidence of employment as a welding inspector in the form of

(A) a signed statement of an employer;

(B) payroll records indicating the position held; or

(C) affidavits of two fellow employees attesting to employment activity of the applicant.

(d) A license issued to a welding inspector on the basis of American Welding Society QCI certification under 12 AAC 72.065(b), or renewed on that basis under (c)(1) of this section, lapses 60 days after the

date of expiration of the inspector's American Welding Society certification unless before that date the inspector provides proof to the department of renewal of that certification.

(e) Application for renewal of a welding inspector license that has lapsed for any reason is considered a new application. (Eff. 8/21/78, Reg. 67; am 12/10/81, Reg. 80)

Authority: AS 08.99.080(a)(7) and (10)

12 AAC 72.115. DUTIES AND RESPONSIBILITIES OF A WELDING INSPECTOR. (a) A welding inspector shall, when applicable

(1) keep the department advised of his current address for the mailing of renewal notices;

(2) verify that the work inspected conforms to the requirements of the applicable codes, standards and job specifications;

(3) verify that the base materials and consumable welding materials conform to the specification requirements and that the specified welding filler metals are used on each base metal or combination of base metals;

(4) verify that the welding equipment to be used for the work is that which is specified in the welding procedure and has the capability to produce the specified welds;

(5) verify that the welding procedures are as specified, and are qualfied and available to the welders for reference;

(6) verify that the welds have been properly qualified in accordance with the applicable codes and standards and that their qualification authories them to use the welding procedures specified for the work;

(7) observe the qualification tests when qualifying welders;

(8) verify that only specified and properly qualified welding procedures are used for the work;

(9) verify that the joint preparation and fit-up meets the requirements of the welding procedure and drawings;

(10) verify that the specified filler metals are used and that the filler metals are maintained in proper condition for use as specified;

(11) observe the technique and performance of each welder;

(12) examine the work for conformance to the requirements of the applicable codes, standards, specifications and drawings;

(13) identify the work inspected with specified marking methods or appropriate records;

(14) perform the necessary visual inspections;

(15) verify that the required visual and other nondestructive examinations have been performed by qualified personnel in the specified manner and review the resulting information to assure that the results are complete;

(16) perform nondestructive examinations that are specified, if he or she is qualified in accordance with the specified requirements;

(17) prepare clear and concise reports and keep necessary records of the welding procedure, the welding procedure qualifications, the welder qualifications, the control of welding materials and the results of inspection and tests;

(18) act with complete integrity in professional matters and be forthright and candid to the board or its representative on matters pertaining to this standard;

(19) to preserve the health and well-being of the pyblic by performing the duties required of weld inspection in a conscientious and impartial manner to the full extent of his or her responsibilities and qualifications;

(20) undertake and perform assignments only when qualified by training, experience, and capability;

(21) be objective, thorough and factual in any written report, statement or testimony of the work and include all relevant or pertinent information in such communiques or testimonials;

(22) sign only for work that he or she has inspected, or for work over which he or she has personal knowledge through direct technical control; and

(23) conscientiously avoid conflict of interests with the employer or client and diclose any business association, interests, or circumstances that might be so considered.

(b) If there is evidence that the welder's work does not conform to the requirements of the applicable code, standard or specification, the welding inspector may require requalification of the welder. The welding inspector shall require a requalification of a welder if that person's qualification is not current by the requirements of the applicable codes, standards or specifications.

(c) If the welding inspector is to perform nondestructive examinations other than visual, and there are no specified qualification requirements, he or she must be qualified and certified in accordance with the Recommended Practice No. SNT-TC-1A, "Personnel Qualification and Certification for Nondestructive Testing, " June 1975. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(7), (9) and (10)

12 AAC 72.125. PROHIBITED CONDUCT OF WELDING INSPECTOR. (a) A welding inspector licensed under this chapter is prohibited from performing acts including

(1) signing a blank welder qualification certificate;

(2) issuing a welding qualification certificate to a welder not tested under his or her direct supervision;

(3) delegating his or her responsibility in testing of welders;

(4) paying, soliciting, or offering directly or indirectly, any bribe or commission for professional employment with the esception of the usual commission required by employment agencies;

(5) falsifying, exaggerating, or indulging in the misrepresentation of personal academic and professional qualifications, past assignments, accomplishments, and responsibilities or those of his or her associates;

(6) issuing statements, criticisms, or arguments on weld inspection matters connected with public policy which are solicited or paid for by an interested party or parties, without first identifying the party and the speaker and disclosing any possible pecuniary interest;

(7) expressing an opinion on a weld inspection subject unless it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence pertainent to the subject and upon honest conviction of the accuracy and propriety of the statement;

(8) accepting compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties or their authorized agents;

(9) soliciting or accepting gratuities, directly or indirectly, from any party or parties dealing with the client or employer in connection with the welding inspector's work; and

(10) associating with or knowingly participating in a fraudulent or dishonest venture.

(b) The board will suspend, refuse renewal of or revoke the welding inspector's license, place the license holder on probation, or repreimand the holder if he or she is found to have engaged in prohibited conduct. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(7), (9) and (10)

ARTICLE 4
GENERAL PROVISIONS

Section
899. Weld qualifier license
900. Definitions

12 AAC 72.899. WELD QUALIFIER LICENSE. A weld qualifier license issued under the authority of this chapter as it existed between August 2, 1978 and the effective date of this section is valid until six months after the effective date of this section and may not be renewed. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(7)

12 AAC 72.900. DEFINITIONS. (a) In this chapter

(1) "appropriate rating" means that rating which is required by the specific code designated in the job specifications; when there is no job specification or a specific code is not designated in the job specification, appropriate rating is not less than the all-position certification issued in accordance with the current ediction of the American Welding Society Code;

(2) "board" means the Board of Welding Examiners;

(3) "code" means nationally recognized welding, nondestructive testing or engineering principles or rules published as guides or requirements or both by societies or agencies charged with establishing such guidelines;

(4) "continuous employment" means employment without interruption of more than 90 consecutive days unless otherwise specified in the code under which the certificate is being renewed;

(5) "coupon" means a piece of metal cut and sectioned for testing;

(6) "cutting process" means a process in which the severing or removing of metals is effected;

(7) "department" means the Department of Commerce and Economic Development;

(8) "direct supervision" means being physically present at the work site and in personal charge of the work being performed;

(9) "job specifications" means the written document setting out the specific construction standards to be adhered to for the project;

(10) "rating" means a particular skill level in the art of welding;

(11) "responsibility" means being accountable to the board or its agents or both for one's action relating to the requirements of this chapter;

(12) "standards" means minimum acceptable guidelines established by societies or agencies or both charged with the responsibility for promulgating such guidelines;

(13) "technical level" means a level of work in welding using mathematics and science such as would require at least two years of post-high-school study at an accredited engineering school or technical institute or equivalent study;

(14) "valid" means having legal force and properly executed and binding under the law and is in compliance with the appropriate code, standard or specification;

(15) "weld testing methods" means the destructive or nondestructive means of evaluating the integrity of the weld metal or heat affected zone of the base material or both;

(16) "welder" means welder, welding operator and tacker;

(17) "welding" means the metal joining process used in making welds;

(18) "welding inspector" means a person meeting the requirements of Secs. 55—125 of this chapter;

(19) "welding performance specification" means a document required before testing, setting the criteria for demonstration of a welder's ability to produce welds meeting prescribed standards;

(20) "welding procedure" means a written document specifying the essential variables as listed in the appropriate welding or engineering code or both;

(21) "welding procedure specification" means a document required before welding on any structure, specifying the parmeters and requirements which control the quality of the welding for that structure;

(22) "welding process" means the method of application of heat or filler metal or both to complete the joining process;

(23) "welding qualification certificate" means a certificate issued under the authority of the board by a licensed welding inspector to a person verifying that he or she has successfully performed one or more of the specific welding tests required for a certification to a particular welding or engineering code;

(24) "weldment" means an assembly whose component parts are joined by welding.

(b) Terms not defined in this section shall be construed in accordance with American Welding Society A3.0-76, "Terms and Definitions." (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1) and (9)

3-3-82

HB 703

HB 741

TELELINK
COMMUNICATIONS INC.

INFOCOM DIVISION

March 3, 1982

Rep. Terry Martin
Chairman
House Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Rep. Martin:

Thank you for the opportunity to testify on HB703. We appreciate the work that you and your staff have done on this bill, and hope that it will receive favorable consideration by the full legislature, this year.

TELELINK Communications, Inc. is seeking passage of this bill, to permissively expand the capacities of state agencies to act on matters that otherwise require expensive, time-consuming, face-to-face meetings.

While the use of electronic communications will not completely replace travel and the need to "press the flesh", we believe that contemporary advances in communications technology will imitigate the loss of productivity and revenues engendered by the need to be physically present during rate and tariff proceedings; employment security appeals and the like.

We believe that it is in the public interest to permit persons in remote corners of the state to enter opinions and matters of fact into the public record, without the requirement that they spend hundreds or thousands of dollars traveling away from home to interact with the policy makers.

The Legislature's substantial success with the Legislative Teleconference Network, and the Department of Education's Learn/Alaska network are examples of the gains that positively benefit Alaskan society.

HB703 will act to further expand the information collection and decision-making capability of the state whether through increased participation in Public Utility Commission hearings; Regional Fish and Game advisory board meetings; DOT/PF bid awards; or consultant bidder's conferences.

Sincerely,

Allen D. Blume
Marketing Associate

AUDIO TELECONFERENCING COST INCENTIVES

CMX VS. TRAVEL*

2 HOUR TRAVEL MEETING
JUNEAU TO ANCHORAGE

Transportation	
Air Fare	$ 300.00
Rental Car	45.00
Gas & Oil	15.00
Lodging	60.00
Meals (including tips)	45.00
Telephone charges from Hotel	12.00
Salary ($36,000)	250.00
Cost per person	$ 727.00
X 8 people	$5,816.00
Lost Productivity:	
Travel time 4 hours @ $125x8	$1,000.00
Missed telephone calls and Meetings at home office?	$6,816.00

2 HOUR CMX MEETING

Transportation	$ .00
Lodging	.00
Meals	.00
Telephone charges (50.00/hr.) x 2	100.00
CMX fee (22.80/hr.) x 2	50.00
Salary ($36,000)	250.00
Cost per person	400.00
X 8 people	$3,200.00

COMPARISON

Travel Meeting Cost	$6,816.00
CMX Meeting Cost	$3,200.00
Cost Saving Using CMX	$3,616.00

*Assumes typical two hour meeting. Does not account for weather or other airline delays.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K–STATE CAPITOL
JUNEAU, ALASKA 99811

March 2, 1982

Hon. Terry Martin, Chairman
Labor and Commerce Committee
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: HB 703 (use of communications media under APA)

Dear Representative Martin:

A member of your staff called this afternoon to ask for a "position paper" on this bill, for your committee's consideration tomorrow. Here are some quick comments:

1. The basic purpose of the bill appears to be the recognition of technological advances in communications and the promotion of the use of that technology in conducting the state's business for the benefit of the public. We support that.

2. I am unable to predict the fiscal impact of this, and can only observe that technology usually costs money.

3. The amendment in sec. 1, allowing an agency to accept matter presented by any form of communication, when following the regulation-adoption procedures, is good.

4. (A) The amendment in sec. 2, amending the basic "open meeting" statute (AS 44.62.310), looks good to the extent that it might increase the possibility of public participation. However, the statute being amended in sec. 2 of the bill covers many different kinds of meetings and hearings. In some of them, it is important for the members of the agency conducting the hearing to be able to actually see the witness, and, in others, it is important for public participants to see each other. Your definition of "communications media" in sec. 7 of the bill is not limited to video technology; in fact, it is not limited to any of

the more advanced methods of communication; the definition leads off with the word "includes." Without getting into the various rules of construction that would be applied to interpret your definition, I will simply observe that that definition could cause problems in applying the amendment in sec. 2.

(B) In addition, since "communications media" includes telephones, there is the potential for people to disrupt an otherwise orderly meeting or hearing, unless it is made clear in the statute that the body conducting the meeting or hearing may establish reasonable ground rules for the use of whatever media are to be employed. This is especially important in light of AS 44.62.310(f), which says that action taken contrary to AS 44.62.310 is void.

(C) One additional point: The amendment only refers to "[p]ublic attendance and participation" at meetings. It says nothing about the agency members themselves being able to conduct a meeting through communications media (which is especially important in emergency situations). This omission in the bill should be corrected, since not dealing with the permissibility of agencies themselves conducting meetings through communications media may be interpreted by the courts as an implied prohibition on such meetings.

5. The statement of intent in sec. 3, regarding broad dissemination of information, is good. However, in mentioning only the "convenience of the public," it overlooks the legitimate needs of the governmental bodies involved to get on with the business of the public as a whole. The interests and convenience of various segments of the public will often conflict with each other. The bill should be amended in this regard too.

6. The amendment in sec. 4 relates to hearings in the course of administrative adjudication. Speaking of the "mutual convenience of the parties" is okay, but it overlooks the constitutional right to due process and to confront and cross-examine witnesses against an individual. The statute should not appear to give an agency the right to consider the

convenience of perhaps its own staff and of a witness, while disregarding the rights of a central figure in the hearing. Consider, for example, a license revocation hearing for which the complaining witness would find it more convenient to phone in from his home. The hearing officer or administrative law judge would not be able to observe the demeanor of the witness, and the accused party would be seriously hindered in his questioning of the witness.

7. Basically, the amendment in sec. 5, allowing voting by communications media, in an administrative adjudication, is okay, especially since agency members are currently authorized to vote by mail (which, actually, under your definition of "communications media," could be considered as included in the new term). However, the sentence being added to AS 44.62.600 only requires recordation of the vote in a manner that identifies each person who has voted. That is a good point to cover, but nothing is said about recording how each person voted (not by what means, but on which side of the issue). This additional point should be covered; it would be consistent with the next-to-last sentence of the current AS 44.62.310(a).

8. The catch-all provision in sec. 6 of the bill is okay, but should also say something about the protection of constitutional and statutory rights of individuals. The variety of meetings and hearings covered by the Administrative Procedure Act must be borne in mind.

Thank you for the opportunity to comment on this bill. It would be very helpful to us if you could provide a bit more advance notice, however.

Yours truly,

WILSON L. CONDON
ATTORNEY GENERAL

By: Arthur H. Peterson
Arthur H. Peterson
Assistant Attorney General

AHP:dlm

Colvin ✓

Original sponsor: Labor and Commerce Committee

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 741 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to certificates of fitness."

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

* Section 1. AS 18.62.010 is amended to read:

Sec. 18.62.010. CERTIFICATE OF FITNESS REQUIRED. A person may not perform, nor may a person employ another person to perform, work [IN CONNECTION WITH WORK PERFORMED] subject to the standards established in AS 18.60.580 and 18.60.705 [, A PERSON MAY NOT BE EMPLOYED] without a valid certificate of fitness to perform the work, except that a certificate of fitness may not be required of employees of an electric utility which does not have within its service area any portion of a city, borough, or unified municipality having more than ~~2,500~~ 1,000 population.

* Sec. 2. AS 18.62.030 is amended to read:

Sec. 18.62.030. FEE. An applicant shall pay a [AN INITIAL] fee of $50 at the time of [$15 WITH HIS] application.

* Sec. 3. AS 18.62.040 is amended to read:

Sec. 18.62.040. DURATION OF CERTIFICATE. The department may cancel a certificate for cause. A certificate is valid for five (5) years from the date of issuance. ~~Certificates, if not cancelled for cause, are renewable upon payment of a [AN ANNUAL RENEWAL] fee of $15 once every three years [$5].~~

* Sec. 4. AS 18.62.060 is amended to read:

Sec. 18.62.060. POWER OF THE DEPARTMENT. The department shall issue orders [, RULES] and adopt regulations necessary to carry out the purposes of this chapter.

* Sec. 5. AS 18.62.070 is amended by adding a new section to read:

Sec. 18.62.075. EXEMPTION FOR WORK ON RESIDENCE. Nothing in this chapter prohibits a person from performing electrical or plumbing work on that person's single-family residence. ~~if the work is performed in accordance with the standards established in AS 18.60.580 and in AS 18.60.705.~~

* Sec. 6. AS 18.62.050(b) is repealed.

ALASKA

STATE LEGISLATURE

MEMORANDUM

To: Legal Services
Fm: House Labor & Commerce
Date: 3/4/82
Subj: HB 741

Please prepare a final CSHB 741 (L&C), incorporating the changes marked on the workdraft. We will return the original bill (or whatever you need back) when we receive the C.S.

Thanks for your help. Please contact me if you have questions.

Joan Mathews
X3657

Absent: ~~Rogers Davidson~~

3/3/82 HB 703
HB 741

1:10

000 Call to order; ~~HB~~ Intro to HB 741
HB 741
009 Dale Cheek, Dir, Labor Standards & Safety.
West over bill & changes, section by section
058 ~~Dale~~: Gave statistics on # of certificates of fitness processed by dept
065 Randolph asked if they had objection to not charging fees as required in Sec 3 (AS 18.62.040). Cheek said they needed the funds. ~~Randolph wondered if, Alaska~~
There was discussion of whether the fees are justified, & whether ~~fees~~ certificates need to be renewed. Cheek felt certificates should be renewed for record-keeping purposes.

~~HB~~ 260

:07 Dwight Perkins, Bus Mgr, Plumbers & Pipefitters Union Local 262, Juneau. Agrees that certificates of fitness shd be req'd. Felt $50 was reasonable fee, wd even agree to raising fee. Also felt $15 for renewal every 3 yrs was reasonable; especially if a person has been out of touch w/ codes for a time, felt the renewal was valuable. Also ~~felt~~ agreed that Sec 6 shd be repealed.

~~HB~~

149 Tom Cashen, rep for Intl Brotherhood of Electrical Wkrs — support bill. No objection to fee being raised.
157 Rogers — p. 1, l 13-16 - asked if there was any reason to exempt people; Cashen thought prbly cost of flying people out was reason for exemption, but agreed that all shd be req'd to be qualified.

176 Check said in 1980 some small cos. had non-qualified people doing elec work; they cited them; & amendment resulted.

Randolph said cost & difficulty of getting expertise in small communities.

Rogers expressed concern that this cd be abused in boroughs that aren't unified.

206 ~~220~~ Roger Samms – business rep, Local 1547, IBEW – re utility exemption – he has prob w/ wording, also. No objection to changing that section.

Supports bill. Good pgm; wd like to see it continue.

230 F.F. Cameron – retail store owners – no objection to fees, but (he has fitness card) – in dealing w/ public, ~~many~~ abt 19 out of 20 don't have fitness cards. They are (his outfit) repeatedly asked to show cards; but many others are working w/o them. Also don't have AK bus licenses or specialty licenses.

No prob w/ fee, but many people don't get cards. Wd like to see more stringent enforcement.

~~278 Martin~~

289 Martin asked Check if bill wd help; Check said it would.

They have 5 inspectors, did over 2,000 inspections last yr; ~~increase to~~ there were 1500 more certificates issued last yr than yr before.

306 Bylsma asked if the people cd be wkg on their homes; Cameron said no, they put job names on the sales slips.

320 Randolph suggested turning them in.

335 Cameron said certificate # or business license # shd be on building permits.

Rogers felt local govts shd decide if they want to include this in their building codes.

352 Rogers asked Check – certificate applies to plumbing & electrical codes; does code apply to all buildings?

Check – all except those under 2500 pop'n & on private property.

There was discussion to clarify laws.

380 Rogers questioned exemption, p. 2, l. 3. ~~Moved to~~ Suggested eliminating language after word "residence."

396 Bylsma asked what wd happen if license was not renewed, if certificate was for life. Check thought wd be more difficult to ascertain current employment & to be sure person keeping up on trade. Bylsma asked how they knew anyway if they didn't test again. Felt this was bookkeeping for nothing.

406 Martin felt uncomfortable w/ giving certificate for life.

436 Randolph noted that certificate cd be canceled for cause. &

446 Rogers - ~~if person loses certificate~~ may be argument for competency testing periodically, but as long as there's not, sees no reason to require renewal.

460 Knight felt this was a good point. Recommended going to 5 yr certificate & raising fee, & retesting at end of 5 yrs.

485 Randolph, + Rogers commented.

~~485 Roge~~

500 Ran - Moved to strike, l. 22-24, p. 1

Discussion. Gardiner felt they shd consider adding continuing education requirement for re-certification. Randolph felt that was too broad an issue to address. Rogers thought putting 5 yr time limit on license wd give Dept authority to use different criteria to evaluate applicant. Bylsma said Dept shd be asked if how wkload wd be impacted.

Check said they cd ck employment & ascertain qualifications fairly easily.

Rogers asked unan consent; Gardiner objected.

for: Bylsma, Martin, Ran, Rogers. Opp'd - Gardiner. Motion passed.

Rogers moved,

610 p. 1, l. 22 insert "a certificate is valid for 5 yrs from the date of issuance." Randolph objected w/o further study.

Discussion.

for: Rog, Gard, Martin, Bylsma Opp'd: Randolph

Amdmt passed.

Rogers moved

730 p. 2, l. 3, add period + delete lang after "residence"

(side B) 000 discussion.

~~for~~: No passed unan.

Rogers moved

070 p. 1, l. 13, after "work", insert period + delete rest of sentence (through l. 16).

Randolph objected.

Discussion.

for: Gardiner, Rogers opp'd - Martin, Bylsma, Rand.

motion failed.

Rogers moved

100 p. 1, l. 15 after "city", insert comma "borough"

Randolph objected.

Discussion.

for: Rog, Gard, Martin, Bylsma. Opp'd Randolph

No. passed

165 Gardiner, p. 1, l. 16, move to chng figure "2500" to "1,000".

Discussion.

~~Opp~~ for: Gard, Rogers, Martin, Bylsma opp'd: Randolph

No. passed.

230 Gard, p. 1, l. 22, after "cause", insert "or if the person fails to submit proof of attending eight hours of continuing education wde workshops approved by the Department every 5 years."

Gard w/drew amdmt.

Discussion. Check suggested various ways the Dept. cd enforce continuing edu reqmts.

325 Rog moved to report out CSHB741 L&C as amended.
No obj, so passed.

HB 703

338 Allen Peterson, Asst Atty Gen'l; Dept of Law supports bill, but contains legal probs. (He referred to ltr presented to committee which sets out probs.)

1)– cost

2)– sec. 1 unnecessary but expresses good points

3) – sec 2 has problems –

A)– addressing basic open meeting statute raises qstns

a) – sometimes needs to be in person

~~b)~~ defn of comm. media does not limit to video comm. media

b) raising possibility of intrusion into mtg by phone calls

Rogers had qstns; compared to any interruption by a person in any meeting.

c) implies that agency can't conduct mtgs by comm. media.

4) sec 3 –

neglect to mention needs of govt.

5) sec 4 –

possible constitutional conflict

6) sec. 5 –

doesn't cover "how" member voted (which side of issue)

7) sec 6 –

shd ~~mention~~ make clear not intent to curtail const'l & statutory rights

547 Martin asked if suggested amdmts were available.
Peterson said no.
Rogers had comments

567 Allen Burne – Telelink Comm – marketing associate –
supports bill; encourages state depts to move into ~~[illegible]~~
field of communications technology. ~~[illegible]~~ (Submitted
prepared testimony). Referred to sheet comparing
costs of teleconferencing v. costs of travel. Rogers noted
savings cd be even higher than shown.
No objections to Peterson's comments; expect to see each agency
will have to set refined guidelines as to when to use communication
media, & what types can be used.

688 Peterson said he had no amdmts to offer; just posn paper. Said
he'd work w/staff on amdmts.
Rogers felt leg. legal staff cd do that.

711 Barry said bill was prepared by Sofo; most of Peterson's points have been
addressed. Noted that, in various instances, courts allow
videotaping.

Tape 2

~~000~~ Harry Treagor, Dir, Occ'l Licensing - feels wd be asset to Div & cost saving to state.

Gardenier asked if this cd increase attendance.

Treagor said normally low attendance; have found people tend to give more verbal than written testimony.

020 Sioux Plummer - Dir, Div Telecomm Svcs - Peterson addressed concerns of legality. Support telecon'g; currently compiling study as directed by exec order; shd soon have final report to recommend to legis. Supportive of idea & will have add'l statistics & comments a result of study.

~~Boge asked if there wd be fee~~

045 Martin asked if there wd be need to hold up legion for study results; Plummer said no.

053 Peterson asked Plummer if ~~a~~ telecony can be limited to certain sites. Plummer said it's up to agency conducting mtg. Plummers said they'd recommend ~~a~~ network similar to CTN, w/ even more flexibility.

076 Martin requested staff look at bill, taking to AG's recommdns into consideration, & draw up for showings savings.

2:48 Adjourned.

HB 741 HB 741

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
DALE CHEEK	Box 630	DEPT OF LABOR	OK Yes	465 4870
DWIGHT PERKINS	PO Box 2868 JUNEAU	Plumbers & Pipefitters L.U. 262	OK on Bill Yes	586-2874
Tom Cashen	3200 Foster Ave	IBEW Local 1547	OK Yes	586-3050
ROGER SAMS	2140 GLACIER HWAY	IBEW LU 1547	OK "	586-3050

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

SIGN-IN SHEET HB-703

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Allen D. Bloome	P.O.B. 1608. Juneau	Telelink	Yes OK	6-9685
DA				
Harry Treager	Pouch D. Juneau	Div. Occupational Lic	ok for 703 Yes	465-2534
H H Peterson	Pouch K, Jun. 99811	Dept. of Law needs amendments.	YES	
Tony Plumma	Pouch C 99811	Admin	yes	465 2041
Bob Frampton	Pouch C 99811	ADM	NO	5-2041
	Fiscal note.			

HOUSE LABOR & COMMERCE COMMITTEE HEARING DATE: _____

SIGN-IN SHEET HB 741

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
F F CAMERON	PO BOX 2720	CAMERON PLBG HTG	?	789-2896

HOUSE LABOR & COMMERCE COMMITTEE HEARING DATE: _____

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/3/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:06	
Rep. D. Randolph	✓		1:05	2:12
Rep. B. Rogers	✓			
Rep. T. Gardiner	✓		1:12	
Rep. T. Martin, Chair	✓		1:36 / 12:55	

Subject Matter:

House Bill No. 703 741 _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 3, 1982
1:10 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph
Rep. Rogers
Rep. Gardiner

Members Absent: No members absent

COMMITTEE CALENDAR

HB 703 — An Act relating to the use of communications media under the Administrative Procedure Act.

HB 741 — An Act relating to certificates of fitness.

WITNESS REGISTER

Dale Cheek, Director
Labor Standards and Safety
Department of Labor
Box 630
Juneau, Alaska 99811
465-4870
Position Statement: Overview of HB 741.

Dwight Perkins, Business Manager
Plumbers & Pipefitters Union, Local 262
PO Box 2868
Juneau, Alaska 99801
586-2874
Position Statement: Commented on HB 741.

Tom Cashen, representative
International Brotherhood of Electrical Workers, Local 1547
3200 Foster Avenue
Juneau, Alaska 99801
586-3050
Position Statement: Supported HB 741.

Roger Sams, business representative
International Brotherhood of Electrical Workers, Local 1547
7340 Glacier Highway
Juneau, Alaska 99801
586-3050
Position Statement: Supports HB 741.

F.F. Cameron
Cameron Plumbing & Heating
PO Box 2720
Juneau, Alaska 99801
789-2896
Position Statement: Testified regarding HB 741.

Judy Knight
Department of Labor
Juneau, Alaska 99811
Position Statement: Available to answer questions.

Art Peterson
Assistant Attorney General
Department of Law
Pouch K
Juneau, Alaska 99811
Position Statement. Commented on HB 703.

Allen Blume
Telelink Communications
PO Box 1608
Juneau, Alaska 99801
586-9685
Position Statement: Supported HB 703.

Harry Treager, Director
Division of Occupational Licensing
Pouch D
Juneau, Alaska 99811
465-2534
Position Statement: Supported HB 703.

Sioux Plummer, Director
Division of Telecommunications Services
Department of Administration
Pouch C
Juneau, Alaska 99811
465-2041
Position Statement: Commented on HB 703.

PREVIOUS ACTION

HB 703 — No previous action.

Statutory Reference: AS 44.62

Action Taken: No action taken.

HB 741 — No previous action.

Statutory Reference: AS 18.62

Action Taken: Rep. Randolph moved, page 1, lines 22-24, to strike language. Rep. Gardiner objected. On the question: for--Bylsma, Martin, Randolph, Rogers; opposed--Gardiner. Motion passed.

Rep. Rogers moved, page 1, line 22, to insert, "a certificate is valid for five years from the date of issuance." Rep. Randolph objected. On the question: for--Rogers, Martin, Gardiner, Bylsma; opposed--Randolph. Motion passed.

Rep. Rogers moved, page 2, line 3, to add a period and delete language after the word, "residence". Motion passed without objection.

Rep. Rogers moved, page 2, line 13, to insert a period after the word, "work", and to delete the remainder of the sentence (through line 16). Rep. Randolph objected. On the question: for--Gardiner, Rogers; opposed--Randolph, Martin, Bylsma. Motion failed.

Rep. Rogers moved, page 1, line 15, after the word "city", to insert ", borough". Rep. Randolph objected. On the question: for--Rogers, Gardiner, Martin, Bylsma; opposed--Randolph. Motion passed.

Rep. Gardiner moved, page 1, line 16, to change figure "2,500" to "1,000". On the question: for--Gardiner, Rogers, Martin, Bylsma; opposed--Randolph. Motion passed.

Rep. Gardiner moved, page 1, line 22, after "cause", to insert "or if the person fails to submit proof of attending eight hours of continuing education code workshops approved by the Department every 5 years." After discussion, Rep. Gardiner withdrew the motion.

Rep. Rogers moved to report CSHB 741 (L&C), as amended, out of committee. There being no objection, the motion passed.

ACTION NARRATIVE

Tape #31
Recording

Number 000

The meeting was called to order by Chairman Martin at 1:10 p.m. Members present were: Representatives Martin, Bylsma, Randolph, and Rogers. Rep. Gardiner arrived later in the meeting. There were no members absent. Rep. Martin turned the committee's attention to HB 741.

Number 009

Dale Cheek, Director of Labor Standards & Safety, went over the bill and changes, section by section. He gave statistics on the number of certificates of fitness processed by the department.

Number 065

Rep. Randolph asked if Cheek had objection to not charging fees, as required in Section 3 (AS 18.62.040). Cheek said they needed the funds. There was discussion of whether the fees are justified, and whether certificates need to be renewed. Cheek felt certificates should be renewed for record-keeping purposes.

Number 107

Dwight Perkins, business manager for Plumbers & Pipefitters Union, Local 262, of Juneau, agreed that certificates of fitness should be required. He felt $50 was a reasonable fee, and said they would even agree to raising the fee. He also felt $15 for renewal every three years was reasonable, especially if a person has been out of touch with codes for a time. He agreed that Sec. 6 should be repealed.

Number 149

Tom Cashen, representative for International Brotherhood of Electrical Workers (IBEW), supported the bill. He had no objection to fees being raised.

Number 157

Rep. Rogers asked, in reference to page 1, lines 13-16, if there was any reason to exempt people. Cashen thought probably the cost of flying people out was the reason for the exemption, but agreed that all should be required to be qualified.

Number 176

Cheek explained that, in 1980, some small companies had non-qualified people doing line work; they were cited, and the amendment was the result. There was discussion.

Number 206

Roger Sams, business representative for IBEW Local 1547, said, regarding the utility

exemption, that he has problems with the wording also. He had no objection to changing that section. He supported the bill. Sams said it was a good program, and that he would like to see it continued.

Number 230

F.F. Cameron, retail store owner in Juneau, had no objection to fees. He said, in dealing with the public, that about 19 out of 20 of his customers don't have fitness cards. He said he and his employees are repeatedly asked to show their cards, but that there are many people working without them. He said these people also don't have Alaska business licenses or specialty licenses. He would like to see more stringent enforcement.

Number 289

Rep. Martin asked Cheek if the bill would help with enforcement; Cheek felt it would. He said they have five inspectors who did over 2,000 inspections last year. He said 1,500 more certificates were issued last year than the year before.

Number 306

Rep. Bylsma asked Cameron if those people could be working on their homes. Cameron replied that they were not; that they were charging supplies to projects on the sales slips. Rep. Randolph suggested turning them in.

Number 335

Cameron said certificate numbers or business license numbers should be on building permits. Rep. Rogers felt local governments should decide if they want to include this in their building codes. There was discussion.

Number 396

Rep. Bylsma asked what would happen if certificates were issued for life, without renewal. Cheek thought it would be more difficult to ascertain current employment and to be sure the applicant is keeping up in his trade. Rep. Bylsma asked how they knew anyway, if they didn't retest people renewing their certificates. He felt this was bookkeeping for nothing. Rep. Martin was uncomfortable with giving certificates for life. Rep. Randolph noted that a certificate could be canceled for cause. Rep. Rogers said that may be an argument for competency testing, but as long as there is no retesting, he saw no reason to require

renewal. Judy Knight, Department of Labor, felt this was a good point. She recommended going to a five-year certificate and raising the fee, and retesting at the end of five years. There was discussion.

Number 500

Rep. Randolph moved to stroke lines 22-24, page 1. There was discussion. Rep. Gardiner felt they should consider adding a continuing education requirement by recertification. Rep. Randolph felt that was too broad an issue to address. Rep. Rogers thought putting a five year time limit on the license would give the Department authority to use different criteria to evaluate a renewal applicant. Rep. Bylsma said the Department should be asked how their workload would be impacted by this. Cheek said they could check employment and ascertain qualifications fairly easily. Rep. Rogers asked unanimous consent; Rep. Gardiner objected. On the question: for--Bylsma, Martin, Randolph, Rogers; opposed--Gardiner. Motion passed.

Number 610

Rep. Rogers moved, page 1, line 22, to insert "a certificate is valid for five years from the date of issuance." Rep. Randolph objected without further study. There was discussion. On the question: for--Rogers, Gardiner, Martin, Bylsma; opposed--Randolph. Motion passed.

Number 730

Rep. Rogers moved, page 2, line 3, to add a period and delete the language after the word "residence". There was discussion. There being no objection, the motion passed unanimously.

Side B, Number 070

Rep. Rogers moved, page 1, line 13, after the word "work", to insert a period and delete the rest of the sentence (through line 16). Rep. Randolph objected. There was discussion. On the question: for--Gardiner, Rogers; opposed--Martin, Bylsma, Randolph. Motion failed.

Number 100

Rep. Rogers moved, page 1, line 15, after the word, "city", to insert ", borough". Rep. Randolph objected. There was discussion. On the question: for--Martin, Rogers, Bylsma, Gardiner; opposed--Randolph. Motion passed.

Number 230	Rep. Cardiner moved, page 1, line 22, after the word "cause", to insert, "or if the person fails to submit proof of attending eight hours of continuing education code workshops approved by the Department every 5 years." There was discussion. Cheek suggested various ways the Dept. could enforce continuing education requirements. Rep. Gardiner withdrew the motion.
Number 325	Rep. Rogers moved to report CSHB 741 (L&C), as amended, out of committee. There being no objection, the motion passed.
Number 338	House Bill 703 was brought before the committee. Art Peterson, assistant attorney general, said the Department of Law supports the bill, but the bill has legal problems. He referred to a letter presented to the committee which sets out the problems. (This letter is available from the committee for review.) Peterson went over each of the problems they foresaw. There was discussion.
Number 567	Allen Blume, Telelink Communications, supported the bill. He encouraged state departments to move into the field of communications technology. (Blume submitted prepared testimony, which is available for review from the committee.) He referred to a sheet comparing the costs of teleconferencing to the costs of travel. Rep. Rogers noted that savings could be even higher than Blume's comparison showed. Blume said he had no objections to Peterson's comments. He expects to see each agency having to set refined guidelines as to when to use communications media, and what types can be used.
Number 688	There was discussion.
Tape 32, Number 000	Harry Treager, Director of the Division of Occupational Licensing, felt it would be an asset to the division and cost saving to the state. Rep. Gardiner asked if this bill could increase attendance. Treager said attendance is normally low, and that they have found people tend to give more verbal than written testimony.
Number 020	Sioux Plummer, Director, Division of Telecommunications Services, said Peterson

had addressed their concerns of legality. She said her division supports teleconferencing. She said they are currently compiling a study, as directed by executive order, which should soon be finalized and reported to the legislature. Plummer was supportive of the idea, and said she would have additional statistics and comments as a result of the study. Rep. Martin asked if there would be a need to hold up the legislation for the study results; Plummer said there would be no need.

Number 053 — Peterson asked Plummer if a teleconference can be limited to certain sites. Plummer said it is up to the agency conducting the meeting. Plummer said she would recommend a network similar to the legislative teleconference network, with even more flexibility.

Number 076 — Rep. Martin requested staff look at the bill, taking the attorney general's recommendations into consideration, and draw up a fiscal note showing savings.

Number 089 — There being no further business to come before the committee, the meeting was adjourned at 2:48 p.m.

3-4-82

HB 726

HB 823

HB 831

HCUSE LABOR & COMMERCE
STANDING COMMITTEE
March 4, 1982
1:14 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Gardiner
Rep. Rogers
Rep. Randolph

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 726 — An Act providing an exemption from the Alaska Employment Security Act for certain employees of certain corporations.

HB 831 — An Act relating to telecommunications; and providing for an effective date.

HB 863 — An Act providing an exemption from the Alaska Employment Security Act for sole owners of certain corporations.

WITNESS REGISTER

Dave Stancliff
Aide to Rep. Barnes
Pouch V
Juneau, Alaska 99811
465-3797
Position Statement: Presented HB 726.

Art Zillig, Director
Employment Security Division
Department of Labor
Box 3-7000
Juneau, Alaska 99811
465-2712
Position Statement: No recommendation on HB 726.

Ed Hein, attorney
LAA Legal Services
Pouch Y
Juneau, Alaska 99811
465-3867
Position Statement: Evaluated HB 726.

Gary Jenkins
National Federation of Independent Business

Juneau, Alaska 99801
586-4100
Position Statement: Supported concept of HB 762; suggested changes.

Alex Hills, Deputy Commissioner
Department of Administration
Pouch C
Juneau, Alaska 99811
465-2200
Position Statement: Recommended HB 831 not be passed as written.

Charles Northrip, Executive Director
Alaska Public Broadcasting Commission
Pouch CB
Juneau, Alaska 99811
465-2846
Position Statement: Felt HB 831 was premature.

Gordon Zerbetz
Alascom
900 West 54th
Anchorage, Alaska
279-9971
Position Statement: Comments on HB 831.

PREVIOUS ACTION

HB 726

No previous action.

Statutory Reference: AS 23.20.526

Action Taken: Rep. Rogers moved to strike subsection (c) and replace with a new (c) "the employee is an executive officer of the corporation and owns, directly or indirectly, 25% or more of the voting securities of the corporation; and". There was objection by Rep. Bylsma; he removed his objection. Motion passed unanimously.

Rep. Rogers moved to report CSHB 726 (L&C), as amended, out of committee. There being no objection, motion passed.

HB 831

No previous action.

Statutory Reference: AS 44.21

Action Taken: No action taken.

HB 863

No previous action.

Statutory Reference: AS 23.20.526

Action Taken: Bill was not taken up this date. No action.

ACTION NARRATIVE

Tape #33
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:14 p.m. Members present were: Reps. Bylsma, Gardiner, Martin, Randolph, and Rogers. There were no members absent. Rep. Martin brought HB 726 before the committee for consideration.

Number 020

Dave Stancliff, administrative assistant to Rep. Ramona Barnes, presented HB 726 on her behalf. He explained the intent of the bill, and referred to a House Research report, which was given to the committee, for figures on the financial impact. (Stancliff spoke from prepared testimony.)

Number 060

Rep. Gardiner asked why the bill was introduced. Stancliff said it was for philosophical reasons. There was discussion. Rep. Randolph said he had no objection to using HB 726 as a vehicle, as it is almost identical to his bill (HB 863).

Number 082

Art Zillig, director, Employment Security Division of the Department of Labor, said the amendment would not impact the ability to conform with federal law. He had no recommendation on the bill. There was discussion. Rep. Martin asked the revenue impact; Zillig had no estimate. There was discussion of impact on FUTA taxes.

Number 126

Rep. Rogers was concerned about the stock ownership plan and its impact on employees. He was concerned that, if employees owned 25% of a class of voting securities, the employer could remove those employees from unemployment security.

Number 158

Ed Hein, attorney with LAA Legal Services, said he drafted the bill, and that the intent was to provide optional exemption from unemployment insurance. In drafting the legislation, he made efforts to check for conflicts with federal laws, and he was

satisfied there would be no conflicts. He could not say conclusively if there were conflicts with other portions of Title 23.

Number 194

Rep. Rogers again raised his concern about an employer exempting employees through a stock ownership plan. Hein said he didn't think that was the intent. He said this was meant to refer to someone with a controlling interest in the corporation. There was discussion. Hein said the language would seem to allow exempting employees. Rep. Rogers suggested deleting the language, "any class of", and inserting "the" on line 16, and suggested deleting the language, "the power to vote". There was discussion.

Number 278

Gary Jenkins, small business owner and member of the National Federation of Independent Business, supported the concept of the bill, but supported amending language. He suggested exempting corporate office, similar to a provision in the Workers Compensation Act. There was discussion. Rep. Rogers said there was a substantial difference between the workers compensation provisions and the provisions in the bill. He felt possibly redefining eligibles as officers of the corporation would solve the problem. Rep. Gardiner brought up the question of partnerships. Jenkins thought partnerships were already exempted, and suggested using the term, "executive officer of the corporation". Hein said other states provide for this. He noted that the state of Washington uses the term, 'corporate officers", and said he supports this concept. There was discussion of how to amend the language.

Number 480

Jeff Barry said he did not question the concept, but thought it may conflict, especially in the construction industry, with prevailing wage. He cited examples. Rep. Rogers felt subsection (d) would cover this. There was discussion.

Number 568

Rep. Rogers moved to strike subsection (c) and replace with a new (c): "the employee is an executive officer of the corporation and owns, directly or indirectly, 25% or more of the voting securities of the corporation; and". Rep. Bylsma objected. There was discussion. The committee asked

Zillig to estimate the fiscal impact; Zillig said it would be difficult to determine. He said there would be no impact on the general fund. Rep. Bylsma removed his objection; there being no objection, the motion passed.

Number 639 — Rep. Rogers moved to report CSHB 726 (L&C), as amended, out of committee. Motion passed without objection.

Number 655 — Rep. Martin turned the committee's attention to HB 831. He referred to information sent by Senator Stevens regarding self-regulation by states of many functions previously handled by the FCC. He gave the reasons for and intent of the bill.

Side B, Number 040 — Alex Hills, Deputy Commission of Administration responsible for telecommunications, suggested it is premature to judge the Telecommunications organization at this time. He believes the intention is to take over the functions of APBC, and to create oversight authority of various functions. Hills submitted a copy of their annual report, which he felt should be considered. (Hills also submitted written testimony; both these documents are available from the committee for inspection.) Hills said he was concerned about introducing another layer of bureaucracy, and about asking members of industry to make state-level decisions that would impact the private sector. He felt there was a potential conflict of interest. Hills recommended the bill not be passed as written.

Number 135 — Rep. Martin asked the committee if it would like to have a special meeting with Hills regarding federal legislation.

Number 150 — Charles Northrip, Executive Director, APBC, felt the impact of the bill on public broadcasting would set back progress by several years. (Northrip spoke from prepared testimony, which is available for review from the committee.) He explained the background of the Commission, and told why he felt the bill was premature.

Number 213 — Gordon Zerbetz, Alascom, had no official stand on the bill as they hadn't had time to review the bill thoroughly. He said it was

apparent there would be overlap between the Telecommunications Division and the new commission. He had no time yet to evaluate the new division, as it had not been geared up long enough yet. He felt a coordinated effort was important. He said the bill causes him concern about the creation of an agency comingling a developmental entity and a regulatory entity. He was apprehensive about the commission have both authorities. He spoke to particular sections of the bill which caused him concern. There was discussion. Zerbetz said Alascom is committed to the establishment of a focal agency to develop telecommunications policy. He said the system created by EO 52 had not been in place long enough to determine if it fills this need.

Number 333

Zerbetz said, regarding appeal powers, that if the board is an appellate board for APUC or other agencies, the committee should consider addressing, by statute, the qualifications of people on the board. Rep. Rogers asked if the commission would be quasi-judicial or promotional. He said the state should not have an agency that does both. Rep. Martin responded that he had no real concept in mind.

Number 379

Jeff Barry, committee aide, said section 4 defines telecommunications. He pointed out that one area not addressed that should be is the area of computer security. He said the public needs protection. Barry felt this concept is a holistic approach to the entire industry. Barry said there are three factions to consider: public, industry, and government. He said the intention is to limits the courts' ability to rule to law, not policy. The commission would be an appellate body to hear the concerns of the three factions. There was discussion.

Number 450

Hills said they do have an awareness of computer privacy issues. He said Bruce Carlson, office of Information Management, would meet with staff. He said Sen. Parr had introduced a resolution which would ask them to investigate this area. There was discussion.

Number 479

Rep. Martin went over the next week's agenda. There being no further business to

come before the committee, the meeting was adjourned at 2:35 p.m.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/4/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:31	
Rep. D. Randolph	✓		1:13	
Rep. B. Rogers	✓		1:21	
Rep. T. Gardiner	✓		1:06	
Rep. T. Martin, Chair	✓		12:55	

Subject Matter:

House Bill No. 726 863 831 _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

Introduced: 2/5/82
Referred: Labor & Commerce

IN THE HOUSE BY BARNES, HAYES AND CLOCKSIN

HOUSE BILL NO. 726

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act providing an exemption from the Alaska Employment Security Act for certain employees of certain corporations."

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

* Section 1. AS 23.20.526 is amended by adding a new paragraph to read:

(21) service performed for a corporation by an employee of the corporation if

(A) the corporation is incorporated under AS 10.05;

(B) the corporation is not a government corporation;

(C) the employee owns directly or indirectly, or has the power to vote, 25 percent or more of the voting securities of the corporation; and

(D) the employee agrees that the services not be "employment" under this paragraph.

(c) the employee is an executive officer of the corporation and owns directly or indirectly 25 percent or more of the voting securities of the corporation; and

ALASKA

STATE LEGISLATURE

MEMORANDUM

3/4/82

To Legal Services

Fm Labor & Commerce

SJ HB 726

Pls prepare a CS for HB 726 (L+C) incorporating changes shown.

Thanks -

Joan

--3657

Introduced: 2/5/82
Referred: Labor & Commerce

IN THE HOUSE BY BARNES, HAYES AND CLOCKSIN

HOUSE BILL NO. 726

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(21) service performed for a corporation by an employee of the corporation if

(A) the corporation is incorporated under AS 10.05;

(B) the corporation is not a government corporation;

delete section (C) - replace with new section (c), below.

~~(C) the employee owns directly or indirectly, or has the power to vote, 25 percent or more of any class of voting securities of the corporation; and~~

(D) the employee agrees that the services not be "employment" under this paragraph.

(c) the employee is an executive officer of the corporation and owns directly or indirectly 25 percent or more of the voting securities of the corporation; and

Testimony of Charles Northrip On HB 831
Before the House Labor and Commerce Committee
March 4, 1982

Mr. Chairman, and members of the Committee, my name is Charles Northrip. I am the Executive Director of the Alaska Public Broadcasting Commission. I appreciate the opportunity to testify on this bill today. I also appreciate the prompt and courteou. notice that the Committee staff provided me of the introduction of the Bill.Unfortunately my testimony will be negative with regard. to the Bill. I feel its impact on public broadcasting would set back its progress several years.

Executive Order No. 50, now incorporated in Alaska Statute 44.21.256 - 290 recognized the need to centralize planning, coordination and operation of State telecommunications activities, and created a Deputy Commissioner and two divisions within the Department of Administration to do just that. The Order also transferred the Alaska Public Broadcasting Commission from the Department of Education to the Department of Administration so it would operate out of the same administrative home as the two new telecommunications divisions. The Order did not, however, abolish the APBC nor place public broadcasting in the chain of command linked directly to the State executive hierarchy. I do not believe those portions of the order were adopted without due deliberation, primarily in consideration of the dangers of government control or influence over programming. By leaving the APBC within the Department of Administration, but outside the direct line organization of the telecommunications divisions, the Order puts as much

distance as possible between the State hierarchy and programming, since the Commission is an independent agency governed by nine citizens who are not State employees. In further support of this concept, the APBC leaves program judgements to independent local licensees, who are in turn governed by local citizen boards.

Before Executive Order 50, the APBC was involved with the State satellite TV project, the video tape delay center, and the provision of commercial programming. Those activities detracted from the main purpose of the Commission, which is the encouragement and support of public broadcasting in Alaska. Those activities, however, also put the Commission in the posture of "meddling" in areas best left to the private sector. The Executive Order divested the APBC of all such activity, and gave the agency its single primary focus in the support of public broadcasting throughout the State. The Commission, thanks to the Executive Order, now has a clear focus for its activities.

There are many areas touched on by HB 831 that require additional comment, not the least of which is the proposed new Commission serving as a watchdog over Department of Administration telecommunications activities. I'll leave that topic to Dr. Hills and others from the Department. I can say, however, that the current Alaska Public Broadcasting Commission has no desire to undertake that role. In fact, the full Commission unanimously approved the Executive Order No. 50 approach last spring.

My major criticism of the Bill is that it is too much, too soon. Executive Order No. 50 has been in effect less than a year. The staffs of the new Divisions have had even less time to come to grips with the state's telecommunications priorities. The APBC has had its new, more pointed, focus for that same period of time. The APBC's first edition of its long-range plan is only now at the printers. Similar efforts in other areas of telecommunications are in various stages of completion in the telecommunications divisions.

The Governor's Executive Order should be given time to work before new approaches are attempted. If the Legislature feels the need for countervailing expertise, it should hire telecommunications professionals to advise the cognizant committees as they exercise their rightful oversight responsibilities of the work of the telecommunications divisions and the APBC each year. That approach is certainly open to any committee.

If, over time, Executive Order No. 50 proves inadequate to the task, the Department of Administration, I'm sure, will be the first to propose changes in the law. Now, however, is not the time to make such changes, when our new system is less than a year old.

STATEMENT OF ALEX HILLS

DEPUTY COMMISSIONER FOR TELECOMMUNICATIONS

DEPARTMENT OF ADMINISTRATION

ON HOUSE BILL 831

PROVIDED TO HOUSE LABOR AND COMMERCE COMMITTEE

The Alaska Communication Commission proposed in House Bill 831 would have two kinds of functions. The Commission would oversee public broadcasting, as the APBC presently does, and would, in addition, have oversight powers with respect to the two telecommunications divisions located in the Department of Administration. The functions of the APBC will continue to be required and should be provided for in the future. Issues related to these functions will be addressed in a separate statement by Dr. Charles Northrip, Executive Director of the APBC.

Our two telecommunications divisions, and my own position, were instituted on July 1, 1981, when Executive Order 50 became effective. Executive Order 50 was the result of a lengthy process that involved a great deal of effort by members of both the Administration and the Legislature. The new telecommunications organization has been in existence for less than nine months. Although most interested parties appear to be satisfied with its performance so far, the new organization certainly needs more time to prove itself. I would suggest that it is premature to judge the new divisions at this time.

I believe that the primary intent of HB 831 is to provide oversight of all State telecommunications activities. Accordingly, I am submitting a copy of our Telecommunications Annual Report, which has

been recently completed. As the Report shows, the divisions are involved in a wide range of statutorily required activities. I believe that any new telecommunications legislation should consider these activities.

As I understand the proposed Commission, it would be a new layer of bureaucracy involved in the telecommunications decision-making process. I believe that such an arrangement would not only increase the size of State government but would also make the decision process unnecessarily cumbersome.

Finally, I am concerned about asking members of the telecommunications industry to make State government decisions that affect the private sector. The Department of Administration actively seeks advice and input from the private sector. We consider this input as we make decisions designed to serve the public interest and State government needs. The proposed arrangement, on the other hand, would have industry representatives making decisions that affect the State's procurement of goods and services from their own industry.

In summary, for the reasons I have explained, I do not recommend that this bill be passed out of Committee. I further suggest that our present telecommunications organization be evaluated during the next legislative session at the earliest.

Telecommunications SIGN-IN SHEET HB 831

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Jennifer Wilka		Dept. of Ed.	NO	465-2854
Karen Perdue		LTIGN.	NO	465-3520
Bill Bramble		DOE	NO	2884
Kathi Bates		LTN	NO	3836
L				

HOUSE LABOR & COMMERCE COMMITTEE HB 831 HEARING DATE: 3/4/82

SIGN-IN SHEET

Name (please print)	Address	Representing HB831	Testify? (YES or NO)	Phone Number
Charles Northrip	Pouch C B. Juneau 99811	AK. Pub Util Commission	Yes	465-2846
S Cummings	Pouch C "	Dept Admin HB831	no	2041
[illegible]	" "	" " HB831	YES	[illegible]
Clark Kuig	1725B Douglas Hwy 99824	AK Cable TV HB831	No	364-2452
Judy Knight	Box 1149 Juneau	AK Dept of Labor		465-3700
Art [illegible]	Box 3-7000 JUNEAU	DEPT of LABOR	YES	465-2712
GORDON [illegible] RBERTS	900 W 5th ANCH	ALASCOM	YES	279-9971
HARRY STURROCK	Box 3-7000 JUNEAU	Dept of LABOR	NO	465-2712

HOUSE LABOR & COMMERCE COMMITTEE ~~HB 726~~ HEARING DATE: 3/4/82

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
EO HEIN		LAA		

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

To answer questions re these bills

SIGN-IN SHEET HB 863

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
GARY AMENDOLA	POUCH K	AGO	NO	3603
DAVE Standifer	Pouch V	Ramona Barnes HB 726	yes	3797
GARY JENKINS		N FIB	HB726 Yes	586-4100

HOUSE LABOR & COMMERCE COMMITTEE HB 863 HEARING DATE: 3/4/82

Absent: ~~Ramona~~

3/4/82

HB ~~56~~ 726 HB863 HB 831

1:14

000 Call to order

~~010 Intro to HB 863 by Rep. Ramona Barnes~~

HB 726
020 ~~Rep~~ Dave Stancliffe AA to Ramona Barnes — ~~intro to~~ explained intent of HB 726. Referred to House Research report, which was given to committee, for figures on financial impact. ~~Advantage to people can~~ (Spoke fm prepared testimony)

060 Gardiner asked why bill was introduced; Stancliffe said it was for philosophical reasons. Discussion

078 Randolph said he had no objection to using HB 726 as vehicle, as his bill is almost identical (HB 863)

082 Art Zillig, DOL, ESC, Dept Labor — amdmt wd not impact ability to conform w/ fed'l law; no recommendation on bill.

097 Gardiner asked how many people wd be eligible; Zillig had no figures.

Discussion:

Martin asked revenue impact; Zillig had no estimate. Region X said if poor ~~is~~ covered by fed'l FUTA tax, FUTA wd be increased. Stancliffe said FUTA is calculated in report; ~~DOL~~ see figures.

126 Rogers — asked re: stock ownership plan - impact on employees — if emp's own 25% of ~~stock~~ a ~~portion~~ class of voting securities; concerned that employer cd remove employees fm. unemployment

158 Ed Hein — LAA leg svcs — drafted bill — intent was to provide optional exemption for unemp ins. In drafting legis'n, made efforts to ck for conflicts w/ fed'l laws — satisfied there wd be no conflicts. Can't say conclusively if there are conflicts w/other portions of Title 23.

194 Rogers asked abt he again raised his concern abt an empr exempting employees through a stock ownership plan. Hein said he didn't think so, that wasn't intent; meant to refer to someone w/ controlling interest in corp. Discussion. Hein said language wd seem to allow exempting employees.

257 Rogers suggested deleting "any class of" & insert "the" (l. 16), & suggested deleting "the powers to vote" — discussion

278 Gary Jenkins — Nat'l Fed of Independent Business & small bus owner — supported concept. Supported amending lang. Suggested — exempting corporate officers — similar to provn in Wkr Comps Act. Discussion. Rogers said there was a substantial difference between the Wkr Comps provisions & the bill. Felt possibly redefining eligibles as officers of the corporation. Gardiner brought up question of partnerships — Jenkins thought partnerships were already exempted. Jenkins suggested using term "executive ofcr of the corpn."

446 Hein said other states provide for this; Washington uses term "corporate officers" — goes along w/ this concept.

1:50
Gardiner

Discussion of how to amend.

The employee is an executive ofcr of the corp'n, & owns 25% or more of the corporation.

480 Barry - gotn not concept, that's good, but may conflict, esp in const industry, w/ prevailing wage. Cited examples. Purposes different fm Fedn of Businesses. Area of gotn in in const ind, under prevailing wage act, doing work as wage earner, potential conflict. Rogers felt (d) would cover this. Discussion.

568 Rogers moved strike (c) & replace w:

"(c) the employee an exec ofcr of the corp & owns, directly or indirectly, 25% or more of the voting securities of the corp'n; and "

Objection by Byloma; discussion. Asked Billig to estimate fiscal impact; Billig said it wd be difficult to determine. No general fund impact. Knight felt there wd be no significant impact.

~~Gotn. for~~ ~~qq to~~

No objection, so carried.

639 Rogers moved to report out CS HB 726 as amended

~~Attorney~~
10:58:17

655 Intro to HB 831 by Ch. Martin. Referred to info sent by Sen Stevens re self-regn by states of many functions FCC ~~had~~ previously handled. Gave ~~under~~ reasons for & contents of bill.

side B

027 _____ clarified a point Martin made. Discussion.

040 Alex Hills, ~~Deputy~~ Comm of Admin responsible for telecomm (~~read~~ spoke fm & spared testimony.)

~~Exec order 50~~ Gave background of telecomm orgn.

~~Feels~~ Suggested it is premature to judge orgn at this time.

Believes intention is to

1) take over func of APBC

2) create oversight of various functions

Submitted cy of annual report, which he felt shd be considered.

~~He Hdq His orgn~~ his Noted that orgn is wkg on many areas Martin spoke of being concerned abt.

Hills was concerned abt introducing another layer of bureaucracy. Concerned abt asking members of industry to make state-level decisions that wd impact private sector. Potential conflict of interest.

Recommended bill not be passed as written.

135 Martin asked if committee wd like to have special mtg w/Hills regarding fed's legis'n, possibly 3/24.

Rand
2:30

150 Charlie Northrip, Exec Dir, APBC. (Spoke fm prepared testimony:) Felt impact of bill on pub. bdcstg wd set back progress several yrs. Explained ~~why he felt this was~~ background of commission & why he felt bill was premature.

213 Gordon Zerbetz, Alascom — no official stand yet as they haven't had time to rev thoroughly.

Apparent there wd be overlap bet Telecom Div & the new commission. No time yet to ~~determine~~ evaluate new division — not geared up long enough yet.

Coordinated effort is important.

Bill causes him concern abt creation of agency comingling developmental entity & regulatory entity. Apprehensive abt comm having both authorities.

Re appeal pwrs, p. 3, Secs 5 & 6 — re APUC — ~~Sec~~ exemption in Sec 6 — comm issues many other types of orders of interest to telecomm. industry. Sec 5 (8) — validity of regs — APUC has function of issuing telecomm-oriented regs.

297 Rogers pointed out Zerbetz was on APUC abt 15 yrs. Rogers asked if APUC had own attys; Zerbetz said an asst AG assigned to them. Rogers said AG wd be person bringing & person defending an action under that sec.

315 Zerbetz - Alascom committed to establmt of focal agency to develop telecomm policy. Sys tem created by EO 50 not in place long enough to determine if it does this.

333 ~~Barry~~ Zerbetz - re appeal pwrs - re board - if it is appellate bd for APUC or other agencies, shd consider qualifs of people on bd; shd perhaps be addressed in statute.

352 Rogers - asked if comm wd be quasi-judicial or promotional. Said it shdn't have agency that does both.

Martin responded no real concept in mind. Needed think tank. Developing ideas for legis'n.

379 Barry - sec 4 defines telecomm.

One area not addressed that shd be is ~~secur~~ computer security. Public needs protection. Concept is holistic approach to entire industry.

1) public
2) industry
3) govt

} 3 factions to consider

Intention is to limit courts ability to rule to law, not policy. Comm. wd be appellate to hear concerns of 3 factions.

430 Martin referred to a previous bill which wd have caused problems; w/o technical knowledge

450 Hills - do have awareness of computer privacy issues - Bruce Carlson, Ofc of Info Mgmt. Offered to meet w/staff. Pass onto resolu which wd ask them to investigate this area.

Discussion.

470 ~~Rogers~~

479 Discussion of next wk's agenda.

490 Adjourned 2:35

3-8-82

HB 694

HB 882

HB 835

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 8, 1982
1:09 p.m.

Members Present: Rep. Bylsma, Vice Chairman
Rep. Gardiner
Rep. Rogers
Rep. Randolph

Members Absent: Rep. Martin, Chairman

COMMITTEE CALENDAR

HB 694 — An Act relating to the Alaska Municipal Bond Bank Authority.

HB 835 — An Act establishing the Alaska Safety Advisory Council.

HB 882 — An Act relating to voluntary aircraft safety inspection.

WITNESS REGISTER

Lee McAnerney
Commissioner, Community & Regional Affairs
Chairman, Alaska Municipal Bond Bank Authority
Pouch B
Juneau, Alaska 99811
465-4700
Position Statement: Supported HB 694; recommended changes.

Glenn Lundell, Deputy Commissioner
Department of Labor
PO Box 1149
Juneau, Alaska 99811
465-2700
Position Statement: Endorsed HB 835.

Jean Kline
Associated General Contractors
134 Franklin
Juneau, Alaska 99801
586-1740
Position Statement: Supports HB 835.

Dwight Perkins, business manager
Plumbers and Pipefitters Union, Local 262
Box 2868
Juneau, Alaska 99801
586-2874

Position Statement: Supported HB 835.

PREVIOUS ACTION

HB 694

No previous action.

Statutory Reference: AS 39.25.120; AS 44.85

Action Taken: Rep. Rogers moved, page 3, line 3, to add a new Section 5, adopting the amendment proposed by Community & Regional Affairs, but increasing the figure to $200-million. Motion passed unanimously.

Rep. Gardiner moved to add an immediate effective date. Motion passed unanimously.

Rep. Gardiner moved CSHB 694 (I&C) be reported out of committee, as amended. Motion passed unanimously.

HB 835

No previous action.

Statutory Reference: AS 18.60

Action Taken: Rep. Gardiner moved, page 1, line 14, to change "13" to "9"; line 16, to change "6" to "4"; line 20, to delete (3); line 22, to delete (5); and page 2, line 29, to change "13" to "9"; and page 3, line 1, to change "6" to "4".

Rep. Rogers moved to amend Rep. Gardiner motion to delete, on page 1, subsection (4) and insert (5). Rep. Rogers withdrew his amendment. Rep. Gardiner withdrew his motion.

Rep. Gardiner moved, page 2, after line 26, to add a new subsection (5): "make recommendations on methods to reduce Alaska's high rate of aircraft accidents." Rep. Rogers asked unanimous consent. Motion passed without objection.

Rep. Rogers moved, page 2, line 3, to delete "his" and insert "the commissioner's" Motion passed by unanimous consent.

Rep. Rogers moved to amend the title and insert a new Section 3 at the end of the bill. Rep. Rogers withdrew the motion.

Rep. Rogers moved to report HB 835 out of committee with amendments attached. There being no objection, motion passed.

HB 882

No previous action.

Statutory Reference: AS 09.65

Action Taken: No action taken; Rep. Bylsma said the bill would not be heard as another bill had been passed which does what HB 882 would do.

ACTION NARRATIVE

Tape #34
Recording
Number 000

The meeting was called to order by Vice Chairman Bylsma at 1:09 p.m. Members present were: Reps. Bylsma, Gardiner, Randolph, and Rogers. Chairman Martin was absent. Rep. Bylsma said HB 882 would not be heard, as another bill had been passed which accomplishes what HB 882 would do. Rep. Bylsma directed the committee's attention to HB 694.

Number 011

Lee McAnerney, Commissioner of Community & Regional Affairs, and Chairman of the Alaska Municipal Bond Bank Authority, said she supported the bill. She recommended increasing the $150-million figure to $180-million, and proposed adding a new section.

Number 026

Rep. Gardiner asked if municipalities continue to use the bond bank. McAnerney said they do, and gave examples.

Number 036

There was discussion of raising the figure to $180-million, and of Bond Bank Authority functions. Rep. Rogers questioned whether the $1-million limit for the revolving loan fund was enough. McAnerney said it was, and that $180-million would be satisfactory. Rep. Rogers felt it should be higher so the limit did not need to be changed so frequently. McAnerney said $200-million was the figure she originally planned to use, but she said at this time they don't need more than $180-million.

Number 098

Rep. Rogers moved, page 3, line 3, to add a new section 5, adopting the amendment

proposed by Community & Regional Affairs, but increasing the figure to $200-million, so new section would read: "AS 44.85.180(c) is amended to read: (c) Notwithstanding the provisions of (a) and (b) of this section, the total amount of bond bank authority bonds and notes outstanding at any one time, except bonds or notes issued to fund or refund bonds or notes, may not exceed $200,000,000." Motion passed unanimously.

Number 107 — Rep. Gardiner moved to add an immediate effective date. Motion passed unanimously.

Number 113 — Rep. Gardiner moved CSHB 694 (L&C), as amended, be reported out of committee. Motion passed unanimously.

Number 138 — Rep. Bylsma brought HB 835 before the committee.

Number 141 — Jeff Barry, committee aide, said the bill sponsors had asked him to explain the bill. He gave background. Barry said an advisory council once existed, He believes everyone recognizes, after hearing testimony on HB 159, the value of labor and management working together. The bill would bring industry, labor, and government together at a low cost to discuss safety and health matters.

Number 168 — Glenn Lundell, Deputy Commissioner, Department of Labor, said he and Commissioner Orbeck were pleased that industry and labor wanted this bill enacted. He felt it would be a useful interchange of information. The department welcomes and endorses the bill, and looks forward to working with industry and labor in this endeavor.

Number 192 — Rep. Rogers felt 13 members was a big group. Rep. Bylsma questioned the need for the council. Lundell said the bill provides basis for considerable effort, and can serve as a catalyst for a safety conference. He mentioned the past efforts of the public in forming a council, which was disbanded because of a lack of interest on the part of state government. Bylsma felt that the former method might be better than involving a bunch of government employees. Lundell said there would be only one representative

of state government, one federal government representative, and one local government person involved, and that the other ten are from the public.

Number 235 — Rep. Bylsma asked if OSHA didn't cover what the council would do. Lundell felt the function was somewhat different. He said an advisory group could reflect the state attitude toward federal regulations.

Number 254 — Jean Kline, Alaska Chapter, Associated General contractors, said, regarding having 13 members on the council, that the prior committee was large, but extremely effective. She said the necessity of having government represented, keeping the labor input, and covering a broad cross-section of industry were the reasons for such a large committee. She asked that they keep the four labor representatives if they do pare the size of the committee. She said AGC supports the council because trade associations were requested by the President to take part in voluntary programs of safety compliance. She said an accident prevention program depends on the cooperation and support of labor and management groups, and she felt $20,000 was a cheap price to pay for such an effort.

Number 314 — Kline said that Tom Cashen, of IBEW, had asked her to relay his support of the bill, also.

Number 320 — Rep. Bylsma felt that the various facets of industry would not be covered, even with a large council. Kline felt that safety programs for many groups are the same. There was discussion.

Number 353 — Dwight Perkins, business manager, Plumbers & Pipefitters Union, Local 262 (representing Southeast Alaska), supported the bill. He thought that, with advertising, smaller groups would be represented and would be aware that they could comment to the council. He said the bill is needed, and he supported it.

Number 380 — Rep. Gardiner agreed with Rep. Rogers that the council was too big, and would not be efficient. He felt a smaller, more efficient group could better deal with

issues. He recommended appointing smaller, more specialized committees for specific problems.

Number 399 — Rep. Gardiner moved, page 1, line 14, to change "13" to "9"; line 16, to change "6" to "4"; line 20, to delete (3); line 22, to delete (5); and page 2, line 29, to change "13" to "9"; and page 3, line 1, to change "6" to "4". There was discussion. Lundell conferred with Kline--they felt it important that local government be involved, as they are not normally covered in programs relating to safety and health. He felt it more important to have local than state government represented.

Number 450 — Rep. Rogers moved to amend the motion to delete (4) and insert (5) on page 1. There was discussion. Rep. Rogers withdrew his motion to amend.

Number 494 — Jeff Barry, committee aide, said it is critical that the federal government be represented there. He said they have access to information and are willing--have even requested--to participate. He suggested looking at the labor aspect if they feel the number of council members is too large. He said the function is to recognize problems as they develop and suggest changes.

Number 534 — Rep. Gardiner withdrew his motion.

Number 540 — Rep. Gardiner moved, page 2, after line 26, to add: "(5) make recommendations on methods to reduce Alaska's high rate of aircraft accidents." Rep. Rogers asked unanimous consent. Motion passed without objection.

Number 580 — Rep. Rogers moved, page 2, line 3, to delete "his" and insert "the commissioner's". Motion passed without objection.

Number 588 — Rep. Rogers moved to amend the title and insert a new Section 3 at the end of the bill. There was discussion. Rep. Rogers withdrew the amendment.

Number 735 — Rep. Rogers moved to report HB 835 out of committee with amendments attached. Motion passed without objection.

Side B, Number 011 There being no further business to come before the committee, the meeting was adjourned at 1:56 p.m.

Absent: 3/8/82 HB 694 HB 882 HB 835 Tape # 34

1:09

000 Call to order by Byforna; said HB 882 won't be heard as another bill has been passed which does what 882 does

HB 694

011 Lee McAnerny, Comm, CHRA, & Chmn, At Muni Bond Bank Auth. Support bill except want $180M figure rather than $150M

44.85.180 (c) - add new section.

026 Gardiner asked if municipalities continue to use Bond Bank; McA said they do, & cited examples.

036 Discussion of raising figure to $180M & of Bond Bank functions

~~McAnerny said original intent of bill was [illegible] explained orig'l intent of bill~~

064 Rogers gotnd $4M ~~figure~~ limit for revolving loan fnd was enough; McA said it was, & that $180M will be satis. Rogers felt it shd be higher so ~~it~~ limit did not need to be changed so frqly. McA said $200M was figure she originally planned to use, but don't at this time need more than $180M.

098 Rogers mvd, p3. l.3, add new sec 5, adopt amdmt prop'd by CHRA, but inc. figure to $200M. Passed unan.

107 Gardiner ~~at~~ moved to add immediate eff. date. passed unan.

113 Gard moved CSHB694 (L&C) be reported out of comm. Passed unanimously.

HB 835

138 Byforna brings HB 835 before comm.

141 Jeff Barry said sponsors asked him to explain bill. Gave background - Advisory council once existed, ~~but~~ Believes everyone recognizes, after hearing testimony on HB 159, value of labor & mgmt working together. Bill wd bring industry, labor, & govt together at a low cost

to discuss safety & health matters.

168 Glenn Lundell, Dep Comm, Dept Labor — he & Orbeck were pleased and & labor wanted this bill enacted. Useful interching of info. Dept welcomes & endorses bill, & looks forward to wk w/ ind & labor in this endeavor.

192 Rogers felt 13 members was a ~~t~~ big group.

198 Bylsma questioned need for Council
Lundell said bill provides considerable effort & can serve as catalyst for a safety conference. Mentioned past efforts of public ~~to~~ in forming council, which disbanded because of lack of interest by govt. Bylsma felt might be better that former method might be better than involving a bunch of govt emp's. Lundell said only 1 fm st, 1 fed, & 1 local govt people involved; other 10 are fm public.

235 Bylsma asked if OSHA didn't cover what council wd do. Lundell felt function was somewhat different; advisory grp can reflect state attitude on fed's regns.

254 Jan Kline, Atty, AGC — re a reading 13 members — prior committee was large (went over composition of prev. comm) — comm was extremely effective. Necessity of having govt, ~~Ref~~ keeping labor input, & broad X-section of industry ~~to~~ were reasons for such a lge comm. Asked they keep 4 labor reps if they do pare size of comm. trade assns were requested by President to take part in AGC supports because a voluntary pgm of safety compliance ~~Safe~~ Accident prevention pgm depends on coop'n & support of labor & mgmt grps. $20,000 cheap price to pay for such an effort.

314 Tom Cashen, IBEW, asked Les to relay his support, also.

330 Bylsma, re representtn – 6 fm industry – various facets of ind may not be covered. Kline felt safety pgms for many are much the same.
Bylsma felt, re labor ~~rep~~ representation, that many small businesses (non-union) wd be ignored.

353 ~~Don~~ Dwight Perkins, Wrangell, Plumbers & Pipefitters Union Local 262 (SE AK) – supports bill. Thought with advertising, smaller ~~com~~ gps wd be represented & wd be aware of Council to bring comments to. Bill is needed & they support it.

380 Gard – agreed w/Rogers re size of comm (being too big) – not efficient. Smaller, more efficient gp can better deal w/issues; can appoint smaller, specialized committees for specific problems.

Gardiner

399 ~~Lockard~~ moved:

p. 1	l. 14	Chng 13 to 9
	l. 16	6 to 4
	.20	delete (3)
	22	delete (5)
p. 2	l. 29	Chng 13 to 9
3	l. 1	6 to 4

421 Discussion.

Tunnell conferred w/ Kline – important that local govt be involved as they aren't normally covered in pgms relating to safety & health. More imp to have local than state govt rep'd.

450 Rogers mvd to amd amdmt to delete (4) & insert (5) (p. 1)

Discussion. Rogers w/drew amdmt to amdmt.

494 Barry – critical that fed govt rep be there – NIOSH & MESA ~~roga~~ roga. also impact state (aside fm OSHA) – have access to info & are willing, even have requested, to participate. Suggested looking at labor aspect if they feel it is too large. Function is to recognize probs as they develop & suggest chngs.

534 Gard w/drew amdmt.

Gardiner moved,

540 p. 2 l 26 + 27, add:

(5) make recommendations on methods to reduce Alaska's high rate of aircraft accidents

Rogers asked unan consent; passed.

580 Rogers p 2, l. 3, delete "his", insert "the commissioner's" passed by unan consent

Rogers moved to

588 Amend title + insert sec 3 at end of bill

Discussion. Rogers went over action he brought to his attn that needs correcting by statute.

726 Rogers w/drew amdmt.

735 Rogers moved to report out HB 835 with attached amdmt.

Side B

006 passed w/o objection with amendments.

011

1:56 Mtg adjourned

1:09

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/8/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	~~1:06~~ ✓		1:06	
Rep. D. Randolph	✓		1:07	1:12
Rep. B. Rogers	✓		1:12	
Rep. T. Gardiner	✓		1:03	
Rep. T. Martin, Chair			absent	

Subject Matter:

House Bill No. 694 882 835 _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

SIGN-IN SHEET HB 882

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
HAROLD R. GUTHRIE	P.O. Box 2157	FAA	Yes	789-2193
DWIGHT PERKINS	Box 2868 JUNEAU	PLUMBERS AND PIPEFITTERS LU. 262	NO	586-2874

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3/8/82

SIGN-IN SHEET HB694

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Lee McAnerney	Pouch B - Juneau	Ak Municipal Bond Bank	Yes	465-4700

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3/8/82

SIGN-IN SHEET HB835

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Dwight Perkins	P.O. Box 2868	Plumbers and Pipefitters Loc. 262	Yes	586-2874
Jean Kline	~~A.M.C.~~ 134 Franklin	AMC	yes	6-1740

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

SIGN-IN SHEET

HB 835

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Glenn Lundell	P.O. Box 1149, Juneau	Dept. of Labor	Yes	465-2700

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3/8/82

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

AMENDMENTS TO HB 835

Passed by the House Labor & Commerce Committee on 3/8/82.

House Bill 835

Page 2, after line 26, add new subsection:

(5) make recommendations on methods to reduce Alaska's high rate of aircraft accidents.

Page 2, line 3, delete word "his" and insert "the commissioner's".

AMENDMENTS TO HB 835

Passed by the House Labor & Commerce Committee on 3/8/82.

House Bill 835

Page 2, after line 26, add new subsection:

(5) make recommendations on methods to reduce Alaska's high rate of aircraft accidents.

Page 2, line 3, delete word "his" and insert "the commissioner's".

amendments; sent to Legal 3/8/82

Introduced: 1/27/82
Referred: Labor & Commerce
and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

HOUSE BILL NO. 694

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Municipal Bond Bank Authority."

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

* Section 1. AS 39.25.120 is amended by adding a new paragraph to read:

(20) employees and agents, other than the executive secretary and legal counsel, of the Alaska Municipal Bond Bank Authority.

* Sec. 2. AS 44.85.070 is amended to read:

Sec. 44.85.070. STAFF. The bond bank authority shall employ an executive secretary who may with the approval of the bond bank authority select and employ additional staff as necessary. Employees and agents of the bond bank authority other than legal counsel and the executive secretary are in the partially exempt [CLASSIFIED] service under AS 39.-25. In addition to its staff of regular employees, the bond bank authority may contract for and engage the services of the bond counsel, consultants, experts, and financial advisors the bond bank authority considers necessary for the purpose of developing information, or conducting studies, investigations, hearings or other proceedings.

* Sec. 3. AS 44.85.100(b) is amended to read:

(b) The bond bank authority shall include in the report required by (a) of this section an estimate of the amount of revenue bonds of the bond bank authority to be issued during the fiscal year following the fiscal year in which the report is submitted [12-MONTH PERIOD]. The bond bank authority may not issue revenue bonds, other than refunding bonds, in excess of $50,000,000 during any 12-month period beginning after

amendments

June 30, 1981, unless the legislature, by law, approves the estimate required by this subsection for that 12-month period.

* Sec. 4. AS 44.85 is amended by adding a new section to read:

Sec. 44.85.165. MUNICIPAL BOND BANK REVOLVING LOAN FUND ESTABLISHED. There is established in the Department of Revenue a municipal bond bank revolving loan fund. The municipal bond bank revolving loan fund consists of money appropriated to it by the legislature. Principal payments on a loan made under this section shall be returned to the bond bank revolving loan fund. Interest payments on a loan made under this section shall be transferred to the general fund as provided by AS 37.-10.050 -- 37.10.060. The bond bank authority may make loans to municipalities from the municipal bond bank revolving loan fund. A loan made under this section

(1) may be used only for

(A) expenditures authorized to be paid from revenues of a municipal bond issue if the bonds have been authorized as required by law but have not been sold;

(B) expenditures authorized under a grant from the state or federal government made after the grant is authorized but before it is received; or

(C) expenditures authorized by a municipal governing body in anticipation of tax revenues expected to be received during the period of the loan;

(2) shall be for a period of one year or less;

(3) may not exceed an amount which, when added to the borrower's outstanding aggregate municipal bond bank revolving loan fund balance, totals $1,000,000, and

(4) shall bear interest at a rate which is approved by the bond bank authority by resolution and which is not less than the market

rate which the authority would have to pay at the time of the loan for notes issued for a similar purpose.

— add new Sec. 5 — see attached

— add immediate effective date.

CHAIRMAN:
LEE McANERNEY

BOARD MEMBERS:
LANCE ANDERSON
CARROLL FADER
LARRY URBACH
THOMAS K. WILLIAMS

601 WEST FIFTH AVENUE
SUITE 430
ANCHORAGE, ALASKA 99501
(907) 274-7366

EXECUTIVE DIRECTOR:
DAVID A. ROSE

ALASKA MUNICIPAL BOND BANK AUTHORITY

ADDITION TO HB 694

*Section _____ AS 44.85.180 (c) is amended to read:

(c) Notwithstanding the provisions of (a) and (b) of this section, the total amount of bond bank authority bonds and notes outstanding at any one time, except bonds or notes issued to fund or refund bonds or notes, may not exceed [$150,000,000] $200,000,000 ~~$180,000,000.~~

3-10-82

HB 866

HB 704

SB 353

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 10, 1982
2:38 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph

Members Absent: Rep. Gardiner
Rep. Rogers

COMMITTEE CALENDAR

CSHB 704 (L&C) — An Act continuing the existence of the Real Estate Commission and amending the statutes relating to the commission's responsibilities; and providing for an effective date.

HB 866 — An Act establishing a special investment tax credit; and providing for an effective date.

SB 513 — An Act relating to the athletic commission; and providing for an effective date.

WITNESS REGISTER

George Krusz, President
Alaska State Chamber of Commerce
310 2nd Street
Juneau, Alaska 99811
586-2323
Position Statement: Supported concept of HB 866; suggested changes.

PREVIOUS ACTION

CSHB 704 (L&C) — See minutes of 3/1/82 (bill was amended and committee substitute drafted).

Statutory Reference: AS 08.03.010(c)(18); AS 08.88.221; AS 08.88.401.

Action Taken: Rep. Randolph moved CSHB 704 (L&C) be adopted and reported out by unanimous consent. There being no objection, motion passed.

HB 866 — No previous action.

Statutory Reference: AS 43.20.036

Action Taken: No action taken.

SB 513

Senate Action: First reading 4/24/81; reported out of Senate Labor & Commerce 2/10/82 with letter of intent. Reported out of Rules 2/15/82. Taken up immediate on Senate floor 2/15/82; Labor & Commerce letter of intent adopted in second reading. Advanced to third reading by unanimous consent. Passed Senate 2/15/82, with effective date vote same as passage.

House Action: Referred to Labor & Commerce 2/16/82.

Statutory Reference: AS 05.05.010(a)

Action Taken: No action taken. Rep. Randolph suggested putting bill aside until Administration explains need. Committee agreed.

ACTION NARRATIVE

Tape #35
Recording
Number 000

The meeting was called to order by Chairman Martin at 2:28 p.m. Members present were: Reps. Martin, Bylsma, and Randolph. Members absent were: Reps. Rogers and Gardiner.

Number 010

Rep. Martin directed the committee's attention to CSHB 704 (L&C). Amendments were approved individually by committee members. Rep. Martin requested the committee adopt the committee substitute and report the bill out by unanimous consent. Rep. Randolph so moved. There was discussion. There being no objection, the motion passed.

Number 046

HB 866 was brought before the committee for consideration.

Number 051

George Krusz, president, Alaska State Chamber of Commerce, gave background on the Chamber--membership, geographic representations, etc. He supported the concept of the bill, but felt the bill should not be limited to exclude the oil and gas industry and other Alaska businesses.

He supported the bill, but wanted participation of all Alaska businesses. Rep. Randolph asked if Krusz had prepared a recommended amendment. Krusz said he had not.

Number 091

Jeff Barry, committee aide, said the Department of Revenue opposed the bill, and that they had prepared a financial statement that showed a $22-million fiscal impact this year. He said their objections were that currently, credit allowed is 18% of federal tax credit, up to $20-million; this could totally eliminate taxes for large corporations.

Number 125

Rep. Randolph requested figures for including other industries, separately and as a whole. There was discussion of fiscal impact.

Number 160

Rep. Martin brought SB 513 before the committee, and explained the bill. He said, regarding the fiscal note, that the Alaska baseball organization wanted money to travel. Rep. Randolph suggested putting the bill aside until the Administration explains the need. The committee agreed.

Number 192

There being no fur ner business to come before the committee, the meeting was adjourned at 2:45 p.m.

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/24/81	01	0860	FIRST READING -- COMMITTEE REPORTS
04/24/81	02	0860	GOV TRANSMITTAL LETTER
04/24/81	03	0860	GOV F/NOTE SEN SUPPL #34
02/10/82	04	0249	L&C -- DP03, OTHER01
02/10/82	05	0249	L&C LETTER OF INTENT
02/15/82	06	0281	RLS -- OTHER04
			TAKEN UP IMMEDIATELY
02/15/82	07	0284	SECOND READING
02/15/82	08	0285	L&C LETTER OF INTENT ADOPTED
02/15/82	09	0285	ADVANCED TO 3RD READING BY UNAN CONSENT
02/15/82	10	0285	THIRD READING
02/15/82	11	0285	PASSED BY DIV 18-00-01
02/15/82	12	0285	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	**** **** ****

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/16/82	13	0513	FIRST READING -- COMMITTEE REPORTS
			LABOR & COMMERCE
			RULES
****	**	**	**** **** ****

Absent [illegible]

~~HB 513~~ Tape # 35

3/10/82

HB 866
SB 513 CSHB 704

2:28

000 Call to order

HB 704 010 CSHB 704 (no Real Estate Comm.) brought before comm. Amdmts were app'd and'ly by comm. members. Rep Martin requested comm. adopt ~~adoption~~ of CS; & repeat out by unan consent. Rep Randolph so moved. There was discussion. There being no objection, motion passed.

HB 866
046 HB 866 brought before committee.

051 George ~~Krause~~ Krug, Pres, Ak St Chamber of Commerce. Gave background on Chamber - membership, geographic representation, etc.
Support concept of bill. Feel bill shd not be limited to offender oil & gas industry & other Alaska businesses. Support bill but want participation of all Ak businesses

082 Randolph asked if they had recommended amdmt. Krug said they did not. ~~Barry [illegible]~~ Barry said he had info.

091 Barry - Dept of Revenue, opposed bill; they prepared fis. stmt. $2.5M fiscal impact this yr. Objections 1) current credit allowed is 150% of fed'l tax credit up to $20M; this cd totally eliminate taxes for lge corpns.

105 Randolph wanted info figures for including other industries, separately & total figures.
There was discussion. ~~of~~ of fiscal impact.

SB 513
160 SB 513 - Martin explained bill. He said, re fln, Ak baseball Orgn wanted money to travel.
Randolph suggested putting bill aside until Admin explains need. Committee agreed.

2:45
172 Adjourned.

SIGN-IN SHEET HB - 866

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
George Kruse	310 2nd St Juneau	AK State Chamber of Commerce	Yes	586-2323
Kelly Sewell	8499 Jennifer Dr.	Cape Fox Corp.	"	789-9977
Beverly Ward	134 N Franklin	ARCO	No	586-3680

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/10/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		2:20	
Rep. D. Randolph	✓		2:28	
Rep. B. Rogers		✓		
Rep. T. Gardiner		✓		
Rep. T. Martin, Chair	✓		2:20	

Subject Matter:

House Bill No. ~~573~~ 816 CSHB704 _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

3-11-82

HB794

HB795

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 11, 1982
1:48 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Gardiner

Members Absent: Rep. Rogers
Rep. Randolph

COMMITTEE CALENDAR

HB 794 — An Act relating to sales practices of motor vehicle dealers.

HB 795 — An Act relating to motor vehicle rustproofing services; and providing for an effective date.

WITNESS REGISTER

Jim Welch
Rust Control
2529 Scott Drive
Juneau, Alaska 99811
Position Statement: Testified about impact of HB 795 on his business.

Ralph Bennett
testified on his own behalf
c/o House Finance Committee
Pouch V
Juneau, Alaska 99811
465-3877
Position Statement: Went over problems he foresaw with HB 795.

Robert Evans
Consumer Protection Agency
Department of Law
1049 West 5th Avenue
Anchorage, Alaska
279-0428
Position Statement: Suggested amendments to HB 795.

PREVIOUS ACTION

HB 794 — No previous action.

Statutory Reference: AS 45.45; AS 45.50

Action Taken: No action taken.
Teleconference hearing set for March 30.

HB 795

No previous action.

Statutory Reference: AS 45.45; AS 45.50

Action Taken: No action taken.
Teleconference hearing set for March 30.

ACTION NARRATIVE

Tape #36
Recording
Number 000

Rep. Martin began taking testimony at 1:25 p.m., but meeting was not called to order until 1:48 p.m. for lack of a quorum. When Rep. Rogers arrived at 1:48, meeting was called to order. Members present were: Reps. Martin, Bylsma, and Rogers. Members absent were: Reps. Randolph and Gardiner. At the time of call to order, testimony was being taken on HB 795.

Number 012

Jim Welch, owner of Rust Control, Juneau, went over problems he had with the bill. (Welch submitted written testimony, which is available for review from the committee.) He felt requirements for warranties were not specific enough. He did not like the provision regarding warranting rustproofing on used cars. He said he had never run across a provision such as the one providing for claims service in case a business is terminated. There was discussion.

Number 135

Welch suggested warranting rustproofing on a vehicle sold by the original owner by charging a fee to transfer the warranty. Welch went over the bill, section by section, listing problems he found with the bill.

Number 300

Rep. Rogers arrived, and the meeting was formally called to order.

Number 322

Welch resumed testimony. He discussed the impact of the bill.

Number 443

Jeff Barry gave a sectional analysis of HB 795. He said rustproofing is an $11-billion a year industry. The problem is that many times, businesses who claim to be doing

rustproofing are not actually providing that service. He gave the example of new car dealers requiring consumers to purchase rustproofing with a faulty warranty. He spoke of needing a clear warranty on rustproofing of used cars. Barry went through the purpose of the bill. There was discussion of the definition of rustproofing and of undercoating.

Number 677 — Barry went over how the warranty periods were arrived at. He said, regarding liability amount, that the consumer would be recompensed for the amount of damage, not the amount paid for the service. He said the basis of the bill is to protect people in the market from "fly by night" outfits, and to protect the consumer. There was discussion.

Side B, Number 016 — Ralph Bennett, representing himself, said, regarding indemnification, that he thinks this is intended to use the past problem with mobile homes as a model. He thought the part dealing with used vehicles was bad legislation. He felt the inspection portion under (c)(2) was put in because of past car manufacturers warranties that required the consumer to spray wheel wells, which was found in court to be unreasonable. Rep. Rogers said this section came from the attorney general's office, because of a problem with businesses requiring consumers to come in on exact warranty inspection dates.

Number 084 — Bennett said there should be nothing in a warranty voiding the warranty after a claim has been made. Rep. Rogers commented on this point in a sample of a warranty which was passed out to the committee. There was discussion.

Number 105 — Robert Evans, Consumer Protection Agency, said, regarding used cars being impossible to protect, that he is not sure that is so, but at least rustproofers should be required to notify consumers they can't guarantee rustproofing. He referred the committee to the memo written by the Consumer Protection Agency, which contained suggested amendments (this memo is available for inspection from the committee).

Number 144

Rogers asked about the wording, "from the inside out" in one of the proposed amendments. He felt this was too vague. There was discussion. Rep. Rogers suggested possibly saying, "non-painted side to the painted side", or "form the side of the metal to which the rustproofing is applied". Evans went over the proposed amendments. The committee discussed the proposed amendments.

Number 311

Rep. Bylsma asked where the complaints are coming from. Evans said they have been involved in industrywide investigation--contacted other states, found where problems are occurring. They want to be prepared for problems as the industry grows in Alaska. He said the complaints come from people within the rustproofing industry who are concerned with maintaining quality, and from agencies in other states. Evans said there have been no substantial consumer complaints yet, but that salt and calcium, which induce rust, have not been used on roads for long.

Number 354

Rep. Martin directed the committee's attention to HB 794. Evans suggested modifications which involve deleting some language. He said that, unless amended, the bill would apply to specially ordered vehicles. He felt the intent of the bill is to prevent option loading by a dealership prior to purchase by the consumer. He said that when a dealership has the option to add accessories without checking with the purchaser, the purchaser is put in an unfair position. He said the problem exists because, in other places, consumers have an alternative--they can go to another dealer. But in Alaska there is generally no other place in the market area to go. He said a second effect, because option loading injures other competitors, is that this would open the market. The bill as drafted narrowly limits the effect of option loading; it only applies to the consumer who special orders a vehicle and has it delivered to him. Evans went over suggested changes.

Number 549

Rep. Bylsma asked about charging for dealer preparation. There was discussion as to what that is (no one knew). Bennett said Article 6, section (2) "applicable federal

laws" needs to be clarified. He said dealer preparation is often not specified, or the dealer is not made aware what is being provided. He said this needs clarification. There was discussion.

Number 645

Rep. Martin announced a night meeting to discuss HB 832. He asked committee staff to set a teleconference hearing on House Bills 794 and 795, and to notify all new auto dealers of the hearing.

Number 726

There being no further business to come before the committee, the meeting was adjourned at 2:58 p.m.

March 11, 1982

To: Rep. Terry Martin, Chairman, House Labor and Commerce Committee

From: Philip C. Blackstone, President
Endrust of Alaska, Inc.
4651 Stuart Way
Anchorage, AK 99503 279-3061 (w)

Dear Rep. Martin:

In talking with your office this morning, we are surprised to say the least that HB 795 is up for discussion in your committee today. We found out about this pending legislation late yesterday afternoon and quite by accident at that. One would think that with only three or four companies in the state of Alaska that are in the business of rustproofing vehicles, we would be advised as to possible legislation and asked for our comments and input.

We would be most agreeable to appear before your committee in person or via a teleconferenced hearing, but because of the lack of notice, please accept the following and make it part of the record.

I understand that this legislation is at the request of the Consumer Protection Bureau. Our company has been rustproofing vehicles in Anchorage for almost three years and I have no knowledge of any complaints filed with Consumer Protection. They, Consumer Protection, or any of our customers have never taken exception to our warranty policy, our free annual check-ups, our full repair and unlimited claims, and our grace period for the no-charge yearly cleaning and touch-up.

This bill as written imposes a lesser warranty in some cases than we currently offer. In other areas it imposes restrictions which would be impossible for any rustproofing company, in good conscience, to stand behind. Of the approximately sixty rustproofing companies nationally, there is not one company that does not require annual inspections. If a vehicle is rustproofed, and then driven on all the rock and gravel roads in Alaska, it only follows that the rustproofing material in the wheel wells is going to be torn apart over time and needs to be touched up periodically. This service we offer all of our customers -- and at no charge. We have never charged anyone for an annual inspection.

Again, we are very surprised by this pending legislation. We believe there are facts that need to be presented to your committee before this legislation is voted upon. And we are that with such a small population of companies offering this rustproofing service in Alaska that we have not been notified that this legislation was being considered.

Sincerely,

Philip C. Blackstone, President

cc: Rep. Joe Hayes
Rep. Joe Montgomery

March 9, 1982

Gentleman:

As owner and operator of Rust Control which is a complete automobile and truck Rustproofing Service here in Juneau, I feel I must present to you how House Bill No. 795 would affect a small business such as mine.

I will respond to only Section 45.45.241.

(b) 2
I believe the supplier should be liable for a rust-out condition but only to the extent of the Consumers Total Investment in Rustproofing. Also there are many vehicles which have structural defects (such as a brace welded inside a fender) and there is no possible way to rustproof an area like this.

The length of a warranty for new cars should be left to the discretion of the applying dealer. The consumer is not obligated to deal with a supplier whose warranty he doesn't approve of.

It would be suicidal for our business to warranty all used vehicles. This would depend on where the vehicle came from, how long it has been there, how much it was driven, where it's been kept (garage or outdoors) and how old the vehicle is. Occasionally we rustproof a vehicle which is already starting to rust-out. The customer is usually aware of this and if not we bring it to his attention. His usual comment is "I just want to get another year or two out of it."

This would eliminate a large part of our used vehicle business because we would be unable to determine just how close many of them are to a rust-out condition, especially in hidden or boxed in areas.

(b) 4
What does a consumer do if any small business goes out of business for any reason? Also Consumer Protection is a great avenue.

If the Rustproofing industry has to state procedures for claims service etc. I propose "all" automotive related business's such as; Service Stations who have Mechanics on duty, small garages and small independent Car Dealers be subject to the same.

(b) 5
Who is deciding business policy for a business? The Businessman or the State? I repeat, if the consumer does not agree with our warranty he is not obligated to use our service.

(c) 1
I feel the limit or number of claims should not exceed the total investment of the rustproofing.

(c) 2
We require a vehicle on warranty be inspected at 2 years or 20,000 miles as this gives us a chance to respray any areas which the material may have been scraped off underneath and check all areas of the vehicle. Also if there is any sign of rustout we can make the necessary repairs before the damage is extensive.

(d) a
The consumer knows when he receives his warranty what the conditions are. It is his responsibility to bring the vehicle back on the proper date for his inspection.

(g)
Most small business's DO NOT HAVE $5000.00 to just put in an interest bearing account.

If rustproofing services should be subjected to this, all automotive related business's should be included.

Again; Consumer Protection is fully capable of taking action in the consumers behalf if he has a legitimate complaint.

Jim Welch

MEMORANDUM State of Alaska

TO: Terry Martin
Chairman
House Labor and Commerce
Committee
Juneau

DATE: March 10, 1982

FILE NO:

TELEPHONE NO: 279-0428

SUBJECT: House Bill 795
Motor Vehicle Rustproofing

FROM: Connie J. Sipe
Assistant Attorney General
Chief, Consumer Protection
Section
AGO/Anchorage

The Consumer Protection Section of the Office of the Attorney General strongly supports House Bill 795, and urges this committee to give it a "do pass" recommendation. The bulk of our testimony submitted today suggests some important technical and language changes which would make this an even better bill. The changes are meant to clear up areas of ambiguity. With those changes, the office believes the bill is a good one.

The Consumer Protection Office supports the bill because, although consumer problems with rustproofing of vehicles has not yet been a major problem within the State of Alaska, and although there are only two or three retailers now representing major rustproofing companies within the state, rustproofing or related services have had and will have an increasingly important economic impact on Alaskans.

It is the belief of both this office and the industry representatives to whom we have talked, that more and more sellers will be entering the rustproofing market, and that more and more Alaska consumers will opt to purchase rustproofing. As consumers become aware that salt and/or liquid calcium are being used on winter roads in the Anchorage and Juneau areas, and as they become more sensitive to their own economic need to retain a new automobile for a longer period of time, we believe more consumers will be purchasing rustproofing.

Major rustproofing representatives only started selling in Alaska in the last three to five years; therefore, it is not unusual that we have not had great numbers of problems reported by consumers to date. However, we do believe there may be some deceptive advertising of warranties of rustproofing services going on at the present time, but consumers will not be aware of these problems unless the application to their vehicle proves defective and they must make a claim on their warranty in the years to come.

Alaska is not alone in its concern about rustproofing. Other cold weather, snow-belt and coastal states have examined rustproofing problems and the rustproofing industry in depth, and I would refer the committee to the pamphlet called "Rust Never Sleeps" put out by the Maine Attorney General's Office. This pamphlet gives an excellent discussion of the industry and of consumer concerns.

These other states have found that most problems in the rustproofing area are related to, and perhaps the crux of the entire problem is, the warranty given by a rustproofing seller. When our office looked into the rustproofing industry in Alaska, we found evidence that some of these potential warranty problems exist here.

The warranty on rustproofing service is the essential value of the service. The reason for which a consumer pays a sum of money to get his or her car rustproofed is not for the first immediate service, but for the protection offered by the warranty which will repair or replace any portion of the car which rusts out. Therefore, these warranty-related problems go to the very essence of the commercial value of a rustproofing service.

The major problems that have been found in rustproofing warranties, which problems are addressed by this bill, include:

1. Deception regarding warranties, such as the advertising of warranties as being "lifetime" when in fact the warranties are not transferable to a second owner, or the warranty is good only for one repair. In fact, it is interesting to note that in the fine print of several national rustproofing warranties, the consumer is in a double-bind. He is required to bring the vehicle in for repair upon the first small spot indicating rust, but in another paragraph, he will be excluded from any second repair once the first small spot has been fixed, despite the fact that the initial advertisement claimed that this was a "lifetime" warranty against rust.

House Bill 795 attempts to cure this problem by placing a reasonable limit on the period of time and the transferability of an auto rustproofing warranty. An industry representative has given us his professional opinion that, at least in the current state of technology, a claim that a rustproofing process (other than some new alloy which may be developed in the future by auto manufacturers) cannot reasonably guarantee that it can rustproof a car any longer than seven years. Similarly, any company which could not guarantee against major rust when applied to new automobiles for at least three years, is not fairly competing in the "rustproofing" industry.

2. Unreasonable warranty conditions. Many of the national warranties require consumers to fulfill certain conditions to keep their warranty valid, such as requring the consumer to bring

the auto back on exactly the one-year anniversary date of the first rustproofing application; or giving the sloppy applier a loophole because the warranty proclaims that it only is good as to those sections of the car where the rustproofing sealant was "actually applied." In other words, if the applier skipped a wheel-well altogether, the consumer's warranty does not cover the rusted-out wheel-well.

Maine, New York and other states, as well as some industry representatives, have told us that they have heard that some rustproofers may use a poorer quality or a diluted sealer compound, but misrepresent that they are using a national brand-name rustproofing compound of a certain chemical quality or characteristic. Also, there are often problems with poor application of the sealant to all of the necessary areas of the automobile.

3. Finally, our office has seen evidence in Alaska of deception by auto dealers and sellers of other processes that are clearly not rustproofing. During an industry-wide investigation of the Alaska motor vehicle sales industry over the last two years, our office has found that many dealers apply an "undercoating" to the bottom surface of all their motor vehicles, before they are placed on the showroom for sale. (This will be also discussed in conjunction with House Bill 794.)

The undercoating is a tarry or plastic substance, which is spread on the bottom of the vehicle, and which can be scratched off the metal, as it does not actually bond to the metal like a rust-proofing compound. Also, the undercoating is not actually a rust inhibiter, except to the extent that it covers the metal. If the undercoating surface is scratched, cracked or broken, rust can actually get started under the undercoating and spread, causing a worse condition than if the undercoating had never been applied. It was the experience of the Consumer Protection Office that dealers and their sales people often misrepresent, whether deliberately or negligently, that the undercoating is a "kind of rustproofing," or represent that the customer still has the option of having their new car rustproofed without disclosing that the already applied undercoating will prevent full rustproofing.

It has been the experience of other states that the rustproofing industry is an easy market to enter, and that a bond or some way of tracing legal responsibility to the supplier of rustproofing who claims that the services will guarantee against rust "for the life of the car" might be necessary. For this reason, the bonding provisions were included. However, even without the bonding provisions, we believe that the rest of the act would assure that the rustproofing industry in this state and other sellers of related auto products deal fairly with the Alaska public.

The committee will probably note that the bill suggest that enforcement of the rustproofing act be accomplished by incorporating the rustproofing act as an unfair and deceptive trade practice or unfair method of competition, under AS 45.50.471. Our office feels that we can handle that sort of enforcement, as we already are the agency to which such complaints are directed; and the type of deceptive advertising prohibited, whether directly deceptive or deceptive by omission of material facts, is within our area of experience and expertise. We do not believe that we would need any additional staff to enforce this law, especially as our auto repair investigator position is filled by a person who is familiar with these problems and can work on any large-scale enforcement action.

SUGGESTED LANGUAGE CHANGES

We urge the following amendments to the current bill:

1. The bill should be amended throughout so that the word "supplier" is replaced with the words "retail seller." The bill is meant to apply to retail sellers of rustproofing services, not to the wholesale supplier of the rustproofing compound to the rustproofing franchisee (the actual retail seller who applies the material to the auto).

2. Section 45.45.241(a) should be amended to read as follows:

> (a) A retail seller of motor vehicle rustproofing service shall warrant to the consumer that the service will prevent rust or corrosion, from the inside out, in the portions of the motor vehicle covered by the rustproofing warranty.

This change clears up some problems with the present language which requires that the warranty cover those portions of the motor vehicle to which the rustproofing service "is applied." This is a loophole for sloppy retail sellers who simply don't "apply" the rustproofing service to crucial parts of the vehicle. Also, this amendment clarifies that rustproofing is meant to be rustproofing from the inside out. In other words, rust rarely eats all the way through the metal when the rust starts on the outside of the vehicle, and since rustproofers do not apply any materials to the outside of the vehicle, they are not warranting against rust from the outside to the inside of a door panel. Rather, what the rustproofer is warranting is that the materials sprayed up inside the door panel will prevent rust from starting inside the door panel, where moisture does accumulate, and rusting through to the outside of the door panel.

3. The definition section, 45.45.241(h) should be amended to add a definition of "retail seller of rustproofing services," specifically:

> a person who adds rustproofing service to a vehicle other than at the point of manufacture of the particular vehicle.

Such a definition would make it clear that the bill does cover dealerships or regional distributors (who distribute cars to local dealerships). The bill should include these folks if they add rustproofing before they sell a vehicle. The bill should not try to regulate or in any way discourage rustproofing that is now being provided by some national manufacturers as "factory supplied" rustproofing.

4. The bill should be amended by adding a new section which requires that on the face of each warranty, the retail seller shall specify, by manufacturer's name and product identification number, the rustproofing sealant actually used on each customer's vehicle. (This provision would enable the customer who has a dispute over a rusting vehicle, or the auto repair investigator, to determine by a chemical analysis, whether the retail seller used the brand-name chemical compound advertised. We have received reports, both in this state and from other places, that some shops may substitute a different, perhaps less expensive, rustproofing compound.)

5. The bill should be amended by expanding Section (2) to read::

> AS 45.50.471(b) is amended by adding two new paragraphs to read:
>
> (26) failing to comply with AS 45.45.241.
>
> (27) any person to represent, in connection with the sale of new motor vehicles, that a particular vehicle is rustproofed, or has been given any type of rust or corrosion protection, unless such representation is substantiated by a manufacturer's rustproofing warranty or the retail seller of the motor vehicle is a retail seller of rustproofing services as defined in AS 45.45.241 who offers a rustproofing warranty in compliance with that section.

6. Section (1), AS 45.45.241(c)(2) could probably be stricken altogether since Section (d) is probably enough protection against unreasonable demands on the consumer who is trying to keep his warranty valid.

7. Section 45.45.241(c)(2) should be replaced with:

> (a) require that the motor vehicle be inspected to validate the warranty unless any cost of inspection or pre-inspection preparation to the vehicle is conspicuously disclosed before the service is purchased as well as in the written warranty.

8. Section 45.45.241(b)(2) should be amended by changing the word "indemnification" to the word "reimbursement."

9. Section 45.45.241(b)(3) should be amended to read:

> include "all motor vehicle body sheet metal, structural members, frame components and appropriate suspension components."

10. A change is necessary at Section 45.45.141(h)(3), the definition of rustproofing services, to clarify that the bill is talking about a warranty both on the rustproofing process or services itself, and on the chemical sealant or the "goods" (as the law defines them) that are used in the service. I would suggest the insertion of a clause so that the definition reads:

> (3) "rustproofing service" means a service or process, incuding the goods used in that service or process, that is represented to be for the purpose of preventing, inhibiting, or retarding rust or corrosion of any part of a motor vehicle;

11. Section 241(g), the section on bonding, should be amended to delete the word "performance" wherever it appears. When George Cada discussed this with the insurance companies, the companies said it was unlikely they would issue such a "performance" bond. The section should be amended to refer to the bond as a "rustproof supplier's bond," or similar language. Apparently the bonding industry is willing to bond a "dealer's" bond, just not a "performance" bond.

12. One last concern, for which we did not make any suggested language change, is whether or not a provision should be included that protects the small local retail seller, the franchisee who perhaps gets sent defective rustproofing sealant by the national manufacturer. If the committee wishes to do so, we agree that it

would be reasonable to provide some kind of indemnification for the local dealership against the manufacturer who misrepresents the quality, properties, or chemical composition of any of the sealant which it supplies, on a wholesale level, to the retail seller of rustproofing goods and services.

CJS/aw

MSG 82-00013268 PRTY 1 03/11/82 12:37:16 ORIG: LA00 IN= 0006 OUT= 0046
FROM: CAROL, ANCH. TO: JUNEAU INFO
TARGET: LJH2 SUBJ: MESSAGE FOR REP. MARTIN PAGE 0001

TO: REP. TERRY MARTIN, CHAIRMAN, HOUSE LABOR AND COMMERCE COMMITTEE
REPRESENTATIVES BYLSMA, GARDINER, RANDOLPH, AND ROGERS
FROM: FRED MORINO
EERO VOLKSWAGON
935 CAMBELL STREET
ANCHORAGE 99501 (H) 345-3'00 (W) 272-5522

RE: HOUSE BILLS 794 AND 795

BOTH OF THESE BILLS NOW BEFORE YOUR COMMUNITY APPEAR TO DESERVE INPUT FROM THOSE IT MAY AFFECT. I RECEIVED A COPY OF THE BILLS ON MARCH 9, 1982, AND UP TO THAT DATE WAS UNAWARE OF THE BILLS. ON MARCH 10, 1982, I PERSONALLY CALLED ALASKA SALES AND SERVICE, ANCHORAGE CHRYSLER, STEPP BROTHERS, UNIVERSAL MOTORS, SUNSET MOTORS, PIONEEN AUTOMOTIVE, EUROPEAN MOTORS, CONINENTAL MOTORS, NORTHERN MAZDA, CAL WORTHINGTON FORD, AND ENDRUST OF ALASKA ASKING ALL OF THE OWNERS OR GENERAL MANAGERS IF THEY

MSG 82-00013268 PRTY 1 03/11/82 12:37:16 ORIG: LA00 IN= 0006 OUT= 0046
FROM: CAROL, ANCH. TO: JUNEAU INFO
TARGET: LJH2 SUBJ: MESSAGE FOR REP. MARTIN PAGE 0002

HEARD OF THESE BILLS EITHER VERBALLY OR IN WRITTEN FORM. NO ONE HAD ANY KNOWLEDGE OF THESE BILLS AND ALL OF THEM INDICATED AN INTEREST IN GIVING INPUT TO YOUR COMMITTEE ON THESE BILLS. PLEASE ALLOW US TIME TO INVESTIGATE THESE BILLS AND SUBMIT.

THANK YOU FOR YOUR COOPERATION.

Abs. t: Gardiner Randolph

Meeting officially called to order 1:48 pm

3/11/82 HB 794 HB 795

Tape #36

1:25

000 ~~Call to order~~ Began taking testimony; not formally called to order for lack of quorum.

HB 795

010 Jim Welch — submitted written testimony. Went over problems he had with bill. Felt requirements for warranties were not specific enough. Did not like provision regarding rustproofing warranting. on used cars.

078 Bylsma asked if it were not possible to be unaware of some rusted places on used cars. Welch said it was.

095 Welch said he'd never run across a provision such as the one providing for claims service in case of business is terminated.

Discussion, Bylsma - Welch

135 Welch ~~felt a better way of~~ suggested warranting rustproofing on a vehicle ~~as~~, sold by the original owner ~~to be~~ by to charging a fee to transfer warranty.

Went over bill section by section listing problems in bill.

300 (Rep. Rogers arrived 1:48) Meeting formally called to order

317 Ralph Bennett offered his comments after Welch is finished.

322 Welch resumed testimony. Discussion of impact of bill.

443 ~~Robert Evans, Dept of Law~~ Jeff Barry – sectional analysis of bill.

$118/yr industry. Prob is that many times businesses who claim to be doing rustproofing aren't. eg, new car dealers — consumer required to purchase rustproofing with faulty warranty. Spoke of needing clear warranty on rustproofing of used cars.

~~Purpose of this is to~~ Went through purpose of bill.

~~Rogers had~~ Discussion of definition of rustproofing. Discussion of definition of undercoating.

677 Barry ~~said Underwriters to consumers~~ went over ~~chart~~ how warranty periods were arrived at. Amt of money – if ~~w~~ purchased this, they are recompensed for amt of damage, not amt pd for svc.

Side B

005 Basis of bill is to protect people in market fm "fly by night" outfits, & to protect consumer.

Discussion.

016 Ralph Bennett, rep'g self, ~~Assn of Unification~~ Ct Stat – thinks ~~of~~ Litchfield to use past mobile homes problem as model. (Went over that prob.)

040 thinks Part dealing w/used vehicles is bad legislation.

058 Inspection portion under (c)(d) was put in because of past car mfrs warranties that required consumer to spray wheel wells. This was found in ct to be unreasonable. Rogers said, AG came bfr us, with ~~people~~ business requiring consumer to come in on specified warranty dates.

084 Bennett Re – shd be notice in warranty voiding warranty after a claim has been made.

Rogers commented on this point in a warranty passed out to the committee Discussion.

105 Robert Evans, Dept of Law – re used cars being impossible to protect – not sure that's so, but at least rustproofers shd be req'd to notify consumer they can't guarantee rustproofing. Referred to state's memo (written by Consumer Protection Agency) which had suggested amdmts.

144 Rogers asked abt wording, "fm the inside out" in one of the prop'd amdmts; felt this was too vague. There was discussion. Rogers ~~suggested~~ possibly "non painted side to the painted side" or "from the side of the metal to which the rustproofing is applied"

Evans went over the prop'd amdmts. Committee discussed ~~Rep Byrd~~ these proposals.

311 Rep Byrd asked where complaints are coming fm. Evans said they have been involved in industrywide investigation – contacted other states, found where probs occurring; want to be prepared for problems as industry grows in Alaska. Complaints come fm people w/in rustproofing industry concerned w/ maintaining quality; fm agencies in other states; & no substantial consumer complaints yet, but sacf & calcium have not been used for long.

HB 794

354 Rep Martin turned to HB 794.

360 Evans – Suggested modifications which involve deleting some language. As amended, bill wd apply to specially ordered vehicles. Intent of bill is to prevent option loading by dealership prior to purchase by consumer.

When
Dealership has option to add accessories w/o ckg w/ purchaser, purchaser put in unfair posn. Prob exists because, ~~in~~ in other places, consumers have alternativ~~s~~ ~~to dlrs~~ can go to another dealer. In Alaska, no ~~place~~ other place in market area to go. ~~Bill is~~ Second effect - because option loading injures other competitors, this wd open market.
Bill as drafted ~~is~~ narrowly limits effect of option loading — only applies to consumer who special orders vehicle & has it delivered to him.

461 Went over suggested changes.

549 Bylsma asked abt charging for dealer preparation. There was discussion as to what that is (no one knew). Bennett said Article 6, sec (2) "applicable fed'l laws" needs to be clarified. Dealer prep is often not specified, or dealer is not made aware what's being provided. Needs clarification. Discussion.

645 Rep Martin announced next mtg Mon 3/15(?) 7pm.
Set telecons for Jnu, Anc, Fbx; circ prop'd amdmts in wkdrft; send wires to all new auto dealers re on HB 794.
Set telecons after 3/23

726 Adj. 2:58

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/11/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:10	
Rep. D. Randolph				
Rep. B. Rogers	✓		1:48	
Rep. T. Gardiner				
Rep. T. Martin, Chair	✓		1:00	

Subject Matter:

House Bill No. 794 795 _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

Rustproofing

SIGN-IN SHEET

HB 795

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Jim Welch	2529 Scott Drive Juneau	Rust Control	Yes	789-7230
Robert Evans	1049 W. 5th Ave Anchorage	Dept of Law - Cons Prot.	Yes	279-0428
Russ McKeever	P.O. Box 2946 Juneau	Dept. of Law - Cons. Prot.	No	789-2951
* Ralph Bennett	Pouch V Juneau, A	House Finance Committee		465-3877

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3/11/83

Dealers Motor Vehicles

SIGN-IN SHEET [redacted] HB 794

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Russ McKeever	P.O. Box 2946 Juno	Dept. of Law-Cons. Prot.	No	789-2951
Ralph Bennett	Pouch V Juneau, AK	House Finance Committee		465-3877

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3/16/82

Introduced: 2/15/82
Referred: Labor & Commerce

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE BY REQUEST

HOUSE BILL NO. 794

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to sales practices of motor vehicle dealers."

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

* Section 1. AS 45.45 is amended by adding new sections to read:

ARTICLE 6. REGULATION OF MOTOR VEHICLE DEALER SALES PRACTICES.

Sec. 45.45.300. PROHIBITED MOTOR VEHICLE SALES PRACTICES. (a) A dealer may not require a purchaser ~~who orders~~ of a new motor vehicle ~~for delivery~~, as a condition of the sale, to

(1) purchase a special feature, appliance, piece of equipment, part, or accessory refused by the purchaser that is not included as standard equipment by the manufacturer of the vehicle provided (see note); or

(2) pay transportation costs in excess of those disclosed under applicable federal laws, except for delivery costs actually incurred and paid by the dealer.

(b) Violation of a provision of this section is a deceptive trade practice under AS 45.50.471.

+ new Sec 3.

Sec. 45.45.390. DEFINITIONS. In AS 45.45.300

(1) "dealer" means a person or an agent, broker, or salesman of a person who is engaged in buying, selling, or dealing in new motor vehicles;

(2) "motor vehicle" means a vehicle that is self-propelled, except for a vehicle that is propelled by human or animal power, and includes an automobile, truck, tractor, or semi-tractor.

* Sec. 2. AS 45.50.471(b) is amended by adding a new paragraph to read:

(26) failing to comply with AS 45.45.300.

3-16-82

HB 849

HB 757

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 16, 1982
1:10 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Gardiner
Rep. Randolph

Members Absent: Rep. Rogers

COMMITTEE CALENDAR

HB 757 — An Act relating to unemployment insurance; and providing for an effective date.

HB 849 — An Act relating to voting by members of electric and telephone cooperatives.

WITNESS REGISTER

Representative Bettisworth
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-4967
Position Statement: Sponsor of HB 849; explained purpose of bill.

Dave Hutchins, Executive Director
Alaska Rural Electric Cooperative Association
no address or phone given
Position Statement: Endorsed HB 849.

Harry Sturrock, Assistant Director
Unemployment Insurance, Employment Security Division
Department of Labor
Box 3-7000
Juneau, Alaska 99811
465-2712
Position Statement: Explained need for HB 757; went over bill section by section.

PREVIOUS ACTION

HB 757 — No previous action.

Statutory Reference: AS 23.20

Action Taken: No action taken. Quorum was

not present at end of meeting.

HB 849

No previous action.

Statutory Reference: AS 10.25.120; AS 10.25.190

Action Taken: Rep. Randolph moved to report HB 849 out of committee. There being no objection, motion passed.

ACTION NARRATIVE

Tape #37
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:10 p.m. Members present were: Reps. Martin, Bylsma, Randolph, and Gardiner. Rep. Rogers was absent. Rep. Martin brought HB 849 before the committee for consideration

Number 009

Rep. Bettisworth, sponsor of HB 849, explained the purpose of the bill: to allow members of electrical and telephone cooperatives to vote by mail. Rep. Bylsma pointed out it had to be provided in the bylaws, and asked if the districts would pass bylaws. Rep. Bettisworth said they would. There was discussion by the committee.

Number 044

Dave Hutchins, executive director, Alaska Rural Electric Cooperative Association, said the statewide association unanimously endorsed the bill. He said Homer presently uses mail ballots, but attorneys have found no statutory authority.

Number 061

Rep. Randolph inquired about ballots. Hutchins said the bill would allow coops to make decisions about what is on the ballots. He said once an organization reaches 10,000 membership, it is difficult to get enough people to come to the meetings.

Number 080

Rep. Randolph moved to report HB 894 out of committee. There was discussion. There being no objection, the motion passed.

Number 110

Rep. Martin introduced HB 757 for the committee's consideration.

Number 112	Harry Sturrock, Assistant Director, Unemployment Insurance, Employment Security Division, explained that the bill is needed to stay in conformity with federal law; for housekeeping; and the incorporate department recommendations. He said they had received letters from the federal government commenting on the law, and recommending changes.
Number 138	Sturrock went over the changes needed to conform with federal law, and passed out charts and tables supporting this need. There was discussion of the fiscal notes.
Number 216	Rep. Martin asked Sturrock to go over the bill section by section, which Sturrock did.
Number 651	There was discussion of back pay awards.
Side B, Number 050	As there was no longer a quorum, the meeting was adjourned at 2:00 p.m.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/16/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:04	
Rep. D. Randolph	✓		1:10	
Rep. B. Rogers		1/		
Rep. T. Gardiner	✓		1:13	
Rep. T. Martin, Chair	✓		12:55	

Subject Matter:

House Bill No. 849 757 _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

Absent: Rogers ~~Gardiner~~

3/16/82 H LaC
HB 849
HB 757

Tape #37

1:10

000 Call to order

HB 849

009 Bettisworth, sponsor of HB 849, explained purpose of bill. — to allow members of elec. & phone coops to vote by mail. Bylsma asked pointed out it had to be provided in bylaws & asked if districts wd pass bylaws. Bettisworth said they wd. Committee discussion.

044 Dave Hutchins, exec dir, ak Rural Electric Coop Assn — statwide assoc unanimously endorsed bill. Said Homer presently uses mail ballot, but attys found no statutory authority.

061 Randolph had gotno abt ballots. Hutchins said bill wd allow coops to make decisions abt what to on ballots. Hutchins said once an orgn reaches 10,000 membership it is difficult to get enough people to come to mtgs.

motion

080 Randolph moved to report out HB 849. Discussion (Bylsma had gotus); Bettisworth explained. No objection; motion passed.

HB 757 Martin

110 Int'd bill

112 Harry Sturrock, Asst Dir, Unemp. Ins, ~~EE~~ emp security Div — explained why bill is needed — to remain in conformity w/fed'l law; housekeeping; & dept recommendns.

Read ltrs fm fed govt commenting on law, & suggesting chngs.

138 Sturrock went over changes needed to conform w/ fed'l law. Passed out chart showing unemployment allocations by state.

195 Martin referred to fiscal notes (3); Knight said there shd be 2 fn's. Knight said the Ø fn ~~xx~~ showed impact on food stamps.

216 Martin asked Sturrock to go over bill section by section.

218 Sturrock Sec 1 — deals w/ confidentiality of info, & release of info to food stamp admin; ~~also extends employees~~.

265 Sec 2 — re unauthorized disclosure of info

274 Sec 3 — referred to Cost yrs SB 50 re empe refunds of excess fnds pd in, with interest. Want this taken out, unless empr is late filing schedules; and deleting redundant language.

305 Sec 4 - amending ratable payroll table.

319 Sec 5 - housekeeping; needed to include all persons person can be disqualified fm.

331 Sec 6 — housekeeping; disqualifying provns; & add that "all interested parties" can appeal (rather than just "employee".

343 Sec 7 - increase in benefits.

Sturrock passed out 2 charts showing affect. Qstns by Gardiner re inflation.

Randolph
left abt 1:40
martin left abt 1:40 too.

Sturrock, cont'd

395 Sec 8 - amending duration formula for receipt of benefits. Provides compar w/39 wks of wk recvd max duration, & raises minimum duration to 18.

~~Sec 9~~ Passed out duration chart. Gardiner had gotns

438 abt employer costs. Discussion Gardiner, Sturrock, Knight

478 Sec 9 - provn regarding deductible income; ~~redraft~~ Sturrock explained difference fm current law.

498 Sec 10 - completes list of disqualifying statutes

504 Sec 11 - clarifies able & available provision of law.

524 Sec 12 - recodifies 83.00.350(6)

546 Sec 13 - ~~to~~ federal conformity ~~requirt~~ provns for secs 6 & 8.

599 Sec 14 - relates to labor disputes; corrects typing error in 1980 amendments.

637 Sec 5 - Chngs appeal periods to allow 15 days to appeal.

651 Sec 16 - adds new section re back pay awards.

Rep Bjorsma had gotns & asked for an example of such a actn.

Side B

000 Barry said this provn may not be legal, & gave examples. There was discussion of wording of this section. Barry felt employer shd be responsible for paying back award in order to avoid legal conflicts. Knight interjected her interpretation

2:00

050 Mtg recessed for lack of quorum

HB 849

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
R B Ellsworth			Yes	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3-16-81

SIGN-IN SHEET HB 849

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Dave Hutchens	Baranof Hotel	ARECA	Yes	826-2660

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

HB 757

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
GARY L. JENKINS	JUNEAU	NFIB	NO	586-4100
KAROL RAINIER	Juneau	H&SS		546-3360
GORDON LANDES	JUNEAU	H&SS	YES	3347

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3-16-81

SIGN-IN SHEET HB 757

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
HARRY STURROCK	Box 3-7000 Juneau	DOL	Yes	465-2712
Ron Torgerson	Box 3-7000 Juneau	DOL	No	465-4531
Jim COATE	Box 3-7000 Juneau	DOL	NO	465-4531
ELFRIEDA MULLIN	Box ~~3-7000~~ 1149 JUNO	DOL	NO	465-4519
Judy Knight	Box 1149 Juneau	DOL	Yes	465-2700

HOUSE LABOR & COMMERCE COMMITTEE HEARING DATE: _____

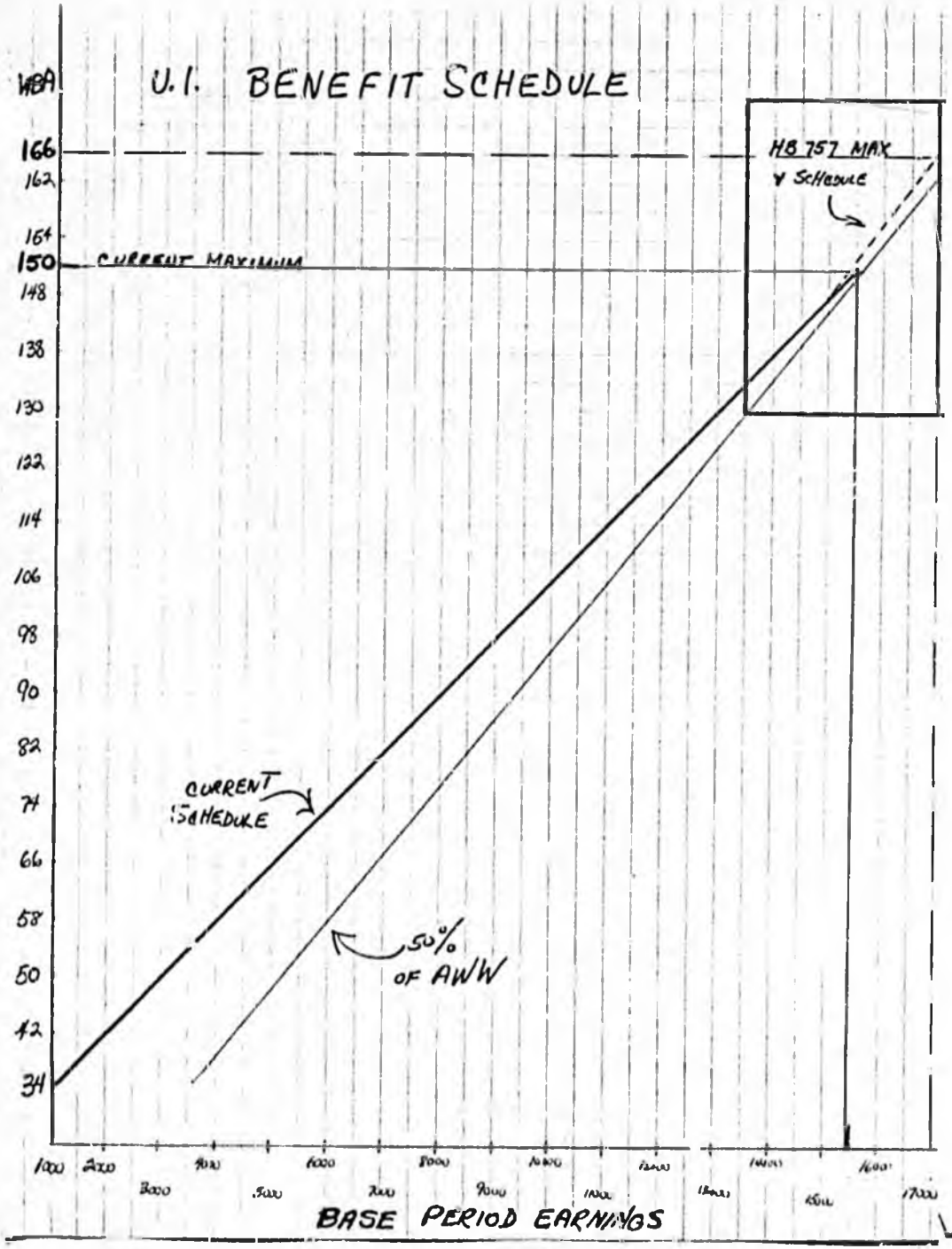
BENEFIT DURATION SCHEDULE

CURRENT

Earnings Ratio	Number of Weeks
less than 1.49	16
1.50 - 1.99	18
2.00 - 2.49	20
2.50 - 2.99	22
3.00 - 3.49	24
3.50 or more	26

PROPOSED

Earnings Ratio		Number of Weeks
At least	But less than	
	1.50	18
1.50	2.00	20
2.00	2.50	22
2.50	3.00	24
3.00		26



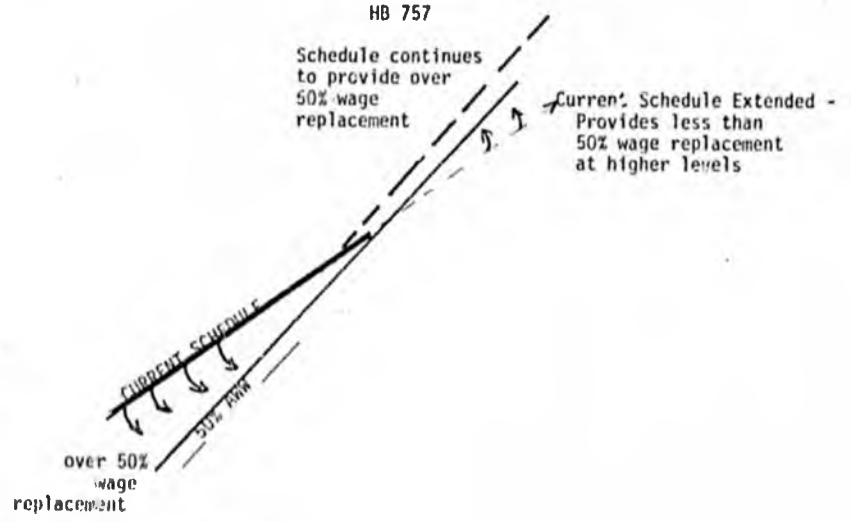
Q. Why increase maximum WBA to $166 when the maximum was just increased to $150 in 1980?

A. The 1980 Alaska legislature provided 2/3 of Alaskan claimants with at least 50% of their average weekly wage (AWW).

Rapid inflation has eroded the maximum so that only 60% of eligible claimants now actually receive at least 50% wage replacement. A new maximum of $166 would again provide 2/3 of eligible claimants with at least 50% wage replacement.

Q. Why does the proposed schedule increase at a higher rate beginning at $15,000 in base period earnings, instead of just continuing in the same increments as the current schedule?

A. If the current schedule were extended to $166 (at $2.00 increments for every $250 in base period earnings) then many claimants earning over $15,500 would not receive 50% wage replacement. The current schedule provides higher wage replacements for low wage claimants and approaches 50% wage replacement at the maximum for claimants with base period wages of $15,500. Changing the increments at $15,000 ensures that all claimants eligible for less than the new maximum would receive at least 50% wage replacement, while still providing the same schedule for lower wage claimants.



HOUSE BILL NO. 757

BILL ANALYSIS

Section 1. Federal conformity requirement of P.L. 96-249. Must be effective in state laws by January 1, 1983. Amends AS 23.20.110 as follows:

1. Adds subsection (f) to require the sharing of unemployment insurance claims informaiton with a state or federal agency which administers the Food Stamp program under the Food Stamp Act of 1977.

2. Adds subsection (g) to extend the requirements of AS 23.20.110 to any officer or employee of a state or federal agency which is provided information by the department.

Section 2. Federal conformity requirement (P.L. 96-249). Amends AS 23.20.115 to conform with AS 23.20.110(g) by adding state or federal employees to the list of those subject to prosecution for unauthorized disclosure of information.

Section 3. Housekeeping. Amends AS 23.20.165(e) as follows:

1. Excludes, from refunds of excess employee contributions, any interest paid by the employer on those contributions. Since only the employer pays interest on past due contributions (including the contributions he has deducted form his employee's wages) it is not equitable to make interest refundable to the employee.

2. Makes clear that employee deductions in excess of those required by AS 23.20.005 through 23.20.535 will be refunded. AS 23.20.165(e) currently specifies that only deductions in excess of the wages subject to contributions will be refunded.

Section 4. Housekeeping. Corrects the table under AS 23.20.290(c) by deleting the figure "100" on the last line of the table. To constitute a full one-twentieth of the total ratable payroll, rate class 20 under column A must include the remaining 5% of ratable payroll over 95%.

Section 5. Housekeeping. Amends AS 23.20.340(d) to completing the list of statutes under which a claimant may be disqaulified.

Section 6. Housekeeping. Amends AS 23.20.340(f) to complete the list of statutes under which a claimant may be disqualified, and in addition specifies that all interested parties are entitled to appeal nonmonetary determinations.

Section 7. Departmental recommendation. Amends AS 23.20.350(d) to increase the weekly benefit schedule to a maximum of $166. The increase in maximum weekly benefit amount is proposed to provide approximately 2/3 of claimants with replacement of 50 percent of their average weekly wage. Data since October 1, 1980, when the current schedule became effective, indicate that approximately 40 percent of claimants are receiving the maximum benefit amount and that most of those claimants are not receiving 50 percent wage replacement. Federal guidelines call for 80 percent of claimants receiving 50 percent wage replacement; however, Alaska's eligibility provisions make application of the federal guidelines prohibitively costly. The proposed weekly benefit schedule would increase benefit outlay by approximately four percent.

Section 8. Departmental recommendation. Amends AS 23.20.350(e) to increase potential duration by two weeks for 90 percent of claimant's eligible for regular benefits. The federal government has tightened eligibility for extended benefits so that fewer claimants will be eligible for EB, and the claimants most likely affected are claimants eligible for less than 26 weeks under the current formula. Giving these claimants an additional two weeks of regular benefits will increase the average duration for regular benefits by about one week. This is expected to increase regular benefits outlay by 6.4 percent.

The net effect of the benefit amount and duration increases and the restrictive language of the EB provisions should be that the total benefit payment will remain within two percent of current outlays. Employer costs should increase by four to six percent. The above legislation would phase some EB weeks (which are 50-50 state-federal) back to regular weeks (which are 100 percent state-funded).

Section 9. Housekeeping. Redrafts AS 23.20.360 to make the provision clearer. The current provision reads that the allowance for dependents in excluded from the amount paid to the claimant, and that is clearly not intended, in view of the requirments of AS 23.20.350. The revised provision correctly excludes dependents allowance only from the amount of benefits subject to reduction.

Section 10. Housekeeping. Amends AS 23.20.375(a) to complete that list of statutes under which a claimant may be disqualifed.

Section 11. Housekeeping. Clarifies AS 23.20.378(a) by combining paragraphs (1) through (4) under a single new paragraph and designating paragraph (5) as paragraph (2). The context of the current provision implies that paragraph (5) was intended to be a necessary condition of paragraphs (1) through (3), but that is not how the provision reads.

Section 12. Housekeeping. Recodifies the current AS 23.20.350(b) as subsection (g) under AS 23.20.381. This requalifying requirement is mandated by Sec. 3304(a)(7) of the Internal Revenue Code, but it is not a monetary requirement and should not appear under AS 23.20.350. A benefit year is established for any claimant who meets the qualifying requirements of AS 23.20.350(a) (at least $1000 in earnings in the base period, with at least $100 outside the quarter of highest earnings), and an eligible monetary determination is issued, whether or not the claimant has actually worked since last establishing a benefit year. A claimant who has not had work and earnings since last establishing a benefit year is simply not payable on his current benefit year until the requalifying requirement is met.

Section 13. Federal conformity requirement. Required in all state laws by Section 236(a)(2) of the Trade Act, as amended by P.L. 97-35, and must be effecive by October 31, 1982. Amends AS 23.20.382 by adding subsections (b) and (c) to prohibit disqualification of an individual attending training approved under the Trade Act of 1974. A housekeeping change was made to the current Sec. 382 and it was designated as subsection (a).

Section 14. Housekeeping. Clarifies AS 23.20.383(b) by restoring it to its original meaning prior to the 1980 amendments. Before the 1980 amendments an individual who was unemployed because of a labor dispute could escape disqualification if he was not involved in the dispute and was not a member of the grade or class of workers who were involved. However, if the labor dispute was caused by an employer's failure to comply with a working agreement or applicable law, the employee escaped disqualification regardless of his involvement. The 1980 amendments recodified the old AS 23.20.380(9) as AS 23.20.383 with minor changes. However, at that time the three "exception" provisions were made conjunctive, so that (as the provision currently reads) a claimant is disqualified unless (1) he is not involved in the dispute and (2) the dispute was caused by the employer's failure to comply with the law or a working agreement. These two circumstances would occur together so seldom that the "exception" provisions are virtually meaningless at present.

Section 15. Housekeeping. Amends AS 23.20.390(e) to provide a 15-day period for appeal from notices of liability. This same 15-day period applies to all other determinations under the Act and we see no reason to restrict liability appeals to 10 days.

Section 16. Departmental recommendation. Adds Sec. 392 to provide authority to collect from an employer the amount he deducts from a backpay award to an employee. This provision would apply only when the deduction is made because the employee has already received unemployment insurance benefits during the period covered by the award and has been found ineligible for those benefits because of the back pay

award. It does not seem correct to substitute the award made by the employer with benefits paid from the trust fund, when the employee is going to be held liable for repaying the benefits.

Section 17. Federal conformity requirement of P.L. 97-35 and must be included in state laws not later than October 31, 1982. Adds Sec. 401 to provide for interception of benefits due a claimant who owes child support obligations.

Section 18. Federal conformity requirment of P.L. 97-35 which must apply to weeks of unemployment which begin after September 25, 1982 and must be included in state laws by October 31, 1982. The federal amendment requires at least 20 weeks of full-time insured employment, or the equivalent in insured wages, in order to qualify for extended benefits. The "equivalent in insured wages" specified by the federal law is earnings of 40 times weekly benefit amount or 1-1/2 times highest quarter earnings in the base period. The 40 x WBA option is recommended as the most liberal qualifying requirement.

Section 19. Federal conformity requirement (P.L. 97-35). Must be included in state laws by October 31, 1982. Adds subsection (c) to AS 23.20.407 to reduce weeks of extended benefits by any weeks of trade readjustment allowance received during the applicable benefit year.

Section 20. Federal conformity requirement (P.L. 97-35). Must be included in state laws by October 31, 1982. Amends AS 23.20.408(a) to remove the reference to national "on" and "off" indicators for the purpose of establishing an extended benefit period. The national trigger was repealed by P.L. 97-35, and extended benefits will be payable only when an extended benefit period is triggered on by a state indicator.

Sections 21-22. Federal conformity requirements (P.L. 97-35). Must apply to weeks beginning after September 25, 1982. Amend AS 23.20.408(f) and (g) by adding one percentage point to the insured unemployment rate necessary to trigger an extended benefit period on or off.

Section 23. Federal conformity requirement (P.L. 97-35). Must apply to weeks beginning after September 25, 1982. Amends AS 23.20.408(h) to exclude extended benefits payments from the calculation of the insured unemployment rate.

Section 24. Federal conformity requirement (P.L. 97-35). Must be included in state laws by October 31, 1982. Amends AS 23.20.409(1) to exclude the national EB trigger from the definition of "extended benefit period".

Section 25. Departmental recommendation. Defines "applicable benefit year" in accordance with the definition contained in 20 CFR 615.2(c)(2). The term is used in various places in the extended benefit provisions.

Section 26. Housekeeping. Amends AS 23.20.505(a) as follows:

1. Makes AS 23.20.505(a) consistent with AS 23.20.530 by substituting the term "wages" for "remuneration". "Wages" is already defined in Sec. 530 as remuneration for services. The use of the term "remuneration" in Sec. 505(a) is therefore redundant.

2. Corrects the "excess earnings" computation in AS 23.20.505(a) to specify that an individual's wages for a week must be less than 1 1/2 times the weekly benefit amount plus $50, in order to qualify for benefits for that week. The current provision is inconsistent with AS 23.20.360.

Section 27. Housekeeping. Amends the definition of "training or retraining course" in AS 23.20.520(26) as follows:

1. Changes the term defined in the provision to read "vocational training or retraining course", for consistency with AS 23.20.382.

2. Deletes the term "entry level" from the definition. We do not recommend restricting approvable training to entry level training only. For example, some union-sponsored training is not "entry level" but is nevertheless required for continued employment in the occupation.

Section 28. Housekeeping. Amends the definition of "institution of higher education" in AS 23.20.520(24) to include institutions in other states. The definition of "training or retraining course" in AS 23.20.520(26) excludes instruction intended for a degree from an institution of higher education. It is therefore not recommended that the definition of "institution of higher education" be limited to Alaska schools.

Section 29. Housekeeping. Amends AS 23.20.526(a) to exclude service as a juror from the definition of "employment." It is assumed that this was the intent of the Legislature when it excluded compensation received for jury duty from the definition of "wages" under AS 23.20.530(b)(12). However, if "wages" means all remuneration from whatever source, excluding jury pay from "wages" means it is not deductible from benefits. We recommend excluding jury duty from the definition of "employment", but do not recommend excluding jury pay from "wages". The exclusion of jury pay from "wages" is repealed in Section 32 of the bill.

Section 30. Housekeeping. Clarifies the definition of "wages" in AS 23.20.350(a) and corrects minor errors in the provision, as follows:

1. Makes clear that "wages" means remuneration from any source. It is recommended that the definiton of "wages" refer to remuneration received from any employment, whether or not insured. The definition would then clearly apply both to determinations of insured status (initial determinations) under AS 23.20.350(a), and to the deduction of earnings from the weekly benefit amount, under AS 23.20.360 for a week in which a claimant is employed. Applying the definition of "wages" in this way would simplify the administration of these provisions and agrees with the way the definition of wages was intended in the federal draft provision which was used as a basis for AS 23.20.530(a).

2. Includes back pay as wages, regardless of whether the back pay was "awarded under a statute of this State or the United States." We do not recommend language which requires back pay awards to be compelled by force of law in order to be considered wages. This would exclude many back pay awards which are clearly intended as wages, for example where an employer freely negotiates a back pay award to an employee as the result of a wage dispute.

3. Requires allocation of back pay and irregular wage payments to the week in which the pay was earned, regardless of the purpose for the allocation. It is recommended that these payments be allocated both for initial determinations under AS 23.20.350(a) and for deductions from benefits under AS 23.20.360.

Section 31. Housekeeping. Adds paragraph (13) to AS 23.20.530(b) to exclude, from the definition of "wages", any compensation received for inactive National Guard duty. This provision was simply transferred from AS 23.20.505(c).

Section 32. Repeals the following provisions:

1. AS 23.20.350(b). Housekeeping. This provision was recodified as AS 23.20.381-(g) under section 12 of the bill.

2. AS 23.20.408(d) through (e). Repeal of these provisions is a requirement for conformity with P.L. 97-35. The definition of national "on" and "off" indicators is unecessary because the national indicators were repealed by P.L. 97.35.

3. AS 23.20.505(b). Housekeeping. This definition of "remuneration" is not necessary, since Section 26 of the bill substitutes the term "wages" for the term "remuneration" in AS 23.20.505(a), and "wages" is already defined in AS 23.20.-530(a).

4. AS 23.20.505(c). Housekeeping. This provision currently excludes National Guard pay from "remuneration", and it is no longer necessary since National Guard pay has been recodified as an exclusion from "wages" under AS 23.20.530-(b)(13) in Section 31 of the bill.

5. AS 23.20.530(b)(11). Housekeeping. Repeal of this provision would allow remuneration received from fishing to be treated as wages. Section 3121(b)(20) of the Internal Revenue Code excludes service by individuals engaged in certain fishing operations from the definition of "employment", and AS 23.20.526(20) already excludes this service from coverage, in conformity with the federal law. However, excluding fishing earnings from the term "wages" goes further than required by the federal provision and prohibits deduction of this remuneration from benefits during a week in which a claimant is fishing.

6. AS 23.20.530(b)(12). Housekeeping. Repeal of this provision would include jury pay as wages and permit deduction of jury pay from benefits otherwise due for a week. Jury duty would be excluded from insured coverage by excluding it from the definition of "employment" under AS 23.20.526(a)(21), as proposed in Section 29 of the bill.

WEEKLY BENEFIT AMOUNT SCHEDULE

CURRENT SCHEDULE				PROPOSED SCHEDULE	
Base Period Wages			Weekly Benefit Amount	Base Period Wages	
				At least	But less than
0	-	999.99	$ 0	0	1,000
1,000	-	1,249.99	34	1,000	1,250
1,250	-	1,499.99	36	1,250	1,500
1,500	-	1,749.99	38	1,500	1,750
1,750	-	1,999.99	40	1,750	2,000
2,000	-	2,249.99	42	2,000	2,250
2,250	-	2,499.99	44	2,250	2,500
2,500	-	2,749.99	46	2,500	2,750
2,750	-	2,999.99	48	2,750	3,000
3,000	-	3,249.99	50	3,000	3,250
3,250	-	3,499.99	52	3,250	3,500
3,500	-	3,749.99	54	3,500	3,750
3,750	-	3,999.99	56	3,750	4,000
4,000	-	4,249.99	58	4,000	4,250
4,250	-	4,499.99	60	4,250	4,500
4,500	-	4,749.99	62	4,500	4,750
4,750	-	4,999.99	64	4,750	5,000
5,000	-	5,249.99	66	5,000	5,250
5,250	-	5,499.99	68	5,250	5,500
5,500	-	5,749.99	70	5,500	5,750
5,750	-	5,999.99	72	5,750	6,000
6,000	-	6,249.99	74	6,000	6,250
6,250	-	6,499.99	76	6,250	6,500
6,500	-	6,749.99	78	6,500	6,750
6,750	-	6,999.99	80	6,750	7,000
7,000	-	7,249.99	82	7,000	7,250
7,250	-	7,499.99	84	7,250	7,500
7,500	-	7,749.99	86	7,500	7,750
7,750	-	7,999.99	88	7,750	8,000
8,000	-	8,249.99	90	8,000	8,250
8,250	-	8,499.99	92	8,250	8,500
8,500	-	8,749.99	94	8,500	8,750
8,750	-	8,999.99	96	8,750	9,000
9,000	-	9,249.99	98	9,000	9,250
9,250	-	9,499.99	100	9,250	9,500
9,500	-	9,749.99	102	9,500	9,750
9,750	-	9,999.99	104	9,750	10,000
10,000	-	10,249.99	106	10,000	10,250
10,250	-	10,499.99	108	10,250	10,500
10,500	-	10,749.99	110	10,500	10,750
10,750	-	10,999.99	112	10,750	11,000
11,000	-	11,249.99	114	11,000	11,250
11,250	-	11,499.99	116	11,250	11,500
11,500	-	11,749.99	118	11,500	11,750
11,750	-	11,999.99	120	11,750	12,000
12,000	-	12,249.99	122	12,000	12,250
12,250	-	12,499.99	124	12,250	12,500
12,500	-	12,749.99	126	12,500	12,750
12,750	-	12,999.99	128	12,750	13,000
13,000	-	13,249.99	130	13,000	13,250
13,250	-	13,499.99	132	13,250	13,500
13,500	-	13,749.99	134	13,500	13,750
13,750	-	13,999.99	136	13,750	14,000
14,000	-	14,249.99	138	14,000	14,250
14,250	-	14,499.99	140	14,250	14,500
14,500	-	14,749.99	142	14,500	14,750
14,750	-	14,999.99	144	14,750	15,000
15,000	-	15,249.99	146	15,000	15,200
15,250	-	15,499.99	148	15,200	15,400
15,500 or more			150	15,400	15,600
			152	15,600	15,800
			154	15,800	16,000
			156	16,000	16,200
			158	16,200	16,400
			160	16,400	16,600

3-17-82

HB 806

HB 886

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 17, 1982
1:08 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph
Rep. Gardiner

Members Absent: Rep. Rogers

COMMITTEE CALENDAR

HB 806 — An Act relating to hazardous or toxic substances.

HB 886 — An Act relating to financial statements of corporations.

WITNESS REGISTER

Nancy Lord
Representative Brian Rogers
Pouch V
Juneau, Alaska 99811
465-4925
Position Statement: Presented HB 806 on Rep. Rogers' behalf.

Pete Hellstrom, Environmental Coordinator
ARCO Alaska, Inc.
PO Box 360
Anchorage, Alaska 99510
265-6176
Position Statement: Requested changes in HB 806.

Richard Arab
Division of Occupational Safety & Health
Department of Labor
Box 1149
Juneau, Alaska 99811
465-4856
Position Statement: Favored HB 806.

Ernst Mueller, Commissioner
Department of Environmental Conservation
Pouch U
Juneau, Alaska 99811
465-2600
Position Statement: Supported concept of HB 806.

E.S. Rabeau, M.D.

Division of Public Health
Department of Health & Social Services
Juneau, Alaska 99811
465-3090
Position Statement: Supported passage of HB 806.

Jake Wills, legislative intern
Representative Adams
Pouch V
Juneau, Alaska 99811
465-3706
Position Statement: Presented letter from Rep. Adams regarding HB 886.

PREVIOUS ACTION

HB 806

No previous action.

Statutory Reference: AS 18.60

Action Taken: No action taken. Bill was set aside to wait for further information.

HB 886

No previous action.

Statutory Reference: AS 10.05.825

Action Taken: Rep. Randolph moved to report HB 886 from committee. There being no objection, the motion passed.

ACTION NARRATIVE

Tape #38
Recording
Number 000

The meeting was called to order by Vice-Chairman Bylsma at 1:08 p.m. Members present were: Reps. Martin, Bylsma, Randolph, and Gardiner. Rep. Rogers was absent. Rep. Martin left immediately after the call to order. Rep. Bylsma brought HB 806 before the committee.

Number 012

Nancy Lord, staff to Rep. Rogers, presented HB 806, which was sponsored by Rep. Rogers. She introduced a workdraft committee substitute dated 3/15/82; a sectional analysis; and fiscal notes. She explained the reason for the bill, and said there was particular concern about the petrochemical industry in Alaska. Lord explained each section, and listed groups of employees who

might be affected by the legislation.

Number 095 — There was discussion of the draft committee substitute compared to the original bill, and of some of the wording in the bills.

Number 130 — Pete Hellstrom, environmental coordinator for ARCO Alaska, Inc., said ARCO has been developing a position paper for distribution to employees which follows the intent of the bill. He wanted changes in the bill. He believed the bill is similar to legislation enacted by other states in recent months. He was disappointed, as OSHA is developing similar information--writing enabling regulations to ensure the same type of information on the national level. He recommended the committee delay action to allow OSHA to develop their regulations. Hellstrom wanted a modification in the language to limit the degree of burden on the employer (of having to submit the same information to employees annually). Rep. Gardiner asked if he meant the employer was not required to given information unless the employee requested it. Hellstrom said yes, that the employer should not be required to redistribute information annually. Rep. Gardiner asked how an employee would know to ask if he wasn't aware of the information. There was discussion.

Number 207 — Hellstrom said the advantage in delaying the bill is so the Alaska Division of Occupational Safety and Health can work with federal OSHA, then the state could enact legislation or regulations to fill in the gaps applying to Alaska. He said the disadvantage to this would be the priority of concerns, but he felt emergency enabling regulations could fill this gap.

Number 229 — Hellstrom commented on the bill section by section. He felt the scope is too broad, and explained his position. He wanted to be able to report, for example, crude oil as crude oil, not crude oil from Prudhoe Bay, broken down into all the chemical properties. Rep. Gardiner asked where this was addressed in the bill. Hellstrom said it was unclear. Rep. Bylsma recommended Hellstrom submit his proposed changes in writing, as well as sending a copy of his testimony.

Number 283 — Hellstrom said ARCO had determined that the bill was burdensome to the employer. He felt it should exclude exploration and production of oil, noting that this exemption was granted by the federal government. He continued his comments on each section of the bill.

Number 413 — Rep. Gardiner asked if ARCO, in conferring with other companies, found problems in other states. Hellstrom said his comments applied to this bill, not to legislation in other states. This was discussed.

Number 473 — Rep. Bylsma asked Hellstrom to document his objections to the bill.

Number 485 — Richard Arab, Division of Occupational Safety & Health, Department of Labor, referred to their position paper. He favored the bill, as it would provide the employee with the right to know of hazardous and toxic substances he is working with. He felt the best part of the bill is the part requiring informing the employee of substances he is working with, and giving safety training. Arab spoke of OSHA enabling regulations.

Number 539 — Ernst Mueller, Commissioner of the Department of Environmental Conservation, supported the concept of the bill. He felt, from an employer standpoint, that more specificity in definitions would be appreciated. He thought some paperwork could be eliminated. Mueller suggested allowing the Department of Labor the ability to establish small quantities of substances which are exempt from the information clause. There was discussion of definitions.

Number 676 — Dr. Rabeau, Division of Public Health, Department of Health and Social Services, supported passage of the bill. He thought statutes should be broader, because regulations can be more specific. He referred to the H&SS position paper, which lists department recommendations. He thought the bill imposed reasonable guidelines, and that it would be easy to put specific substances in regulations.

Side B, Number 000 — Rep. Randolph asked clarification regarding

the crude oil industry. Rep. Bylsma asked about refined products. Mueller said this would need to be considered more carefully. This was discussed.

Number 037 — Rep. Gardiner said there is a question of what OSHA will or won't do. He said it might be possible, to avoid future implications, that someone would have the authority to provide exemption, if areas were addressed adequately by federal standards.

Number 054 — Jeff Barry, committee aide, explained the state's role in the OSHA act. He said if a state has more stringent laws, the state laws supersede federal laws, so there would be no duplication. He said access of records is the basis of the bill, and that the question is whether or not it is in the public interest to make employees aware of risks There was discussion.

Number 086 — Rep. Bylsma set the bill aside until the committee could obtain further information.

Number 095 — The committee took up HB 886. Jake Wills, legislative intern in Representative Adams office, explained why Rep. Adams could not testify about HB 886 (which Rep. Adams sponsored), and presented the committee with a memo from Rep. Adams explaining why the bill is needed.

Number 106 — Barry said, as a bill analysis, that the bill does exactly what it says: defines requirements.

Number 141 — Rep. Randolph moved to report HB 886 out of committee. As there was no objection, the motion passed.

Number 145 — There being no further business to come before the committee, the meeting was adjourned at 2:08 p.m.

Absent: Rogers

3/17/82 H L+C

HB 806
HB 886

Tape #38

1:08

000 HB 806 Call to order by ~~Martin~~ Bylsma (Martin left) right after call to order; brought HB 806 before committee.

012 Nancy Lord, Rep. Rogers' ofc, presents on HB 806 (sponsored by Rogers); intd 3/15 work draft, sectional analysis, & fiscal notes. Explained reason for bill. Particularly concerned abt pc chemical industry in state. Explained each section. ~~Where~~ She listed groups of employees who might be affected by the legislation.

095 Bylsma commented he had not received the draft that morning & he had no chance to review bill.

103 Lord offered to compare the draft CS to the original bill.

107 Randolph asked why to put "known" toxic or hazardous substance in the bill; ~~felt it might be reason~~

116 Lord said they wd only be liable for informing workers of known health hazards & precautions; she referred to definitions in bill; said emphasis is on most recent avail info.

130 Pete Hellstrom, Arco Alaska Inc, Environmental Coordinator; Arco has been developing prin paper for distrib to empes which follows intent of bill. Want change in bill. Bliss bill is targeted toward "employee info right to know" to ensure employee's safety. Said bill is similar to legislation enacted by other states in recent months. Disappointed, as OSHA is developing similar info-writing enabling regs to ensure same type of info on natl level. Recommended comm. delay action to allow OSHA to develop regs;

wanted modn in language to limit degree of burden. (Submitting annually same info)

186 Gardiner asked if he meant the empr was not req'd to give info unless empe requested. Helstrom said yes; empr shd not be req'd to resist. info annually. G asked how empe wd know to ask if he wasn't aware of the info. Discussion.

207 Helstrom said adv in delaying bill is so AK Div Occ Safety & Health to w/ w/ fed'l OSHA; then state cd fill in gaps applying to AK. Disadv to this wd be priority of concerns. Thought emergency enabling regs cd fill this gap.

229 Section by section comments:

— scope is too broad; explained his pos'n. Want to be able to report, eg, Crude as crude, not Crude oil from Prudhoe w/ breakdown of chemical properties.

270 Gardiner asked where this was addressed in bill; Helstrom said it was unclear. Byesma recommended submitting prop'd changes in writing, as well as cy of his testimony.

283 Helstrom said they (Arco) determined that the bill was burdensome to empr; shd exclude exploration & production of oil (said this exemption was granted by feds);

commented on each section of bill

310 Sec .051 — want to list products generically, rather than breaking down

.052 —

.071 — wd require posting for each substance — wd be more reasonable to have this info at place empes report to wk rather than at each wk cntr. Agree w/training upon empmt or when new substances introduced, thereafter at empe rqst.

.072 - overly burdensome & costly. Will result in no increase in wkr safety. Request modn or deletion of sec.

.105 - want chng in defns of (10) mfr (11) hazardous substances (12) toxic substances

413 Gardiner asked if Area, in conferring w/ other cos, found probs in other states. H said comments applied to this bill, not region in other states. ~~Did not ha~~ Discussion.

473 Pyroma asked H to document objections to bill, what chngs wanted, & why.

485 Richard Arvb, Dept Labor, Occ Safety & Health — referred to posn paper. Favrs bill as it wd provide empe with right to know of hazardous & toxic substances they're wkg with. Best part of bill is part reg'g empe of substances & giving safety training. ~~Said Abra~~ Spoke of enabling OSHA, regns. Reagan w/drew propls; ~~but~~ oppsn fm industry.

539 Ernest Muller, Comm., Env Conservation — supports concept. Fm empr standpoint, wd appreciate specificity in definitions. Felt some paperwork cd be eliminated. Suggested allowing Dept of Labor ability to establish small qtys of substances which are exempt fm info. clause.

618 Randolph said, re ~~of~~ defns, p. 5 "hazardous substances" elim (b) & elim (c) under "toxic wastes", wd not harm bill. Muller agreed & said DOL cd add to list

~~Randolph~~ Discussion.

676 Dr. Rabkin, Dept H&SS, Div- Public Health - support passage of bill. ~~RE~~ Think statutes shd be broader, regns can be more specific. Referred to posn paper, which lists dept. recommendations. Thinks the bill imposes reasonable guidelines; wd be easy to put specific substances in regns.

Side B

006 Randolph asked clarification regarding crude oil industry. Bylenga asked abt refined product; Muller said this wd need to be considered more carefully. Discussion.

037 Gardiner said there is a gray area of what OSHA will or won't do; said it might be possible, to avoid future implications, that someone wd have authority to provide exemption if addressed adequately by federal standards.

054 Barry explained state's role in OSHA act - if state has more stringent laws, state laws ~~are enforced over~~ supersede federal; WD not be duplication. Access of records is basis of bill. Issue is whether or not it is in the public interest to make emps aware of risks; & what true affects are rather than conjectured affects.
Discussion.

086 Bylsma set bill aside to wait for further info.

HB 886

095 Jake Wells, legis intern, Adams ofc, said Adams Cd not attend (conflict w/ another mtg), but sent ltr over

106 Barry said, as bill analysis, that bill does exactly what it says — defines regmts.
Discussion.

141 Randolph moved to pass HB 886 fm comm. Mo passed unan.

145 Adjourned 2:08

Bristol Bay Native Corporation
445 E. 5TH AVENUE / P. O. BOX 220 / ANCHORAGE / ALASKA 99510 / PH. (907) 278-3602

March 10, 1982

Honorable Terry Martin
House of Representatives
Chairman - Labor and Commerce Committee
State of Alaska
Pouch V, Mail Stop 3100
Juneau, Alaska 99811

Dear Mr. Martin:

I am writing to you in support of House Bill 886. House Bill 886 amends the profit corporation statutes to specifically define the phrase "financial statements of the corporation." Why is this definition needed?

"Financial statements of the corporation" is a key phrase in determining a director's defense against personal liability for dividend payments. AS 10.05.219(1). Yet the phrase is ambiguous. This ambiguity creates unnecessary risks for directors attempting to comply with statutory requirements. Clarity would serve to protect directors from ex post facto definitions and liability.

The definition of "financial statements of the corporation" in House Bill 886 contains two basic concepts. The first is that the financial statements will be prepared according to generally accepted accounting principles then applicable. The second is that the statements will be consolidated, where appropriate. Both of these concepts are basic to the published financial statements required by the Securities Exchange Commission to be sent to all shareholders. Both concepts have also been incorporated by the Code Revision Commission, in its working draft of the corporation statutes. The American Institute of Certified Public Accountants, the SEC and the Code Revision Commission, all endorse these concepts because they produce economically meaningful data and because they protect shareholders and creditors from the manipulation of financial data.

In short, I support the definition because it will protect directors and it will protect creditors and shareholders as well.

Very truly yours,

Elizabeth B. Johnston
General Counsel

cc: Representative Al Adams

HOUSE BILL 886

Alaska corporate law makes directors of a profit corporation jointly and severally liable for excessive dividend payments. AS 10.05.216(a). However, this same law also provides a defense or a safe harbor. A director is not liable for excessive dividends if he in good faith relied on the financial statements of the corporation for his analysis of a legal dividend source. AS 10.05.219(1).

The problem is that the scope of this defense is ambiguous. The meaning of "financial statements" is unclear and therefore, creates unnecessary risks for directors as they try to comply with dividend requirements.

The solution is to define the "financial statements of the corporation." The definition proposed in House Bill 886 includes, where appropriate, consolidated balance sheets and income statements prepared according to generally accepted accounting principles. While other financial documents are useful for other corporate purposes, only the preceding are useful for an analysis of a legal source for dividends under AS 10.05.219(1).

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
CS for House Bill No. 806 (L&C)

(Bill attached)

"An Act relating to hazardous or toxic substances."

House Bill No. 806 requires the manufacturer and seller of hazardous or toxic substances to provide to the purchasers of these substances complete information as to the characteristics and precautions required when using. Any employer utilizing a substance included under this act must post a copy of the information for the employees to review plus provide training and safety gear. The employer must file with the Department of Labor annually, complete disclosures with regards to his activities and usage of the hazardous and toxic substances.

This bill imposes reasonable guidelines concerning handling of toxic and hazardous substances in manufacture and selling.

Minor recommendations include the following:

1) Under Section 18.60.051 consider adding "significant levels of toxic impurities if they exist in a mixture."

2) Under Section 18.60.071 consider change of mandatory requirements depending on size of employer e.g. less than ten.

3) Under Section 18.60.105 consider substances manufactured outside of the State and shipped in.

4) Under Section 18.60.073c the confidentiality of medical records may be breached if it is left that the Department may "require."

The Department supports the passage of this Bill.

Recommended by: E. S. Rabeau

E. S. Rabeau, M.D., Director
Division of Public Health

Date: March 15, 1982

Approved by: Helen D. Beirne

Helen D. Beirne Commissioner
Department of Health and
Social Services

Date: 3-16-82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 806
Title "An Act relating to hazardous or toxic substances."
Requested by Rogers Date 2-22-82

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Health/Public Health
BRU, Program, Or Subprogram(s) Affected Communicable Disease Control/Epidemiology
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		0				
200 TRAVEL		3.0	3.3	3.6	4.0	4.4
300 CONTRACTUAL		3.0	3.3	3.6	4.0	4.4
400 COMMODITIES		3.0	3.3	3.6	4.0	4.4
500 EQUIPMENT		1.0	1.2	1.3	1.5	1.6
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		10.0	11.1	12.1	13.5	14.8

FUNDING (Thousands of Dollars)

GENERAL FUND		10.0	11.1	12.1	13.5	14.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

All inflation at 10%

This fiscal note covers the travel costs, training seminars, commodities and testing equipment that must be utilized by our Epidemiologists in investigating the effects of exposure in humans. As the petrochemical industry develops in Alaska more and more problems will develop, very little of the acute and chronic health effects will be known and when the risks are known they tend to be understated. As problems develop it will be incumbent upon the Epidemiologist to do in depth investigations.

The fiscal impact of this bill on the Department of Health and Social Services is due to the fact that the Department of Labor uses the epidemiological section of this department as a consultant on the hazards of toxic substances.

IV. DATE 2-22-82 PREPARED BY David Bruce
AGENCY Dept. of Health & Social Services
PHONE 465-3090

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

Draft CS for HB 806 (L&C)

Sectional Analysis

HB 806 was drafted to conform with model "right-to-know" legislation from other states. The basis for the legislation is that Alaskan workers have the right to know about hazardous or toxic substances with which they work and that it is an employer's responsibility to supply that information.

18.60.051 requires an in-state manufacturer of a hazardous or toxic substance to make available certain information including the name of the substance, its hazards, proper handling procedures, and health risks.

18.60.052 requires a seller of a hazardous or toxic substance to provide the same information.

18.60.071 requires an employer to post in the workplace where a hazardous or toxic substance is present the same information, and to provide training at his own expense about the potential hazards and proper handling of the substances.

18.60.072 requires manufacturers, sellers, and employers to file annual reports with the Department of Labor. Trade secrets are protected.

18.60.073 allows past, present, and future employees access to reports filed with the department and to exposure measurements. The department may require employees to furnish health and exposure records pertinent to an investigation. Regulations shall be adopted to ensure that an employee has ready access to all relevant information about hazards and exposure.

18.60.074 allows for the department to disclose to the public information about hazardous and toxic substances and the circumstances under which the public might be affected.

Section 2 provides definitions.

SIGN-IN SHEET HB870 Installment/Fiberglass Ducts/Buildings

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3/17/82

SIGN-IN SHEET HB 886 Financial Statements/ Corporations

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3/17/82

MONDAY BRIEFING

National

Joint space labs possible

Cocoa, Fla. — The administrator of the American space program says the United States may join with Japan and Europe within the next five years to build an orbiting space station. James Beggs of the National Aeronautics and Space Administration told the newspaper Cocoa TODAY in an interview published Sunday that the station would use European Space Agency technology in building spacelabs and Japanese computer expertise. He said habitable modules connected by steel beams would be designed at the Johnson Space Center in Houston and launched piece-by-piece from the Kennedy Space Center in Florida.

Nuclear sub protest planned

Tacoma, Wash. — A Roman Catholic archbishop says he will take part in a blockade designed to prevent a Trident nuclear submarine, the USS Ohio, from reaching the Bangor Naval Base. Raymond Hunthausen, archbishop of Seattle, said at a rally Sunday he would participate this summer in the effort to keep the submarine out of the the Kitsap Peninsula base west of Seattle.

Boat house collapses

Gilford, N.H. — Boats drawn out of Lake Winnipesaukee to protect them from winter ice fell victim to heavy snow when a boathouse collapsed on 169 pleasure craft valued at $3 million. Gerald Fagan, owner of the Gilford Marina building which collapsed Friday night, said it would take up to six weeks to remove the boats that were stored five-high on racks. Damage to the 300-foot metal shed was estimated at $700,000.

Car crashes into bus

Los Angeles — When a bus was struck in the rear by a car, bystanders in southwest Los Angeles jumped onto the Rapid Transit Authority vehicle and claimed to be injured, police say. The driver of the car, Shelton Eugene Knight, 32, was arrested Saturday for investigation of felony driving under the influence of drugs. Sgt Roger Lindsay said the injury count, which jumped to 26 when bystanders jumped on the bus, dropped to nine when they found out the bus driver was not at fault.

Factories emit cancerous gas

Akron, Ohio — There are no regulations to stop tire manufacturers from emitting thousands of pounds a year of a cancer-causing gas, a lobbying group says. The National Clean Air Coalition said in a report Sunday that Goodyear and B.F. Goodrich plants in Akron release more than 350,000 pounts of acrylonitrile a year. The companies acknowledged the substance is emitted from their plants, but said they were in compliance with all federal, state and local law.

SIGN-IN SHEET

HB 806 Hazardous or Toxic Substances

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Pete Heilstrom	P.O. Box 360, Anch. Ak 99510	ARCO Alaska, Inc	Yes	265-6176
Beverly Ward	134 N. Franklin	ARCO	No	586-3680
Judy Knight	Box 1149 Juneau	Dept. of Labor	Yes	465-2700
Richard Arab	Box 1149 Juneau	Dept. of Labor	Yes	465-4856

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3/17/82

HB 806

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
E.S. RABEAU, M.D.	MOB 503	DHSS	YES	3090

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

SIGN-IN SHEET

Name (please print) Comm.	Address	Representing	Testify? (YES or NO)	Phone Number
Ernest W. Mueller	Pouch W, Juneau.	ADEC	Yes	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/17 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:02	
Rep. D. Randolph	✓		1:08	
Rep. B. Rogers				
Rep. T. Gardiner	✓		1:08	
Rep. T. Martin, Chair	✓		1:00	

Subject Matter:

House Bill No. 806 886 _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

3-18-82

HB 846

HB 862

HB 885

SB 798

SB 798 SENATE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/16/82	01	0311	FIRST READING --- COMMITTEE REPORTS
03/15/82	02	0572	L&C --- CS05
03/16/82	03	0580	RLS --- OTHER03
			TAKEN UP IMMEDIATELY
03/16/82	04	0583	SECOND READING
03/16/82	05	0583	L&C CS ADOPTED BY UNAN CONSENT
03/16/82	06	0584	ADVANCED TO 3RD READING BY UNAN CONSENT
03/16/82	07	0584	THIRD READING
03/16/82	08	0584	PASSED BY DIV 18-00-02
03/16/82	09	0584	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** *** ***

SB 798 HOUSE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/17/82	10	0809	FIRST READING --- COMMITTEE REPORTS
			LABOR & COMMERCE
			RULES
****	**	**	*** *** ***

Absent: Martin Gardiner

3/18/82 H Labor & Comm

HB 846
HB 862
HB 885
SB 798

Tape # 39

1: 18

000 Call to order by Bylsma

005 – HB885

007 Steve Hilland, VP & gen counsel, Cook Inlet Region Inc – intent of bill was to provide clarification of 20 yr exemption of ad velorem taxation of property until developed or leased to third parties. Problems resulted because of defns of "developed" & "leased", & inconsistency of interpretn between boroughs. Went over options to clarify these defns.

064 ~~Holly Beck~~ Kellus Sewell, Cape Fox Corpn – feel that ~~shd~~ full issue of devpt shd be ~~considered~~ addressed. Shdn't pay until they can afford to pay. Wd rather be taxed after income derived. Comm & legis shd consider other things than taxes: environmental credits, tax incentives, tax limitations.

Feel that a sound economic base shd be established & promote diversification, not just look at a tax which may be a deterrent. Wd like to be involved in any rewrites.

111 Patrick Anderson, MOA, ~~n~~dm – originally intended that native lands not be taxed; concern in Anc is w/ lands being subdivided & developed. Bill ~~include~~ attempts to define point at which subd becomes developed property & subject to tax. ~~Congressional~~ Need to define that point; he's not sure it can be decided by anything except litigation. Discussed attempts to define & impact of defns.

1:30 Randolph left

175 Rogers asked when suggested rewrites cd be avail.
Anderson thought early next wk.
R asked which bill (CSSB 803 or HB 885); A responded ± with probs he foresaw w/each bill.

198 Barry, at Adams' request – since Adams requested adopting wkdrft CS HB 885.

218 Norman Staton, Sealaska – wkd w/ CoRA, CINA, + others to arrive at defn of developed. Said both bills essentially the same; somewhat ambiguous, but needs to be. Support either bill; however wkdrft leaves out provn (s. 29 "forest lands, p. 1 – HB) that was in the HB. Will submit amdmt to correct this. Provn exempts timber land fm municipal tax'n; feel that muni real property tax is not approp for timber; shd be taxed on severance tax basis. Feel state wd benefit by uniform severance tax. Willing to wk w/ legis + state in est'ing severance tax. Want timberlands provn left in bill.

281 Rogers – no objection to allowing municipal severance tax rather than real prop tax?
Staten preferred state severance tax.

Loescher

294 Bob ~~Looker~~, VP Resource Mgmt, Sealaska – passed out prepared testimony. Also handed out proposed amdmts to draft bill – substituting 2 paras for lang in HB, l. 29, p. 1 – p. 2, l 1-3. ~~How~~ ~~State~~ Explained. Amdmt says conversion for any use except forest land becomes developed land. Forest resources dept have no formal tax structure; Wonder asked if bill inadvertently establishes forest tax pgm. Wd like to wk w/ legis to establish more formal policy on taxn of forest lands rather than doing it as part of this bill.

380 Second amdmt says state govt will retain pwr to tax forest land; second section deals w/ delegn of tax purs to local govt.

391 Kie Campbell, ~~state~~ staff to S CL+RA – involved in drafting CS. Gave background on how they arrived at CS. Tried to draft bill that closely follows intent of ANCSA so it will be upheld in any future litigation. Did not feel bill shd address broad resource taxation issues.

455 Rep Bylsma said bill wd be held, as there was no quorum.

462 — ~~HB 846~~ was brought before comm in lieu of HB 846.
CS SB 798

chief, Market surveillance Sec

485 Don Koch, Dir of Ins — support bill. Refused to post'n paper, requesting amdmts which were inc'd into CS. Said there is prob w/ Sec 5 & 6 (drafting error).

500 Rogers said prob came up in Fbx; asked if bill addressed it.

Koch said most title ins wk is done when preparing title report; insurance follows report. Prob comes up in rate files. Said bill allows rating orgns, doesn't require them.

569 Rogers requested staff to redraft bill, deleting sec. 6.

578 Bylsma had qstns abt granting license in part or in (p. 6, l. 22) whole. Koch said conceivably dir may wish to limit role of rating orgn.

617 Koch said need to remove current sec 6 from CS.

630 Bylsma p. 6, line 27 (1) — qstn on whether there was technical error in subsection. Koch clarified intent of section.

670 Bylsma, on old bill, p 4 l. 8 ~~a man~~ p. 5, l. 22 — had qstns. Koch explained.

(meter 714)
0:03 Randolph returned)

723 Rogers moved to report HCS SB798 (L&C) consisting of SB, minus sec 6 of SB. Mo passed w/o objection.

Side B 006

HB862 Bylsma referred comm to HB 862

009 Lorraine McGregory — gave her personal history & told how bill would ~~impact~~ help her.

063 Rogers asked clarification.

068 Kent Humphries, CJS, Dep Dir, Div of Retirement Benefits — thinks it's a good bill to accomplish purpose. Concern w/ bill is whether that's all bill would accomplish. Elaborated.

097 Rogers asked how actns such as McGregory's wd be administratively handled. Humphries said lump sum, less lump o pymt, ~~plus~~ with interest on both.

115 Humphries suggested adding intent to bill. Discussion of impact.

130 Barry said it isn't uncommon to limit repeal to those actns that won't pyramid mo'l benefits. Discussion.

140 Rogers moved to add secs 2 — end of HB 151 to end of bill. for - Rogers opp'd - Randolph, Bylsma

157 Rand l. 10 remove period after 1968 & add

Rogers asked unan consent.
There was discussion.
Rogers w/drew request for unan consent.
Rand w/drew mo

178 Rogers moved to add ltr of intent to limit to circumstances described & not to allow pyramiding of
Discussion of alternate methods to accomplish purpose of bill.
Mo passed w/o objection.

[redacted]

204 Rand moved & asked unan consent to pass HB 862 fm comm.
Mo passed w/o objection

2:20
208 adjourned

HB 846 Title Insurance Rating Org'ns

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
DON KOCH	POUCH D JUNEAU 99811	DIV. OF INSURANCE	YES	465 2577

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3/18/82

Repeal AS 39.35.545

SIGN-IN SHEET HB 862

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Lorraine McGregory	P.O. Box 622, Juneau 99802		Yes	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

HB 862

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Ken Humphreys		Admin.	Yes	4460

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3-18-62

HB 885

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Kelley Sewell	8499 Jennifer/JNU	Capp for Cory	Yes	789-9977
Norm Staton	One Sealaska Plaza	Sealaska	yes	586-1512
Bob Loescher	"	"	yes	"
Patrick Anderson	Baranof Hotel 506 - Juneau	Anchorage	(?)	586-2660 (506)

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3-18-82

HB 885

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
George Kriste	Anchorage	CIRI	NO	274-8678

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

HB 885 Tax Exemptions

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Steve Hillard	1025 C Street, Anchorage, AK	Cook Inlet Region, Inc.	yes	274-8638
McKie Campbell	Pouch V	Sen C+RA Comm	NO	465-4934
MIKE GIORLEY	POUCH SH	C+RA	NO	465-4787
Palmer McCarter	" "	" "	"	465-4707
Richard Aks	DCRA		if needed	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

CAPE FOX CORPORATION TESTIMONY ON SENATE BILL 802
March 9, 1982

My name is Kellus Sewell, the Governmental Affairs Representative for Cape Fox Corporation (CFC). Cape Fox Corporation, as many of you may know, is a small village corporation in Saxman, Alaska near Ketchikan.

As evidenced in the Alaska Native Claims Settlement Act (ANCSA) and as amended by the Alaska National Interest Lands Conservation Act (ANILCA), the twenty year tax moratorium was granted to free the Native community from burdens of federal taxation until a period of time elasped that was considered necessary to allow them to "get their feet on the ground." Let me emphasize that the exemption was not for a short period of time but for "twenty years".

We hope that as you review the matter of state and local taxing of these private resources, many owned by small corporations, that you also recognize the need to support tax exemptions, credits, and incentives until a sound economic base is established.

The Cape Fox Corporation strongly feels that development of "renewable" and "nonrenewable" resources ought to be encouraged yet only if adequate time is allowed for proper planning. Consequently, we encourage the administration and the legislature to consider the following:

(1) Exempting the Native entity from taxation until development results in the actual "generation" of income;

(2) Providing for tax incentives (i.e. similar to H.B. 866) to stimulate more diversified development;

(3) Allowing for environmental credits related to investments to guarantee sound development of our most valuable natural resources; and

(4) Establishing a tax limitation that will not erode profits or revenue from potential development but result in placing us in a "fair" competitive advantage with timber marketed from state or federal lands.

Therefore, we support Senate Bill 802 and House Bill 885 as long as the "forest" language (line 29, page 1 through line 3, page 2) exempts forest resources from taxation until the concerns mentioned above are adequately addressed.

We again emphasize that we strongly encourage the legislature to adopt a definition of "developed" property that will encourage sound development and one which does not result in taxes until the developed property actually generates income. If the state elects to allow local governments to develop their own taxing mechanisms,

we would hope that the state would see fit to establish a "taxing framework" that would promote sound development through uniform treatment of tax exemptions, credits, incentives, and limitations.

We hope that we will be included in any future deliberations on this issue and thank you for the opportunity to allow Cape Fox Corporation to present its concerns.

- -

Alaska State Legislature

House of Representatives

Albert P. Adams
Chairman
Committee on Finance

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

HOME - DISTRICT 21
P.O. Box 271
Kotzebue, Alaska 99752
(907) 442-3320

Official Business

TO: Reprsentative Terry Martin, Chairman
House Labor and Commerce Committee

FROM: Representative Albert P. Adams, Chairman
House Finance Committee

DATE: March 18, 1982

SUBJ: HB 885, "An Act relating to tax exemptions; and providing for an effective date"

I have introduced this bill to clarify the term "developed," which is not explicitly defined in the ANCSA Act of 1971, or the amndments made to it by ANILCA of 1980. Passage of this bill is very important to Native corporations and local governments. If this issue is not settled through legislation, it will be resolved in court, at great expense to all concerned.

Section 21(d) of ANCSA, as amended, provides a tax moratorium on ANCSA lands for a period of twenty years. However, this exemption is lost when the land is "developed." Since the term "developed" is not defined in the act, different definitions are being used by different local tax assessors. Cook Inlet Native Corporation, for example, has land in both the Municipality of Anchorage and the Mat-Su Borough, and is taxed differently by each.

Some assessors claim that ANCSA lands are subject to local taxation when conventional developments such as construction of roads, surveying, and the provision of utilities are made on the lands. Congressional intent holds that taxation does not become effective until some form of economic development which produces income from the land is made. The legislative history of ANCSA and ANILCA shows that Congress intended the taxability of ANCSA lands to be linked to the generation of income, thereby providing the revenues necessary to pay property taxes without risking loss of the lands. I believe this bill defines the term as closely to Congressional intent as possible.

A committee substitute has been drafted by the Senate Community and Regional Affairs Committee, to be considered later this afternoon. I would propose that this committee substitute be accepted by House Labor and Commerce. The substitute rephrases section 1 (1) and deletes reference to platting and to forest lands.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/18/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:07	
Rep. D. Randolph	✓		1:15	
Rep. B. Rogers	✓		1:10	
Rep. T. Gardiner				
Rep. T. Martin, Chair				

Subject Matter:

House Bill No. 846 862 885 _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2515

LEGISLATIVE POSITION PAPER
SB 798 and HB 846
March 8, 1982

SB 798 and HB 846 are identical proposals relating to title insurance rating organizations. The proposal would permit the use of a title insurance rating organization by title insurance companies doing business in this state. Current Alaska law regulating title insurance (AS 21.66) derives from a model law drafted by the American Land Title Association which includes a provision for title insurance rating organizations. This provision was not included when the current Alaska title insurance law was adopted in 1974. This was due primarily to the objections of this division. It was felt that rating organizations for title insurance would not be in the best interest of the Alaska insuring public.

Rating organizations typically develop anf file rates, rules, rating plans, statistical plans, contract forms and endorsements on behalf of member and subscriber companies. They enable companies to act together in these issues and provide a broader base of experience and credibility for the rates used as well as reduce insurance company expenses by avoiding duplication of some rate development functions. Insurers are able to act in this fashion because of enabling Federal legislation, namely, the McCarran-Ferguson Act (Public Law No. 15, 79th Congress, 1st Session 1945, 59 Stat. 33, 15 U.S.C. Secs. 1011-1015). This approach has been used in property, casualty, surety and marine lines of insurance for most of this century. Rating organizations have been viewed as anti-competitive devices in the property, casualty, surety and marine field and indeed some modification of their role in those markets should be and is being considered.

The marketing of title insurance is distinctly different from property, casualty, surety and marine kinds of insurance. Competition is structured differently. This is due in part to the fact that title insurance is almost always an incidental part of a transaction involving real estate. It is also due in part to the fact that while most other kinds of insurance are based on a rate making methodology that reflects

risk assumption and distribution, title insurance is based on a methodology that looks to risk avoidance or risk elimination. There is no one way to establish and support rates for title insurance in this state. In fact the principal method currently is to follow the leader. We have concluded that the best way to develop a rate-making methodology with all that is needed to support such a system is to enable a rating organization for title insurance. It would admittedly provide a rating system with uniform rates, but we have rates that are uniform now. It would provide a vehicle for developing supportive statistics and distributing information to the public. We believe that a title insurance rating organization could provide a positive and favorable force in this state and assist the division to effectively meet its responsibilities under the insurance law of Alaska.

We have one principal concern with the bill. That concern is that current problems with the divisions procedures for disapproving a filing relating to title insurance would be compounded with passage of this proposal. AS 21.66.400 now provides that the division can only disapprove a filing after a hearing has been held. We would propose that the authority to disapprove a filing without first holding a hearing be granted. Our proposal would still provide for a hearing when it is requested by the person which made the disapproved filing. This approach is currently incorporated in the property, casualty, surety and marine rate law (AS 21.39.120). Given this change (proposed language attached) we support the enabling authority for a title insurance rating organization proposed in SB 798 and HB 846.

Suggested amentments to SB 798 and HB 846

In both bills, remove the material on page 3, lines 5 through 29 and page 4, lines 1 through 15 and replace with the following:

CURRENT LAW	PROPOSED LAW	COMMENTS
Sec. 21.66.400. Disapproval of filings. (a) Upon the review at any time by the director of a filing, he shall, before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice, specifying in reasonable detail the matters to be considered at the hearing. Notice of the hearing shall be given to each title insurance company which made a filing, and if, after the hearing, the director finds that the filing or a part of the filing does not meet the requirements of this chapter, he shall issue an order specifying how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is considered no longer effective. if the filing or a part of it has become effective under the provisions of sec. 370 of this chapter. A title insurance company has the right at any time to withdraw a filing or a part of a filing. Copies of the order issued under this section shall be sent to every title insurance company affected. The order does not affect a contract or policy made or issued before the expiration of the period set out in the or ler.	Sec. 21.66.400. DISAPPROVAL OF FILINGS. (a) If within the waiting period provided for in sec. 370(c) of this chapter, the directdr finds that a filing does not meet the requirements of this chapter, he shall send to the title insurance dompany or title insurance rating organization which made the filing, written notice of disapproval of the filing specifying in what respects he finds the filing fails to meet the requirements of this chapter and stating that the filing shall not become effective. (b) If at any time subsequent to the applicable review period provided for in sec. 370(c) of this chapter, the director finds that a filing does not meet the requirements of this chapter, he shall, before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice, specifying in reasonable detail the matters to be considered at the hearing..Notice of hearing shall be given to each title insurance company or title insurance rating organization which made the filing, and if, after the hearing, the director finds that the filing or a part of the filing does not meet the requirements of this chapter, he shall issue an order specifying how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it in considered no longer effective. A title insurance company of title insurance rating organization has the right to withdraw a filing or a part of a filing. Copies of the order issued under this section shall be sent to every title insurance company and title insurance rating organization affected. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.	The proposed law splits the current subsection (a). The new subsection (a) allows disapproval of a title filing,when done within the waiting period, without a hearing. The new subsection (d) provides for a hearing in such cases when requested. This procedure is the same as is now being used for property, casualty, surety and marine insurance regulated under AS 21.39. The new subsection (b) is the same procedure applied to filings to be disapproved after the filing has become effective. The only difference basically is the added language for title insurance rating organizations.

CURRENT LAW	PROPOSED LAW	COMMENTS
(b) A person or organization aggrieved with respect to a filing which is in effect, may make written application to the director for a hearing on the filing. The title insurance company that made the filing may not proceed under this subsection. The application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, and that the applicant would be aggrieved if his grounds are established, and that his grounds otherwise justify holding such a hearing, he shall within 30 days after receipt of the application, hold a hearing upon not less than 10 days written notice to the applicant and to each title insurance company which made such a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the requirements of this chapter, he shall issue an order specifying how the filing or a part of it fails to meet the requirements of this chapter, stating when, within a reasonable period after the order is issued, the filing or a part of it is considered no longer effective. Copies of the order shall be sent to the applicant and to every such title insurance company. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.	(c) A person or organization aggrieved with respect to a filing which is in effect may make a written application to the director for a hearing on the filing. The title insurance company or title insurance rating organization that made the filing may not proceed under this subsection. The application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, and that the applicant would be aggrieved if his grounds are established, and that his grounds otherwise justify holding a hearing, he shall, within 60 days after receipt of the application, hold a hearing upon not less than 10 days written notice to the applicant and to each title insurance company or title insurance rating organization which made such a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the requirements of this chapter, he shall issue an order specifying how the filing or a part of it fails to meet the requirements of this chapter, stating when, within a reasonable period after the order is issued, the filing or a part of it is considered no longer effective. Copies of the order shall be sent to the applicant and to every affected title insurance company or title insurance rating organization. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.	Current subsection (b) is the same as proposed subsection (c) except that title insurance rating organizations have been reflected and the period for granting a hearing under the subsection has been extended from 30 days to 60 days. The real effect is to require notice of hearing within 50 days rather than 20 days.

CURRENT LAW	PROPOSED LAW	COMMENTS
NONE	(d) A title insurance company or title insurance rating organization to which the director has issued an order made without a hearing may, within 30 days after notice to it of the order, make a written request to the director for a hearing. The director shall hear the party or parties within 60 days after receipt of the request and shall give not less than 10 days written notice of the time and place of the hearing. Within 15 days after the hearing the director shall affirm, reverse or modify his previous action, specifying his reasons. Pending the hearing and decision the director may suspend or postpone the effective date of his previous action.	This subsection has been noted in the discussion relating to the splitting of current subsection (a).
NONE	(e) A hearing under this section is not required to observe formal rules of pleading or evidence.	This is a new subsection and is selfexplanatory.
(c) No filing or modification of a filing may be disapproved if the rates in connection with the filing meet the requirements of this chapter.	(f) No filing or modification of a filing may be disapproved if the rates in connection with the filing meet the requirements of this chapter.	Current subsection is identical to proposed subsection (f).

3-18-82

(NIGHT MEETING)

HB 832

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 18, 1982
7:15 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

HB 832 An Act relating to the regulation of contractors; and providing for an effective date.

WITNESS REGISTER

Joe Guthrie
725 Fifth Street
Juneau, Alaska 99801
586-6250
Position Statement: Supported bill.

George Imbsen
2113 2nd Street
Douglas, Alaska
364-2242
Position Statement: Supported need for bill.

Edith Brand
4617 River Road
Juneau, Alaska
465-4855
Position Statement: Supported need for bill.

Phil Morris
no phone or address given
Position Statement: Supported need for bill.

Jim McConaghy
Box 273
Auke Bay, Alaska
789-9547
Position Statement: Comments on prev. us testimony and on bill.

PREVIOUS ACTION

HB 832 See minutes of 3/2/82.

Statutory Reference: AS 08.01.010; AS 08.18

Action Taken: This was a special night meeting to allow Juneau area residents the opportunity to testify outside normal working hours. No formal action was taken.

ACTION NARRATIVE

Tape #40
Recording
Number 000

The meeting was called to order by Chairman Martin at 7:15 p.m. Members present were: Reps. Martin, Bylsma, Randolph, Rogers. Rep. Gardiner was absent. The purpose of the meeting was to allow Juneau area residents the opportunity to testify on HB 832 outside their normal working hours.

Number 017

Joe Guthrie said, since the last meeting, it seems there's an emerging consensus that elements of the bill will be enacted, but there is some doubt whether the surety fund will remain in the bill. He still supports the surety fund, but thinks the objective can be achieved in other ways. He has heard some contractors maintain that they should not have to pay for someone else's mistakes, but they carry other kinds of insurance, so this fund is not a novel idea. He felt the legislature has the prerogative to require it. He said there is a real need for some kind of risk pool.

Number 062

Guthrie said he has also heard contractors say problems would be solved if the existing laws were enforced. Guthrie felt that many problems have been caused by licensed contractors. He said many people are careful consumers. In many cases, the people injured have taken every precaution, but they often suffer losses because of gross negligence on the part of the contractor. He related his personal experience. Guthrie said the surety fund is really needed to protect consumers.

Number 120

Rep. Martin asked if small claims court could not clear up many of the problems Guthrie spoke of. Guthrie said the bill would provide for an adjudicator to hear claims cheaply and expeditiously, and said the courts aren't set up to provide this

quick, inexpensive service.

Number 150 — The committee discussed Guthrie's particular situation. Rep. Bylsma noted there is no time limit provided in which claims can be brought. He said one could wait twenty years to make a claim, in some cases. This was discussed.

Number 175 — George Imbsen told of his experience with a contractor. He began building a house, and hired a framing contractor. The contractor hired a subcontractor to do the roofing. The contractor then came to Imbsen for funds to pay the subcontractor; took the funds; never paid the subcontractor; and left town.

Number 227 — Edith Brand said she had, over a period of time, had three houses constructed. She had no problems with the first contractor. On the second house, the contractor did not put in enough pilings. The house settled and warped (doors would not shut, etc.). She got a judgment against the piledriver, but still lost money. The house would have been worth $90,000, but the Borough assessed it at only $42,000. She contracted a third house to be built. Six months after the contractor began building, he presented her with a bill. She refused to pay a portion of the bill because he had not complete all the work. He refused to do the work she wanted; she refused to pay. The bank refused to finance the house because the contractor put a lien against it, so she had to pay construction loan interest for a year while the matter was in court.

Number 312 — Rep. Rogers did not see how the bill would address Brand's situation. There was discussion. Rep. Rogers said, as provided in the bill, the process in a dispute would be the same as now exists--the matter would go to court, or, if the bill were enacted, might go before the administrative arbitrator. Rep. Bylsma suggested contacting the Consumer Protection Agency. Rep. Martin had questions about how Brand went about selecting her contractors.

Number 385 — Phil Morris had a home built which was finished about a year ago June. The contractor estimated the house would cost $100,000. Morris was paying the contractor

as work was being completed; by the time he had paid $90,000, the house was not even fully framed. He lost money on the deal. Morris felt part of the problem was that, as a contractor's business grows, he spends less time personally supervising construction. He was also concerned that contractors aren't required to bond high enough to cover costs.

Number 471

Rep. Rogers said that was a good point, but that the problem with bonding for a small or new contractor was that bonding is not available. He said increasing bond requirements would be a barrier to new people getting into the business, because, as they cannot get bonds, they would have to put up cash, which most new or small businesses don't have. Rep. Rogers asked Rep. Randolph if there was any way to make it easier for new contractors to get bonding, so that the bonding limit could be raised. Rep. Randolph said the cost would be prohibitive, thousands of dollars per year. Jeff Barry, committee aide, suggested that basing the bond on the percentage of business the contractor does might be easier. Rep. Randolph felt the best approach was to have an effective, efficient, and economical arbitration system. He thought the arbitration process which might be established by the bill would be more efficient than the court system.

Number 585

Rep. Rogers suggested setting up a loan program for homebuilders associations to set up their own surety funds. This would give people the option of going to the homebuilders association, where they had some security in their investment, or of choosing a "fly-by-night" contractor. Rep. Randolph thought that was a great idea. Also, each association could set their own criteria, which would benefit the consumer.

Number 635

Jim McConaghy, president of Juneau Homebuilders Association, said the association would be represented at the teleconference, and would present formal recommendations and resolutions for the committee's consideration. In response to previous testimony, McConaghy said he would like figures on how many problems are caused by licensed contractors. He said he met

with the Department of Commerce and another agency, who indicated that the majority of problems were with unlicensed contractors. McConaghy gave examples. He wondered how far the state should go in protecting people from themselves. There was discussion.

Side B, Number 008 As there was no further business to come before the committee, the meeting was adjourned at 8:04 p.m.

SIGN-IN SHEET HB 832

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Jim McConaghy	Box 273 Anke Bay	Home Builders Assn Juneau		789-9541
Judy Gilmore	9349 Lakeview Ct.	Reg Reform Program	NO	789-0512
Keith Gilmore	" " "	self	NO	789-0512
Joe Guthrie	725 Fifth Stuart Juneau	self	Yes	586-6250
George Imbsen	2113 2nd St Douglas	—	Yes	364 2242
Estella F. Brown	4617 Riley Rd.	self	Yes	465-4855
Phil Morris —				

HOUSE LABOR & COMMERCE COMMITTEE HEARING DATE: _____

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
John Halterman	11230 Antreanos Juneau	Self	NO	
Chris Botts	Douglas, Ak	Mike Miller	No	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

H. Labor & Commerce 3/18/82

Absent: Gardiner

HB 832 — Special night mtg Tape #40

7:15

000 Call to order; intd HB 832

017 Joe Guthrie — since last mtg, seems there's emerging consensus, elements of bill will be enacted, but some doubt whether surety fund will remain in bill. Still supports surety fund, but thinks objectives can be achieved in other ways. Has heard contractors maintain they shdn't have to pay for someone else's mistakes, but they carry other kinds of insurance, so this fund is not a novel idea, & legis has prerogative to require it. Real need for some kind of risk pool.

060 Has also heard contractors say probs wd be solved if existing laws were enforced; he thinks many probs have been caused by licensed contractors.

071 Many people damaged are careful consumers. In many cases, people injured take every precaution. Often suffer loss because of gross negligence. ~~wanton or willful~~ Gave an example of his personal experience.

116 Surety fund is really needed; it's not the consumer's fault.

120 Martin asked if small courts claim cd clear this up. Guthrie said they are going to ct, but bill wd provide for adjudicator to hear claims cheaply & quickly. Courts aren't set up to handle these problems expeditiously & cheaply.

150 ~~Bylsma ask~~ Discussion of Guthrie's particular sitn. Bylsma noted no time limit for claims; could wait 20 yrs to make a claim in some cases.

175 George ~~Jmason~~ Imbson – related personal experience. Began bldg house 5 yrs ago; hired framing contractor. One thing in contract was job shd be done in a timely manner. Contractor subbed roofing to another contractor; Contractor then asked for money to pay roofer, got it, & never paid roofer; subsequently left town.

227 Edith Brand – Contractor didn't put enough pilings in house; house settled & warped (doors wdn't shut, etc) Got judgment against piledriver, but still lost money. Wd have been $90,000 house, but only worth $60,000 w/ foundn prob. Borough assessed it at $42,000.

– Built another house, contracted out. 6 mos after he began bldg, he presented bill; she wdn't pay a portion of bill because he hadn't completed everything. He refused to do work she wanted, she wouldn't pay. Bank wdn't finance house because he liened it. Had to pay construction loan % for a yr while matter was in court.

318 Rogers didn't see how bill wd address this; ~~Jmason~~ Brand said, p 9, item b, wd cover it. Discussion Rogers said, dispute process in a wd be same as process now – court (or, in bill, administrative arbitrator). Bylsma suggested CPA.

390 Martin asked how she selected contractors — 1st house, she knew guy; second house, went to Capp Homes; third house she bid.

385 Phil Morris — had home built, finished abt a yr ago June. Estimated $100,000; at $90,000, house was not fully framed (he was paying contractor on demand). Had to put out $50,000

Felt part of prob was, as contractors business grows, he spends less time personally supervising construction.

Also concerned contractors aren't reqd to bond high enough to cover costs

471 Rogers said that's a good point, but prob w/ bonding for small, new contractor is it's not available. Barries to new people getting into business, as, especially if bond reqmt is raised, because small businesses have to put up cash, & they don't have it.

503 Rogers asked Randolph if there was any way to make it easier for new contractors to get bonding, so that bonding limit can be raised.

Randolph said cost of 30-40,000 bond wd be prohibitive (thousands per yr.)

Barry said basing bond on % age of business might be easier. Randolph felt best approach was to have effective efficient clerical arbitration system. Thought arbitrn process cd be established thought wd be more efficient than ct system.

585 Rogers suggested setting up loan pgm for homebuilders, to assn set up their own surety fund. This wd give people the option of going to assn or a fly by night operation. Randolph thought that was a great idea; each assn could set their own criteria, which wd benefit consumer.

635 Jim McConaghy, pres, gnw Homebuilder — Assn will attend telecons w/ formal recommdns & resolutions.
Comments on tonights testimony — re "lots of pblms caused by licensed contractors" — he'd like figures on that.
Met w/dept of Commerce, who said majority of prob were with unlicensed contractors. ~~Checked on some other most problems — one, per Phil Wolfson~~ Gave examples. Wondered how far state shd go in protecting people fm themselves.

~~743 Randolph had gotten~~. Discussion

side B
008 ~~Rep~~ Martin adjourned public mtg 8:04 pm

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/18/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		7:10	
Rep. D. Randolph	✓		7:18	
Rep. B. Rogers	✓		7:15	
Rep. T. Gardiner				
Rep. T. Martin, Chair	✓		6:30	

Subject Matter:

House Bill No. 832

Senate Bill No. _____

Special Orders:

Special night mtg to allow Juneau residents to testify on bill

3-22-82

HB634

HB639

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 22, 1982
1:45 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Gardiner
Rep. Randolph
Rep. Rogers

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 634 — An Act limiting the amount of damages which may be awarded for personal injury or death in an action brought against an ATC-registered air carrier.

HB 639 — An Act relating to supplemental employee benefits; and providing for an effective date.

WITNESS REGISTER

Paul Arnoldt, Director
Division of Retirement
Pouch CR
Juneau, Alaska 99811
465-4460
Position Statement: Explained impact of HB 639.

Cherie Shelley
Alaska Public Employees Association
340 North Franklin
Juneau, Alaska 99801
586-2334
Position Statement: Supported concept of HB 639 and amendments proposed.

Ken Humphreys
Department of Administration
Pouch CR
Juneau, Alaska 99811
465-4460
Position Statement: Took part in discussion of HB 639.

Jim Dodson, Secretary
Alaska Aviation Safety Foundation
519 West Fourth Avenue
Anchorage, Alaska

Position Statement: Discussed HB 634; requested support for his group's programs.

PREVIOUS ACTION

HB 634

See minutes of 1/21/82 (teleconference); and 2/26/82.

Statutory Reference: AS 09.65

Action Taken: Rep. Rogers moved to adopt a committee substitute which would increase taxes on aviation gas and jet fuel for a three-year period, with a letter of intent requesting increased fees go to the Alaska Aviation Safety Foundation, and recommending a Finance referral. Rep. Rogers withdrew motion.

Rep. Rogers moved to send a letter to the House Finance Committee recommending they increase the taxes, as proposed above, and add a letter of intent to a bill that is in their committee. There being no objections, the motion passed.

Rep. Rogers moved to table HB 634. There being no objection, the motion passed.

HB 639

No previous action.

Statutory Reference: AS 39.30.150

Action Taken: Rep. Rogers moved to delete subsection (d), on page 1, line 10-12, and replace with a new subsection (d). Motion passed by unanimous consent.

Rep. Rogers moved, page 1, line 24, to add section 2 through the end of SCS CSHB 121 to HB 639. There was objection. On the question: for--Rogers, Gardiner; opposed--Randolph, Martin, Bylsma. Motion failed.

Rep. Randolph moved to report CSHB 639 out of committee. Motion passed without objection.

Rep. Randolph moved the committee rescind its action on HB 639 for purposes of discussion. There was objection. Rep. Randolph withdrew his motion.

ACTION NARRATIVE

Tape #41
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:45 p.m. Members present were: Representatives Martin, Bylsma, Gardiner, Randolph, and Rogers. There were no members absent. SSHB 639 was brought before the committee for consideration.

Number 018

Rep. Randolph, prime sponsor of the bill, explained that he introduced the bill to maximize the employee's latitude with what they can do with their contribution to the supplemental benefits system upon termination.

Number 040

Paul Arnoldt, Director of the Division of Retirement, said currently, if there is more than $1,000 in the employee's account, the money must remain in the account until age 55. The bill makes a distinction between the monies in the system (the employee's and the employer's). He said if the money isn't considered employee money, it is no longer tax sheltered. He felt subsection (d) should be changed to say, "on behalf of the employee", and that "under the terms of the State of Alaska Supplemental Annuity Plan" should be added to the end of that sentence. He then went over the history of the legislation and of the annuity fund.

Number 116

Rep. Rogers noted that the bill would leave the decision up to the employee. Rep. Rogers asked Rep. Randolph if it was his intent to pay one-half the amount in the employee's fund to the employee; Rep. Randolph said it was.

Number 130

Cherie Shelley, APEA, favored keeping the SBS program. She supported the concept of the bill and the amendments proposed. Rep. Rogers asked her opinion of other amendments to include optional methods to pay the money back to the employee, and making a provision for paying interest. Shelley agreed with those ideas. Arnoldt elaborated on how the IRS views the funds and how to provide various options to the employee.

Number 200

Rep. Rogers asked clarification about how the system would actually work, and gave an

example of a situation. Arnoldt explained and suggested different language for amendments. There was discussion.

Number 248

Rep. Rogers questioned whether the employee's decision about the money had to be made upon termination. Arnoldt said the employee can: 1) take the money on termination; or, 2) defer payment to some later date. He clarified the term, "constructive receipt". Ken Humphreys, Department of Administration, gave an example of a situation. There was discussion.

Number 306

Rep. Rogers moved to delete subsection (d) and replace with new language. Upon discussion, he withdrew the amendment and moved to delete subsection (d) and replace with: "(d) Upon termination of employment by an employee, the amount held on behalf of the employee in the Supplemental Annuity Account may be paid to the employee under the terms of the State of Alaska supplemental annuity plan upon application by the employee." The motion passed by unanimous consent.

Number 330

Rep. Rogers moved to add to page 1, line 24, of the bill, sections 2-end of SCS CSHB 121. There was objection. Rep. Rogers elaborated on his reasons for moving the amendment. Rep. Martin felt this could be better addressed later. Rep. Gardiner felt time was critical, given the fact that the session will soon be drawing to a close. On the question: for--Gardiner, Rogers; opposed--Randolph, Bylsma, Martin. Motion failed.

Number 383

Rep. Randolph moved to report CSHB 369 (L&C) from committee. Motion passed without objection.

Number 408

Rep. Randolph moved to rescind the committee's action on HB 639 for purposes of discussion. Rep. Gardiner objected. Rep. Randolph explained his reasons for moving to rescind. Rep. Rogers explained why the committee had acted correctly. Rep. Randolph withdrew the motion.

Number 433

The chairman then turned the committee's attention to HB 634. Rep. Rogers said he

felt the existing bill is unconstitutional, and that the only solution he had found was one he did not favor.

Number 454 — Jim Dodson, secretary of Alaska Aviation Safety Foundation, testified regarding HB 634. He also introduced a letter to Jack Fuller from Tulinda Deegan, president of Alaska Air Carriers Association. He read Deegan's letter to the committee elaborating concerns with the bill.

Number 530 — Rep. Rogers asked if there had been discussion of state-funded insurance or of the state working with an organization that wished to offer insurance. Dodson said state insurance was not favored. He said the approach they are working on is the Alaska Aviation Safety Foundation attempting to come up with a certification program.

Number 562 — Rep. Gardiner said there had been discussion of self-insuring through a fund. Dodson said there had been discussion, but no action. He felt the air carriers did not have a large enough pool to self-insure. Dodson said they currently have a workers compensation group insurance, but that the plan was less than a year old, so they were not yet sure how it would work.

Number 602 — Rep. Gardiner said the fishing industry had encountered the same problem of high insurance rates. He said they set up insurance pools, and that it had worked well. Rep. Gardiner noted that his insurance rate had dropped by half. He explained how the fishermen had set up their program. Gardiner felt a governmental entity could not legally disallow people access to such a pool the way private groups can; a private group could refuse to allow those with poor safety records. He recommended this method in the "best unwashed Libertarian tradition".

Number 665 — Rep. Rogers agreed with Rep. Gardiner. He explained how he visualized this working. He said if Lloyd's would not fund it, perhaps the state should fund it until the insurance brokers do. He agreed with limiting attorney's fees. He recommended writing a letter to the Finance Committee urging funding of the Alaska Aviation Safety

Foundation.

Number 718 — Rep. Randolph agreed that the government should step in and get into the insurance company business in a big way. He spoke of pilots' relationship to the great Alaskan tradition.

Side B, Number 006 — Rep. Gardiner wondered about limiting attorney's fees--he was not sure the state could tell a citizen what he could do in terms of paying for anything. Rep. Randolph agreed.

Number 014 — Dodson said he would greatly appreciate discussion in Finance for continued funding of the Alaska Aviation Safety Foundation. He elaborated on a resolution passed by the Foundation and spoke of work done by the Foundation. He said they had unanimously asked the state to increase the tax on aviation gas and jet fuel in order to fund the Safety Foundation. He felt the tax should last for three years, after which they expect to be self-supporting.

Number 050 — Rep. Rogers moved to adopt a committee substitute for HB 634, which would contain a provision for increasing aviation gas tax to 4-1/2¢ and jet fuel tax to 2-1/4¢ for a three year period, with a letter of intent asking that the increased fees go to the Alaska Aviation Safety Foundation, and to encourage forming group insurance. Rep. Martin said he had assumed a bill was being used to do this. Rep. Rogers recommended doing it anyway. Rep. Rogers recommended requesting a Finance referral, as well.

Number 074 — Rep. Randolph preferred to send a letter of intent, rather than amend HB 634. Rep. Rogers said a letter of intent can't be done unless there is a bill. He suggested an alternative would be the committee sending a letter to House Finance recommending they add a letter of intent to a bill they have in committee, and he so moved. There being no objections, the motion passed.

Number 089 — Rep. Rogers moved to table HB 634. There being no objection, the motion passed.

Number 092 — Rep. Martin went over the committee's calendar. There was some discussion of

bills coming up.

Number 102 — There being no further business to come before the committee, the meeting was adjourned.

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

To: Representative Al Adams, Chairman
House Finance Committee
From: Representative Terry Martin, Chairman
House Labor & Commerce Committee
Date: March 30, 1982
Subject: HB 37 relating to the motor fuel tax.

On behalf of this committee, I urge you to adopt an amendment to HB 37, which is currently in your committee. We ask that you increase taxes on certain aviation fuels for a period of three years, specifically: increase the aviation gas tax to 4-1/2¢, and increase the jet fuel tax to 2-1/4¢. We further request that the additional tax monies be used to fund the Alaska Aviation Safety Foundation, and to encourage pilots to form group insurance plans. The Foundation feels that the tax needs to be collected for a period of only three years, after which they believe they will be self-supporting.

We believe the work of the Alaska Aviation Safety Foundation to be in the interest of public safety. After extensive hearings, we also believe that the pilots of our state need a viable alternative to existing insurance programs, and would like to encourage them to form group insurance plans. Many air taxi operations and other air carriers are in danger of having to go out of business, due in large part to the high insurance rates they are forced to pay.

We appreciate your consideration of this request. If you desire further information or assistance, don't hesitate to contact my office.

Terry Martin

Terry Martin, Chairman
House Labor & Commerce Committee

jm

Letters - Finance re HB37/HB634

To: Representative Al Adams, Chairman
House Finance Committee
From: Representative Terry Martin, Chairman
House Labor & Commerce Committee
Date: March 30, 1982
Subject: HB 37 relating to the motor fuel tax.

On behalf of this committee, I urge you to adopt an amendment to HB 37, which is currently in your committee. We ask that you increase taxes on certain aviation fuels for a period of three years, specifically: increase the aviation gas tax to 4-1/2¢, and increase the jet fuel tax to 2-1/4¢. We further request that the additional tax monies be used to fund the Alaska Aviation Safety Foundation, and to encourage pilots to form group insurance plans. The Foundation feels that the tax needs to be collected for a period of only three years, after which they believe they will be self-supporting.

We believe the work of the Alaska Aviation Safety Foundation to be in the interest of public safety. After extensive hearings, we also believe that the pilots of our state need a viable alternative to existing insurance programs, and would like to encourage them to form group insurance plans. Many air taxi operations and other air carriers are in danger of having to go out of business, due in large part to the high insurance rates they are forced to pay.

We appreciate your consideration of this request. If you desire further information or assistance, don't hesitate to contact my office.

Terry Martin, Chairman
House Labor & Commerce Committee

jm

Absent: none

3/22/82

HB 634
SS HB 639

Tape # 41

1:45

000 Call to order by Martin; int'd SSHB 639

~~SSHB 639~~
SS HB 639

018 Randolph – sponsor – explained why he int'd bill: To maximize employee's latitude w/ what they can do w/ their contr, upon termination to Supp. Benefits Syst

040 Paul Arnoldt, Dir, Dev Retirement — Currently, if more than $1,000 in acct, money must remain in acct until age 55. Bill makes distinction between monies – employer's & employee's. If money isn't considered empe money, it is no longer tax sheltered. Sec 2 (d) shd be changed to "on behalf of emple" & "under the terms of the St Ak Suppl Annuity Plan" added to end of that sentence.
Gave history of legis'n & of annuity fund.

116 Rogers – then bill wd be it up to empe ~~what is~~ asked Randolph, if amdmts were made, wd his intent be to pay 1/2 the amt? R.. yes

130 Cherie Shelley, APEA, ~~said majority~~ favor keeping SBS program. ~~Want~~ support concept & amdmts proposed.
Rogers asked abt other amdmts. – ~~shd they be allow~~ optional ways to pay money back to empe, & provision for paying interest. Shelley agreed.

162 Arnold elaborated on how IRS views the funds & how to provide various options to empe.

200 Rogers gave example of a sctn & asked clarification abt how system wd work. Arnold explained & suggested different language for amdmt. Discussion.

248 Rogers had more gotns — whether decision abt money has to be made upon termination. Arnold: 1) take on termination o/ defer to some date. Clarified term "constructive receipt." ~~Ken Humphreys~~ (guy with pipe) gave example of sctn. Discussion.

306 Rogers moved:

Upon termination

w/drew amdmt.

317 Rogers moved:

Upon termination

Motion passed by unan consent

330 Rogers moved p. 1, l. 24 to add sections 2 through end of SCSCSHB121

There was objection. Rogers elaborated on his reasons for moving amendment. Martin felt this cd be better addressed later. Gardner felt time was critical. ~~Rogers~~ On gotn: for: Rog, Gard opp'd: Rand, Bylsma, Martin

383 Randolph moved CSHB 369 be reported; passed w/o objection.

408 Rand moved to rescind action on HB 639 for discussion; Gardiner objected; Randolph explained -- felt "shall" shd be used rather than "may". Rogers explained it was to deal w/IRS. Randolph w/drew mo.

HB 634

433 HB 634 was brought before comm.

Rogers said existing bill is unconstitutional; only solution he found was one he did not favor.

454 Jim Dodson, secretary, Ak Aviation Safety Foundn; also brought ltrs fm Tulinda Deegan, pres, Ak Air Carriers, to get matter. He read Deegan's ltr to committee. Pointed out Air Carriers & Safety Foundn appreciated efforts on their behalf.

Concerns with bill

530 Rogers asked if there was discussion of state funded insurance, or state wkg w/an agn wanting to offer ins.

Dodson said state insurance was not favored. Approach they're wkg on is ak aviation Safety Foundn - attempting to come up w/ certification program.

562 Gardiner - there was discussion of self insuring through a fund.

Dodson said there had been discussion, but no action. Not big enough pool to self-insure. Currently have a wkrs comp group insurance - less than a yr old, so don't know how it will work.

602 Gardiner said fishing industry had same problem; they set up ins. pools; has wkd well; dropped his ins. by half. Explained how the fishermen did it. Government entity does can't legally disallow people the way private groups can. Recommended this in the best "unwashed" libertarian tradition.

665 Rogers agreed w/ Gardiner. Explained how he visualized this working. Said if Lloyd's wdn't do it, perhaps state shd fund it until ins. brokers do. Agree w/ limiting atty's fees. Recommended writing ltr to Fin Comm urging fndg of Av. Safety Foundn.

718 Randolph agreed govt shd step in & get into ins. business in big way. Spoke of pilots' relationship to the great Alaskan tradition.

Side B
006 Gardiner wondered abt limiting atty fees - whether state can tell citizen what they can do in terms of paying for anything. Randolph agreed.

014 Dodson - wd greatly appreciate discussion in Fin for cont'd fndg of Av Safety Foundn. Elaborated on a resolution passed by the Foundn & work done by the Foundn. Ulmer asked state to increase tax on av gas & jet fuel to fund the Av Safety Foundn. Tax shd last for 3 yrs, when they expect to be self-supporting.

~~Rep Rogers Martin~~

050 Rogers moved to adopt CS HB 634 which wd contain inc av gas 4½¢ & on jet fuel to 2¼¢ for a 3 yr period w/ ltr of intent asking increased fees ~~monies~~ to go to Av Safety Foundn, & to encourage group ins. Martin said he had assumed a bill was being used to do this. Rogers recommended doing it anyway.

072 Rogers said to also recommend fin referral.
Randolph preferred ltrs of intent. Rogers said ltrs of intent can't be done unless there's a bill. alternative wd be comm sending ltrs to fin recommending they add ltrs of intent. Moved that. No objections, bier passed.

089 Rogers moved to table HB 634. No obj, mo passed.

092 Martin went over comm. calendar

102 Rep Rand asked abt HB642; comm decided to act on it at beginning of tomorrow's mtg.

Please insert new subsection (d) — see attached —
prepare a final copy of CS SSHB 639 (L&C).
~~draft~~
If you have questions, please call.
Joan Matthews
X3657
Labor & Commerce
Committee.

Introduced: 3/10/82
Referred: Labor & Commerce and Finance

IN THE HOUSE BY RANDOLPH

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 639

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to supplemental employee benefits; and providing for an effective date."

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

* Section 1. AS 39.30.150 is amended by adding a new subsection to read:

~~(d) Upon termination of employment by an employee, the amount~~ contributed by the employee ~~that was~~ used to purchase supplemental ~~annuities may be refunded to the employee on application by the employee.~~

* Sec. 2. The plan administrator of the State of Alaska Supplemental Annuity Plan shall apply to the United States Internal Revenue Service for a ruling that an amendment to the plan to allow participants to receive an annuity benefit as provided in AS 39.30.150(d) at any age will not adversely affect the deferral of taxes and, on receipt of a favorable ruling, shall amend the plan in accordance with the provisions of this Act.

* Sec. 3. Section 1 of this Act takes effect on amendment of the plan by the plan administrator after receipt of a favorable tax ruling by the United States Internal Revenue Service.

* Sec. 4. Section 2 of this Act takes effect immediately in accordance with AS 01.10.070(c).

(d) Upon termination of employment by an employee, the amount held on behalf of the employee in the Supplemental Annuity account may be paid to the employee under the terms of the State of Alaska supplemental annuity plan upon application by the employee.

SIGN-IN SHEET HB 639 Supplemental Employee Benefits

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Irene Shelley	340 N. Franklin	APEA	yes	586-2334
Ken Humphreys	Pouch CR	Admin.	-	5-4460
Paul Benedict	"	"	YES	4460
	Jerry Wippert			

HOUSE LABOR & COMMERCE COMMITTEE HEARING DATE: 3-22-83

SIGN-IN SHEET HB 634 Limit Damages / ATC Registered Aircraft

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Jim Dodson	519 W 4TH AVE ANCH	AK. AVIATION SAFETY FOUNDATION	✓	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/22/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:43	
Rep. D. Randolph	✓		1:44	
Rep. B. Rogers	✓		1:47	
Rep. T. Gardiner	✓		1:47	
Rep. T. Martin, Chair	✓		1:38	

Subject Matter:

House Bill No. 634 639 _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

Introduced: 3/10/82
Referred: Labor & Commerce and Finance

IN THE HOUSE BY RANDOLPH

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 639

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

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* Sec. 3. Section 1 of this Act takes effect on amendment of the plan by the plan administrator after receipt of a favorable tax ruling by the United States Internal Revenue Service.

* Sec. 4. Section 2 of this Act takes effect immediately in accordance with AS 01.10.070(c).

Alaska Air Carriers Association

March 19, 1982

Representative Jack Fuller
Pouch V
Juneau, Alaska 99811

Dear Mr. Fuller:

The Alaska Air Carriers Association appreciates you efforts to help control the escalating aviation insurance premiums.

Last week the air carriers met in Anchorage for the 1982 AACA Annual Convention and Trade Show. At the Convention we had a round-table discussion on the issue of insurance. Mr. Micheal E. Charlesworth, a lead underwriter for Alaska aviation insurnace at Lloyd's of London, Mr. Ian Lewis, a London Broker, Mr. Micheal J. Hall, a domestic underwriter, and Ken Moore, Direc. Division of Insurance participated in the discussion.

Mr Charlesworth advised the members of AACA that the enormous increase in insurance premiums was the result of the business practices of Lloyd's of London. Historically, Lloyd's has grouped Alaskan operators with all aviation in the United States. Lloyd's has found that the losses in Alaska have exceeded those in the lower 48 states.

The general consensus of the insurance representatives was that a limit of $250,000 would raise premiums, because the limit would become the standard payment for claims in Alaska. Smaller operators who only carry the $100,000 minimum insurance required by the Alaska Transportation Commission, would face increase insurance costs.

The insurance representatives recommended the following:

1. Continue the work of the Alaskan Aviation Safety Foundation
2. Develop a schedule of payments similar to Worker's Compansation
3. Limit attorney fees
4. Educate Alaskan juries that high awards are passed on to air taxi operators

The AACA stands ready to work with you to develop legislation to lower insurance premiums.

Sincerely,

Tulinda Deegan
Executive Director

4790 Business Park Boulevard • Suite 4 • Anchorage, Alaska 99503 • (907) 272-9933

3-23-82

HB832

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 23, 1982
1:05 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Gardiner
Rep. Randolph
Rep. Rogers

Members Absent: No members absent.

COMMITTEE CALENDAR

TELECONFERENCE HEARING

HB 832 An Act relating to the regulation of contractors; and providing for an effective date.

WITNESS REGISTER

Connie Sipes
Consumer Protection Agency
Anchorage, Alaska
Position Statement: Went over bill in detail, recommending changes as well as areas they support.

Bob Evans
Consumer Protection Agency
Anchorage, Alaska
Position Statement: Gave statistics about complaints filed regarding problems with contractors.

Jim Wilkins
Box 259
Wasilla, Alaska 99687
376-2324
Position Statement: Objected to bill.

Dave Gruenke
SRB, Box 7481
Palmer, Alaska 99645
Position Statement: Disagreed with portions of bill.

Harold Stocker
Box 2457
Sitka, Alaska
747-5110
Position Statement: Disagreed with bill.

Mary Lou Vilandre
Box 1420
Sitka, Alaska
747-8006
Position Statement: Opposed bill.

William Novcaski
Box 896
Sitka, Alaska
747-8966
Position Statement: Opposed bill.

Lorin M. Walker, Jr.
Walker Construction
Box 2580
Fairbanks, Alaska 99707
488-2346
Position Statement: Opposed bill.

Hans F. Hingst
North Pole Electric
SR Box 80430
Fairbanks, Alaska 99701
488-2967
Position Statement: Pointed out problems with bill.

Roland Stanton
3817 Fairview Avenue
Ketchikan, Alaska
225-3406
Position Statement: Objected to whole bill.

William McNall
attorney
Anchorage, Alaska
Position Statement: Supported bill; made recommendations.

Michael Stilley
Vice President, Construction Loans
United Bank of Alaska
Anchorage, Alaska
Position Statement: Felt bill needs work.

N.C. "Clay" Porter, President
Alaska Homebuilders Association
118 East International Airport Road
Anchorage, Alaska
276-3713
Position Statement: Commented on bill.

Beverly McClintock, President
Fairbanks Homebuilders Association
PO Box 81042
Fairbanks, Alaska

456-7421
Position Statement: Problems with bill.

Tom Hall
contractor
Haines, Alaska
Position Statement: Opposed bill.

Tom Bodett
general contractor
Petersburg, Alaska
Position Statement: Opposed bill.

Ken Helem
Sitka Electric
Box 1609
Sitka, Alaska 99835
747-8752
Position Statement: Agreed consumer protection necessary; proposed alternatives.

Paul Persinger
Persinger Homes, Inc.
Box 270
Wasilla, Alaska 99687
376-3800
Position Statement: Commented on bill and alternatives.

Dick Rorher
Box 2219
Kodiak, Alaska 99615
486-5835
Position Statement: Commented on bill.

Pat Verdugo
Little Lambs Day Care
315 Noyes Street
Fairbanks, Alaska
456-4465
Position Statement: Told of a problem she had with a contractor.

Robert Haines
Greater Anchorage Builders Council
Anchorage, Alaska
Position Statement: Requested amendments to bill.

Earl Carlyle
Anchorage, Alaska
Position Statement: Suggestions for amendments to bill.

Michael Ryman
consumer
Box 4222
Mt. Edgecumbe, Alaska 99835

Position Statement: Felt surety fund amount was not enough.

Breen Gaughan
State Home Building Industry
3220 Sleeping Lady Loop
Anchorage, Alaska
276-4470
344-1997
Position Statement: Commented on statistics introduced.

Joe Guthrie
attorney
Juneau, Alaska
Position Statement: Gave his views about bill; made suggestions.

Alan Eaker
d/b/a Great Land Interiors
PO Box 554
Wasilla, Alaska 99687
376-5947
Position Statement: Felt bill's intent was misdirected.

PREVIOUS ACTION

HB 832

See minutes of 3/2/82 and 3/18/82 meetings.

Statutory Reference: AS 08.01.010; AS 08.18

Action Taken: No formal action. Purpose of hearing was to take teleconference testimony statewide.

ACTION NARRATIVE

Tape #42
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:05 p.m. Members present were: Representatives Martin, Bylsma, Rogers, Randolph, and Gardiner. Rep. Martin left shortly after the call to order. Before the committee was HB 832. This hearing was teleconferenced, and testimony taken, statewide.

Number 015

CONNIE SIPES, Consumer Protection Agency, Anchorage, analyzed the bill after contacting affected parties. She said she would forward copies of this analysis. Sipes said the CPA found the projected rate of new home starts for 1982 to be 4,000-4,500 in the Anchorage area.

Sipes said the Consumer Protection Agency supports most of HB 832. Sipes went over the bill point by point, making recommendations. There was discussion by the committee at times throughout this testimony.

Number 498

BOB EVANS, CPA, Anchorage, presented statistics to the committee. He said there were 97 consumer complaints filed in the Anchorage office since 1979. In 1981, 55-60 more were received on the phone, but no formal complaints were filed. In 1980, the highest number of complaints were received, and that year, there were over 1,000 housing starts. He said most complaints resulted in: 1) no contractor response; 2) contractor had disappeared or absconded with the money (he said this accounted for 1 of every 4 complaints); 3) partial correction or adjustment by the contractor to the consumer; 4) there was a dispute in factual information, in which case the complaints were referred to the legal system. Evans said he would forward a copy of his report to the committee.

Number 607

Rep. Rogers had several questions regarding the statistics presented. Evans attempted to clarify.

Side B, Number 039

JIM WILKINS of Wasilla objected to three points: 1) the surety account, which he felt makes good contractors pay for the actions of poor contractors; 2) AS 08.18.107, dealing with subrogation rights--Wilkins objected to listing his costs as it would show the profit a contractor makes and would restrict profit; and 3) AS 18.18.125, Wilkins disagreed that one man (the Commissioner of Labor) should have power over every contractor in the state.

Number 086

DAVE GRUENKE of Palmer disagreed with the bill. He did agree with two year registration, but strongly disagreed with the surety fund. He felt providing a materials and labor invoice made no sense, would be a lot of work, and would allow the buyer to know what everyone is making.

Number 111

HAROLD STOCKER of Sitka disagreed because most complaints are registered from people who probably hire unlicensed contractors.

He felt the bill would create a wider gap of competition between the licensed and unlicensed contractors, as it would cost the licensed contractor more for bonding. He said unlicensed contractors don't have costs licensed contractors have. Stocker said the state doesn't enforce current licensing and registration requirements enough.

Number 137 — MARY LOU VILANDRE, a specialty contractor in Sitka, opposed the bill. She said consumers do need protection, but another way to do this is needed.

Number 153 — WILLIAM NOVCASKI, Sitka, wondered how much this would add to the cost of a new home. He believes in free enterprise and local enforcement. Novcaski felt higher bonding wouldn't insure that houses are built to higher standards. He said most houses in Sitka are built by self-builders, and the bill doesn't insure the person won't build a sloppy house and sell it the next year. He felt having to list name brands of materials used was ridiculous, and noted that builders often have to substitute brands due to unavailability of some brands.

Number 189 — LORIN WALKER of Fairbanks opposed the bill. He felt the majority of homebuilders and specialty contractors in the Fairbanks area are unlicensed. He said his prices are already higher than an unlicensed contractors. He was opposed to the surety account. He said the money would have to come from the consumer, who can't afford prices now. He agreed with Stocker's testimony. Walker said unlicensed contractors is where the problem comes from.

Number 211 — HANS HINGST, North Pole Electric, Fairbanks, said he deals in residential writing. He said Sipes is incorrect in her statement that one does not need a license or bond for work done for under $10,000. Hingst said the major cause of consumer complaints is unlicensed contractors. He said the reason is that electrical inspectors have little or no authority over single family homes; they can only check the workman's license, but can't check his work. Hingst said a licensed contractor can't compete financially with an unlicensed contractor. He suggested giving inspectors more

authority over single family dwellings: permits and inspections, certificates of occupancy, more inspectors; or eliminate all licenses, inspections, permits, and let him compete with the unlicensed contractor.

Number 275

ROLAND STANTON of Ketchikan found the number of complaints projected by the CPA very small. He objected to the whole bill. He agreed with objections offered by others testifying. He said he already has to have a bond which is in effect five years after going out of business, and that there are many other remedies, such as liens, codes, court, insurance, and arbitrators. Stanton said a contractor has his whole net worth on the line on every job. He said if one wants to see a contractor's license, one has only to ask for it, as it is a wallet-sized card. Stanton saw no need to change registration to two years. He said the surety account increased the costs of getting into business, and doesn't increase consumer protection at all. He pointed out there is no provision for the size of the contractor's operation. He felt it would set up a new bureaucracy in an already heavily regulated business. Stanton said laws already exist. He opposed the bill. Contractors are already overburdened, and the bill won't help.

Number 364

WILLIAM MC NALL, an attorney practicing in Anchorage and living in Eagle River, said his practice as a lawyer is with defective housing litigation, and he deals mainly with contractors. He said some consumer protection is required. McNall felt the statistics were fascinating. He said that in December of 1981, he received one case a day in the office, and referred another 1-2 a day for about two weeks around Christmas. He said he receives more complaints than the Consumer Protection Agency. McNall said, from a consumer point of view, it is a good bill. He said the industry needs enforced building codes, enforced by inspectors. He referred to the situation in Eagle River, where contractors oppose the codes. McNall said that contractors are uncooperative, dishonest, and shirking responsibility. He was unimpressed with the building industry and its ethics.

Number 436

McNall said the $5,000 bond is too small. He felt it needed to be raised to $50,000. He said if a contractors can't afford the bond, he can't stand behind his warranties. McNall suggested: 1) adopt the bill and bar contractors from court unless they're licensed; and, 2) make the lender responsible to make sure the builder is licensed or bonded.

Number 468

MICHAEL STILLEY, Vice President of Construction Loans, United Bank of Alaska, said the bill needs work. He said builders need protection. Licensing needs to be more difficult to obtain to keep shoddy builders out of the market. He said testing may be an answer. Stilley said work should be effected through a media task force. He said those in the industry are ethical and trying to do a good job. He felt a surety fund is inequitable. Stilley said the bill makes an escape clause for the builder building only one house. He felt if the builder sells the house, the law should apply. Stilley said a distinction should be made between a speculation builder and a builder who contracts with a buyer. Stilley said building inspectors are funded by the building permits issued. Building inspection is public safety. He felt the departments should be funded, and that there should be consistent policy.

Number 553

There was discussion between Stilley and the committee.

Number 654

CLAY PORTER, president of the Alaska State Homebuilders Association, said the bill has problems, but also has positive points. He said there needs to be more protection and improved contractor licensing law. The existing law has split authority between the Department of Commerce and the Department of Labor, and this should be changed. He agreed there should be a task force set up. He said existing laws need better enforcement. Porter thought bank verification and AHFC verification of licensed contractors is good. He noted that banks rarely ask for a license from a contractor. Porter said maintenance contractors have no license at all. He said Anchorage is dealing with a law enacting testing and licensing review requirements.

He said there are other methods of local enforcement, such as land use permits, well and septic permits, and inspections. He felt complaints, should be monitored in detail. Porter felt the builder should also be protected. He said the costs contractors would incur under the bill are too high. At Rep. Rogers request, Porter agreed to send the committee a copy of his testimony.

Tape 43, Number 050 — BEVERLY MC CLINTOCK, president of Fairbanks Homebuilders Association, said, although the bill was meant well, there are questions. She said the bill creates a surety fund which is the homeowner's warranty. She said if there is a need, the cost of the fund should be borne by the owner rather than the contractor. As it is set up, the fund is a first resort when it should be a last resort. She said a task force is needed. McClintock said banks, Alaska Housing, and city inspectors should have a great part in checking licenses and setting up consumer protection. She felt the biggest problem with the bill is that good contractors pay for bad ones.

Number 095 — TOM HALL, contractor from Haines, said the surety fund would affect him badly. He felt it should be scaled according to number of homes built. He doesn't want to report his actual costs. He said licensed contractors would pay more than unlicensed contractors.

Number 111 — TOM BODETT, a general contractor in Petersburg, said most of his points have already been brought up. He was not sure the surety fund would make a difference in his bonding costs. He said if the fund is set up, the legislature should repeal the statute requiring bonds for five years after work is completed. He said much of his business is on the honor system. The bill would require disclosures the consumer may not want. He felt perhaps informing the consumer of his rights would be enough. He said the restrictions could hinder small builders.

Number 153 — KEN HELEM, and electrical contractors in Sitka, agreed that consumer protection is necessary, but felt that better enforcement and reviewing the contractor's records for licensing could alleviate the problem. He

said more regulations will reflect on the consumer eventually. He said the bill should be geared to the number of houses built.

Number 167 — PAUL PERSINGER of Wasilla asked what determines a complaint, and asked how costs are determined. He wondered how many boards would be required to hear complaints. He said some builders have purchased a warranty program. He felt local homebuilders could mediate.

Number 190 — DICK RORHER of Kodiak agreed that consumers need protection, but thought the surety fund wouldn't do it. He said $500,000 is too low if the fund were used. He thought increasing bonding may be a good suggestions. He said an insurance agent told him that he, nor about five other builders he knew, could get a $25,000 bond. He said enforcing building codes is an area needing improvement. Rorher is an unlicensed contractor, but felt he does good work. He said he builds 1 speculation house per year. He said he stakes his reputation against any licensed contractor in Kodiak, and felt the exception should remain.

Number 233 — PAT VERDUGO, day care center operator in Fairbanks, said she recently dealt with a contractor. She paid him in full on December 10, although work was not completed. She said state inspectors found electrical and plumbing violations. The general contractor would not repair these defects, and would not finish the work he had not completed. She could find no way to attach his bond. She said attorneys don't want to handle the case. She found that the plumber and contractor were unlicensed. She said she can't get relief. She did not know if the bill was the answer, but said the the contractor's history was on file, it could keep others from having the same problem.

Number 281 — Rep. Rogers questioned Verdugo about her specific complaint. There was discussion.

Number 331 — ROBERT HAINES of the Greater Anchorage Builders Council said he wants parts of the bill amended and parts added to existing law. These were: public information; contracts making both parties aware of

building industry procedures; and the posture of prevention adopted. He said the problem lies with qualified contractors, not just licensing, as anyone can get a license. He was not opposed to raising the bonding limit.

Number 371 — EARL CARLYLE of Anchorage said the surety account was unacceptable. He wanted HB 740 adopted and attached to the bill. He would also like something done about fly-by-nights. He said fifty percent of the advertisements in the papers are fly-by-nights.

Number 395 — MICHAEL RYMAN, a consumer in Sitka, said he had a custom home built. He felt all contractors should not pay for the bad ones. He said he is presently in a lawsuit over a home he had built. Ryman said the amount stated for the surety account is not enough. He felt perhaps a portion of bank funding should be held for a period after a home has been lived in.

Number 462 — BREEN GAUGHON, Alaska Home Builders Industry, was amazed that 3-5% of all people who might be damaged can hold 95-97% of the industry liable.

Number 502 — JOE GUTHRIE, attorney in Juneau, had a different interpretation of the statistics offered by the Consumer Protection Agency. He felt that the 3-5% of the people who have notified CPA of complaints should indicate that CPA does not have effective remedies for dealing with problems. He offered his own statistics. Guthrie said the bonds are not enough for someone to maintain a lawsuit. He said the expense incurred exceed what could be realized from a bond, so actions aren't filed. He felt two things would help solve the problem: 1) amend the loan bill to require AHFC not lend on homes built by unlicensed contractors; and 2) add a paragraph on page 2, line 13, to require the state keep on file sworn complaints, judgments, findings by arbitrators, etc. He said this would be helpful to be able to go to a central file and see what experiences other consumers have had with a builder.

Number 616 — ALAN EAKER of Wasilla felt the bill was misdirected in intent. He said existing

laws could be utilized to solve the problems the industry has. He said competency testing before licensing is an option, and the Department of Commerce looking into complaints of unlicensed contractors could aid enforcement.

Number 659

There being no other people wishing to testify, and no other business to come before the committee, the meeting was adjourned at 3:22 p.m.

MSG 82-00016811 PRTY 1 03/25/82 17:08:17 ORIG: LM00 IN= 0011 OUT= 0001
FROM: MARTIE/MATSU TO: JOAN, H. L&C
TARGET: LJHY SUBJ: PAGE 0001

HI JOAN, YOU WILL PROBABLY BE GONE BY THE TIME THIS GETS DOWN THERE, IT HAS BEE
N ONE OF THOSE DAYS.....
I'LL SEND ALL OF THE NAMES AND ADDRESSES FROM THAT T/C
JIM AND GAIL WILKINS (JIM WILKINS, BUILDER) BOX 259, WASILLA 376 2324
ROBERT VAN GORDER, VAN GORDER CONTRACTING, BOX 144, WASILLA 376 5672
DAVE GRUENKE, SRB BOX 7481, PALMER 745 4881
PAUL PERSINGER, PERSINGER HOMES, INC. BOX 270, WASILLA 376 3800
HELEN MUNOZ, A-1 CESSPOOL SERVICE, SRD. BOX 9152, PALMER 745 4380
CLIFF MARTIN, PO BOX 2110, WASILLA 745 5858
ALAN F. EAKER, GREAT LAND INTERIORS, PO BOX 554, WASILLA 376 5947

AND YOU ARE WELCOME-- AND I JUST FINISHED READING YOUR MESSAGE SAYING TO SEND
THIS TO LJHY, SO I WILL RESEND.
MARTIE

~~Mabrey joined mtg 1:37; left abt 15 minutes later~~

TELECONFERENCE

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/23/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:03	
Rep. D. Randolph	✓		1:20	1:33
Rep. B. Rogers	✓		1:05	
Rep. T. Gardiner	✓		1:22	
Rep. T. Martin, Chair	✓		1:00	1:40

Subject Matter:

House Bill No. 832

Senate Bill No. _____

Special Orders:

Gardiner, Randolph, & Martin left during mtg.

Absent:

H Labor & Commerce Tape #42
3/23/82 HB 832 #43
TELECONFERENCE

1:05

000 Call to order; introduced HB 832. Martin left 5 minutes after call to order

015 Lonnie Site, CPA, Anchorage – analyzed bill after contacting affected parties. Will forward copies.

CPA found projected rate of new home starts 4,000 - 4,500 ~~[illegible]~~ in Anc area. CPA supports most of HB 832, specifically:

1) .010 chng to registration rather than licensing
2) .08.01.021 appln for regs (maint by Dept of Comm of pub info file) especially (a)(5)
3) – suggests new subsection saying any member of public can submit documents against contractor to go in file
3) .031 – 2 yr registration
4) .041 – fees biennial
– might add provn that pay 1 fee to do other kinds of contracting as long as other reqmts are met (bonding, ins)
5) .101 – ins, wks comp
6) .102-.103 – surety fund; they like idea, but might need to be chngd or delayed; if no fund, support equivalent of malpractice ins or homeowners warranty fund.

Urg raising bonds, retain .071 if no surety this yr.

112 ($10,000 / $5,000)

111 also support regional arbitration boards

Urg comm pass Sec. 107 (p.6) – reg'd practices for home contractors; shd possibly be expanded to all contractors. Suggest deleting sub (5). Support passing sec. 108 – prohibited practices.

140 Urge adding to .108 making it a violation to do business in any name other than registered contractor name.

.109 — gives new enforcement tools. Easier for attys to handle cases. Would make state enforcement easier — injunctive powers.

.121 — support.

.125 - temp orders

(Secs .107-.108 tie in to .125)

Sec. 131 - support - injunctive pwrs

.171 — defns shd be put into effect, as present statutes lack this. suggest chng "homes" to "structures"

"home contractors" & "general contractors" need to be defined.

See II →

08.18.071 shd not be repealed if surety fnd not established, but shd be chngd to raise bonds & chng priorities against bonds (reverse priority)

253 Support more enforcement against unlicensed contractors.

Need better pub info & records on contractors.

Important to get these into effect this yr, especially in S. Central.

272 Rogers - re surety acct - this will be delayed; raise bonding 2,000 specialty, 10,000 general — wonders who will build info of new small cos, who can't afford bonding - who will build?

Shis not certain bonds are not available. (Referred to Terry Dale, Gov rep, to ask abt this). She wasn't sure people who can't afford this or time certificate of deposit belonged in business.

Rogers responded coming up w/capital for eqpt & tools, as well as $10,000 bond/certificate difference for many but lg contractors.

323 Site said contractor who does job under $10,000 is not req'd to be licensed. Supports financial commitment by contractor to back their work.

340 Rogers re .107 - req'd practices - concerned p. 7, l. 12 written contract —

esp: l. 18 matls to be used - time-consuming & lengthy process; signif cost in developing these figures; cd this be req'd only if customer suggests?

Site said, if matls are specified, it shd be written, not verbal. Cd be chngd to say any matls specifically agreed on re specified in contract.

388 Rogers - est. date of completion - so many things can delay completion, that are beyond contractor's control - late ferry, strike - what wd happen?

Site - go to arbitration bd or ct to look at reasonableness of delay. Cd be specified in Cavins; i cd also encourage contractor to add 30 days to estimat for completion.

435 Rogers, re affect on existing lien structure - sec. 107 req'd practices, p. 6, l. 29 - recalled other attempts to modify this law - difficult for legislature, unwilling to tamper. W/o survey find, how is this affected.

Site - shd not affect system, shd affect home contractor - before closing, will make sure liens aren't filed against purchaser. Puts burden on Drakes contractor, who is resp for lien.

498 Bob Evans - CPA, Anc - 97 consumer complaints filed since 1977 in Anc ofc; in 1981, 55-60 more recd on phone, no formal complaint filed. 1980, highest # complaints: 1,000 housing starts that yr. Projections for '82 indicate 33% increase over 1981. Possibly 35-40% increase this yr in housing starts. Most complaints resulted in:

1) no contractor response
2) cont had disappeared or absconded w/money (25 of 97 comps) (1 out of every 4)
3) partial correction or adjustment by cont to consumer
4) dispute in factual info; these were referred to legal system.

10% successful resolution rate in this area, compared to 40% of general complaints.

59% complaints major or serious nature.

Will forward memo.

607 Rogers asked if there are regional patterns in diffs in kinds of complaints. Evans hasn't compared to rest of state; broken down into MOA, Mat Su, Kenai. 74 of 97 were in Anc area. Rogers requested they compare to rest of state.

634 Brylowa asked - 10% resolved - what is meant? Evans - in 40% of all cases, are able to reach settlement satis to both parties. Only 10% resolution bet consumer & home contractor. Otherwise goes to ct, or remains unresolved.

Clarification of statistics. Evans responded.

669 Rogers - ~~did not~~ asked ~~if 5th was high or low complaint level~~.

Side B

039 Mat Su

Jim Wilkins, Wasilla - objects to 3 points:

1) surety acct 08.18.102 - makes good contractors pay for actions of poor contractors. Not opposed to increasing bond level, however thinks 10,000 & 25,000 excessive

2) .107 subrogation rights - 1.5 provide customer cy of dated invoice for mat'ls & labor - ~~does~~ objects to listing bidrs cost as opposed to retail cost. Would show profit contractor makes & will restrict profit.

3) 08.18.05 - ~~Comm of Labor has pwr to~~ Comm of Labor has pwrs ~~he~~ Wilkins disagrees with. Excessive man pwr over every contractor in state.

086 Dave Grenke, Palmer - disagrees w/ bill; agrees w/d cy registration. Strongly disagrees w/ surety fund & p. 8, # 5 - providing mat'ls & labor invoice - makes no sense, a lot of work & buyer knows what everyone is making.

~~Cut~~

Sitka

111 Harold Stocker – disagrees because most complaints are registered for people who hire prob'ly unlicensed contractors. This wd make wider gap of competition bet licensed & unlicensed; wd cost licensed cont more for bonding. Unlicensed cont's don't have costs licensed contrs have. Also, state doesn't enforce current licensing & registration reqm'ts enough.

Vilandre

137 Mary Lou ~~Vilandry~~ - specialty contr – opposed bill. Consumers do need protection, but need another way to go abt it.

Novcaski

153 William ~~Aotastky~~ – wonders how much this will add to cost of new home; believes in free enterprise & local enfcmt. Higher bonding won't insure houses are built to higher standard. Most houses in Sitka built by self-builders; doesn't insure person won't build sloppy house & sell it the next yr.

– l. 18, p. 7 ridiculous (listing brand names, etc); often have to substitute brands.

Fairbanks

189 Lorin Walker — opposed bill; majority of homebuilders & specialty contrs are unlicensed. His prices are already higher than unlicensed. Opposed to surety acct; money will have to come fm consumer, who can't afford prices now. Agrees w/ Stockes of Sitka. Unlicensed contractor is where prob comes fm.

Hingst

211 Hans ~~Hinkst~~ — N. Pole Electric - deals in residential wiring. Site is incorrect in not needing license or bond for work under $10,000. Major cause of consumer ~~cost~~ complaints is unlicensed contractor. Reason is state electrical inspectors have little or no authority on single family homes; can only check workman's license, but can't ck work. ~~Cost~~ Licensed contractor can't compete financially w/ unlicensed contractor. Suggested giving inspectors more authority in single family dwellings; permits & inspections; certificates of occupancy; more inspectors; or eliminate all licenses, inspections, permits, & let him compete w/ unlicensed contractor.

Ktn

275 Roland Stanton – funds # of complaints projected by CPA very small. Objects to whole bill; agrees w/other objections; also, already have bond which is in effect 5 yrs after going out of bus; liens; codes; court; UHs; arbitrators; many remedies. Contractor has whole net worth on the line on every job. If you want to see contr's license, you just ask for it. No need to chng registn to 2 yrs. Surety acct ~~xxx~~ increases costs of getting into business & doesn't increase cons. protn at all. No proven for size of operation. Sets up new bureaucracy in already heavily reg'd business. Laws already exist.

RE $5,000 gen contr bond – Need to increase; ~~need~~ state bond shd cover local work or state work; shdn't have to buy another bond. Opposed bill. Already overburdened. Bill won't help.

~~xxxxxxxx~~ Anc

364 ~~364 Post~~ William McNall, atty practicing in Anc, lives in E. River – practice as lawyer is w/defective housing litigation, deals mainly w/contractors. Some cons. protn reg'd. Statistics are fascinating. In Dec 1981, recd 1 case a day in ofc & referred 1-2/day for 2 wks around Xmas. ~~He~~ Recvd more complaints than CPA. Fm consumer pt of view, good bill. Industry needs enforced building codes, enforced by inspectors. Referred to Seth in Eagle R where contractors oppose codes. Contractors uncooperative, dishonest, & shirking responsibility. Unimpressed w bldg industry & ~~w~~ its ethics.

Ane

436 $5,000 bond too small. Needs to be raised to $50,000. If he can't afford bond, he can't stand behind his warranties.

Suggested

1) adopt bill + bar contrs from ct unless they're licensed
2) make lender resp to make sure bldr licensed or bonded.

468 Michael ~~Stilley~~ Stilley — VP Const Loans, United Bank of Ct — bill needs work. Bldrs need protection; licensing needs to be more difficult to obtain to keep ~~the~~ shoddy bldrs out of market. Testing may be an answer. Work shd be effected thr/ media task force. Those in industry are ethical + trying to do good job. Surety bond is inequitable. Bill makes escape clause for bldr bldg only 1 house; if he sells it, law shd apply. Distinction shd be made bet spec bldr + bldr who contracts w/ consumer. Re public safety — ~~the~~ they're funded by bldg permits issued; bldg inspection is public safety; depts shd be funded, consistent policy.

553 Rogers — diff bet spec + custom built homes in terms of involvement of consumer in bldg — might need different rules. Thought creating task force to work on this over interim is excellent idea. ~~Fees~~ Having banks resp for licensed contractors on anything financed w/ state money is good + wd be easy to legislate.

598 Stilley — re registry for contractors — wd like to have agency monitoring registered bldrs + complaints.

Juneau

654 Clay Porter, pres, AK State Homebuilders Assn —
bill has probs, but also positive points
1) needs to be more protn + improved cont. licensing law.
Existing law has splet authority bet Dept Comm & Dept Labor.
Shd be changed
2) Agree there shd be task force set up.
3) Existing laws need better enforcement
4) Bank verification & AHFC verifn of licensed contrs is good.
Banks rarely ask for license.
5) Maint contrs have no license at all.
6) Anc ~~bas~~ is dealing w/ law on test + licensing new reqmts; also ~~to~~ local enfcmt
on other ways (land use permits, well + septic permits/
inspections)
7) Have proper monitor in detail re # + nature of complaints
8) ~~Ref~~ beds shd also be protected. Costs contrs wd incur, under bill are too
high.

Tape 2
045 Rogers requested cing of stmt.

050 Beverly McClintock, pres, AK Homebuilders Assn — although law
was meant well, there are gaps
1) creates surety fnd which is homeowners warranty.
If there is need, cost of fnd shd be borne by owner
rather than contrctr. As set up, it's a first resort fnd;
shd be last resort.

June

070 McC, cont'd

2) need task force

3) banks, at Hog & city inspectors shd have great part in ckg licenses + setting up consumer protn.

Biggest prob w/ bill is good contrcts pay for bad ones.

Haines

075 Tom Hall – contrcts – surety fnd will affect him badly. Shd be scaled according to # homes built. Doesn't want to report actual costs. Licensed contractors will pay more than unlicensed.

Petersburg

111 Tom Bodett – gen contrcts – most points already brought up. Not sure surety fnd will make diff in his bonding costs. If fnd set up, shd repeal statute req'g bonds for 5 yrs after wk completed. Much of his bus is on hons system; bill wd require disclosures the consumer may not want. Perhaps informing consumer of rights wd be enough. Restrictions would hinder small bldrs.

Sitka
Ker Helem
153 ~~Kent Hellem~~, elect. contrcts – agrees cons. protn necessary. Better enforcement + moving cntr's records for licensing cd alleviate prob. More regs will reflect on consumer eventually. Shd be geared to # houses built.

That Sh

167 Paul Persinger - what determines complaint, + how are costs determined. Wondered how many boards wd be req'd to hear complaints. Some bldrs have purchased warranty pgm; local home builders mediate.

Kodiak

190 Dick Rorher Roar — agree that cons needs protn, but surety fnd won't do it. $500,000 too low if fnd were used. Increasing bonding may be good suggn. Ins agent told him probly neither, he nor abt 5 other bldrs he's talked w/ca ~~$50,000~~ get $25,000 bond. Enforcing bldg codes is an area needing improvemt. He's an unlicensed contractor — feels he does good work (builds 1 spec house per yr). Stakes his reputation against any licensed cntr in Kodiak, + feels exemption shd remain.

Hoonah

233 Pat Verdugo Perdueo — recently dealt w/ contractor. Paid him in full 10/10, though wk was not completed. State inspectors found elect + plumbing violations; gen'l contractor won't repair these, + won't complete wk he didn't finish. Can't find any way to attach his bond; attys don't want to handle case; plumber + contractor unlicensed. Can't get relief. Doesn't know if bldr is answer, but if cntrs history was on file, cd keep others from having same prob.

281 Rogers asked if she had asked if contr was licensed. She said he reg'd & believed himself to be. Licensed now, but wasn't at that time (& license app was lost or not sent). Electrician ~~wasn't~~ wasn't licensed. Called state elect. & plumbing inspectors to do inspections. One vindication was so bad they were on the verge of the fire.

326 Rogers suggd not paying until all work completed.

Anc

331 Robert ~~Haines~~ Haines, Greater Anc Bldrs Council — want parts of bill amended & parts added to existing law: pub. info; contracts ~~putting~~ making both parties aware of bldg industry procedures; & protection of prevention adopted. Prob lies w/ qualified contractors, not just licensing, as anyone can get license. Not against raising bond limit.

371 Earl ~~Eardale~~ Carlisle — surety acct unacceptable. Wants HB 240 adopted & attached to bill. Would also like something done about fly by nights. 50% of advertisements in papers are fly by nighters.

Sitka

395 Michael Reyman — consumer — had custom home built. All contractors shouldn't pay for bad ones. Presently in lawsuit over home he had built. Amt stated for surety acct not enough. Perhaps a portion of bank fndg shd be held for a period after home has been lived in.

446 Sanderson checked sites – that Su had one

Jeneane Gaughon

462 Breen ~~Gore~~, homebldg industry of ~~ST~~ to – amazed that 3-5% of all people who might be damaged can hold, 95-97% industry liable.

502 Joe Guthrie, atty – different interpretn of stats –, that 3-5% of people have notified CPA shd indicate CPA does not have effective remedies for dealing w/ probs. Called Occl Licensing; bet 1/1/80 & 1/30/81 3,576 specialty & gen contractr licensed; 45 people satisfd jdgmts against gen'l contractrs, 20 against specialty. Low percentage indicates how ineffective system is. Bonds aren't enough for someone to maintain lawsuit. Expense incurred exceeds what can be realized from bond, so actions aren't filed.

Two things wd help solve prob

1) amend loan bill to require AHFC not purchase licenses not built by licensed contractors
2) ~~adopt recom~~ add para on pg 2 l. 13 to require state keep on file sworn complaints, jdgmts, findings by arbitrator, etc. Wd be helpful to be able to go to central file & see what experiences other consumers have had.

Mat Su

616 ~~Atler~~ Alan Eaker ~~Ecker~~ – Wasilla – bill misdirected in intent. Existing laws cd be utilized to solve probs industry has. Competency testing before licensing ~~examination~~ is an option, & Dept Comm looking into complaints of unlicensed contractors cd aid enforcement.

659 Adj. 3:22

Bernie note → * - to testify

SIGN-IN SHEET

HB 83

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Judy Gilmore	9349 La Venture Ct.	Regulatory Reform Program	NO	789-0512
NANCY MATLOCK	PRUCH AN, JUNEAU	REGULATORY REFORM PROGRAM	No	465-3538
STEVE WINTERS	PO Box 2540 JUNEAU	WINTERS ELECTRIC INC	✓	789-9807
Lou Cook	Couch D Juneau	Commerce & Econ Dev	No	
HARRY D. TREAGER	Couch D Juneau	Div Occup. Licensing	No	465-2534
DON KOCH	" " "	DIV INSURANCE	NO	465 2577
GORDON J. GLEFFE	PO Box 383	G+G Const	No	784-0307
Jim McConaghy	Box 273 Auke Bay	McConaghy Const	No	789-9547
Preston Burnett	9352 Center Ct Juneau	Burnett & Son Const	NO	784-4143
Ben P. Bayden	3220 Sleeping Lady Dr. Anch AK	Home Builders Assn	* YES *	276-4470 344-1997
Richard O Wilbur	SR Box 50124 Fairbanks	Home Builders	NO	456-5426
Darrel E Dees	Box 22064 Juneau	Home Builder	NO	9-9767
Fred Ferrara	550 W 54th Ave Anchorage	Home Builders Assn	No	278-5537
Mike Bickley	213 Seward St Juneau	My Self	Yes	586-6151
Tom Hamilton	PO Box 971 Auke Bay	Quick Draw Const	no	789-0050
Tom Hamilton	PO Box 2231 Juneau	Hamilton Const	No	789-0409
Howard Morgan	4910 Byrd Dr Anch	Home Builders	No	243-5101
Rob Graeme	2702 Glenbell St	Home Builders	NO	279-0
BOB JOHNSON	P.O. Box 564 WASILLA, AK	Home Builders	NO	376-57
LARRY BEATHE	4141 Apollo Dr.	Home Builders	No	337-2705

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3-23-82

* to testify

SIGN-IN SHEET

HB832.

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Beverly Mollenbrock	Po Box 81042	HBA-AK State	no.	456-7421
Mitchell L. Robinson	Box 6395 Idotna	HBA AK State	NO	262-5074
Blair Jones (North N.C. Portion)	118 E. Int'l Airport Rd. Anch.	" " " *	Yes *	276-3713
Clark Greening	3200 madison way	HBA AK State	No	
JN Malapan	Po Box 2040	HBA AK STATE	* Yes *	376 5130

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3-23-82

MSG 82-00016479 PRTY 1 03/24/82 16:43:26 ORIG: LM00 IN= 0016 OUT= 0001
FROM: MARTIE/MATSU TO: JUAN, H. L&C
TARGET: LJHT SUBJ: HB 832 T/C PARTICIPANT PAGE 0001

DAVE GRUENKE IS THE CORRECT SPELLING IF THE PARTICIPANT'S NAME,
HIS ADDRESS IS SR9, BOX 7481, PALMER

OK?

WHAT ARE YOU DOING DOWN THERE? FOUR MART!

MSG 82-00016004 PRTY 1 03/23/82 12:54:28 ORIG: LA08 IN= 0011
FROM: CAROL/ANCHORAGE TO: JACK JUNEAU T/C
ANC TARGET: LJE5 SUBJ: HOUSE L & C TELECONFERENCE PAGE 0001

PARTICIPANTS THUS FAR:
WILLIAM MCNEIL 1.
JOHN W. COLVER2.
MICHAEL STILEY3.
BOB EVANS4.
CONNIE STPES5.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00016008 PRTY 1 03/23/82 12:57:41 ORIG: LO00 IN= 0006 OUT= 0005
FROM: KODIAK TO: JUNEAU T/C
KOD TARGET: LJE5 SUBJ: HOUSE L&C REG. OF CONTRACTORS T/C PAGE 0001

KODIAK HAS TWO OBSERVERS AT THIS TIME WHO MAY WANT TO TESTIFY AT A LATER TIME:
RICHARD ROHRER, BOX 2219, KODIAK, AK. 99615, 486-5835
RICHARD LIEN, BOX 1529, KODIAK, AK. 99615, 486-6241

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00016009 PRTY 1 03/23/82 12:58:23 ORIG: LK00 IN= 0002 OUT= 0006
FROM: BONNIE/KETCHIKAN TO: JUNEAU T.C
KTN TARGET: LJE5 SUBJ: HOUSE L &C, HB 832 T/C PAGE 0001

I HAVE TWO PERSONS WHO WHTCH TO TESTIFY:
ROLAND STANTON, 3817 FAIRVIEW AVE., KETCHIKAN, 225-3406
WILLIAM O. RODGERS, BOX 7513, KETCHIKAN, 225-6292
THATS ALL FOR HERE. EOM/BCF

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00016010 PRTY 1 03/23/82 13:02:19 ORIG: LS00 IN= 0011 OUT= 0007
FROM: SITKA TO: JUNEAU
TARGET: LJE5 SUBJ: HOUSE L & C TELECONFERENCE-CONTRACTORS PAGE 0001

TO PARTICIPATE:
SKA HAROLD STOCKER, BOX 2457, SITKA 747-5110
MARY LOU VILANDRE, BOX 1420, SITKA 747-8806
WILLIAM NOVCASKI, BOX 896, SITKA 747-8966

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00016011 PRTY 1 03/23/82 13:00:30 ORIG: LF01 IN= 0005 OUT= 0008
FBK FROM: DEBBIE/FBX TO: JACK/JUNO
TARGET: LJE5 SUBJ: CONTRACTORS REGS. T/C PAGE 0001

WE HAVE TWO PARTICIPANTS WHO WISH TO TESTIFY:
1. LORIN M. WALKER JR., WALKER CONSTRUCTION, BOX 2580, FBX 99707 488-2346
2. HANS F. HINGST, NORTH POLE ELECTRIC, SR 80430, FBX, AK 99701 488-2967

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

M-S MSG 82-00016012 PRTY 1 03/23/82 13:01:46 ORIG: LM00 IN= 0007 OUT= 0009
FROM: DIANE/MATSU TO: JUNEAU T/C
TARGET: LJE5 SUBJ: PARTICIPANTS PAGE 0001

WE HAVE ONE PARTICIPANT:
JIM WILKINS BOX 259, WASILLA 99687 376-2324
REPRESENTING - SELF
TWO OBSERVERS:
GAIL WILKINS BOX 259, WASILLA 99687 376-2324
BUILDER
ROBERT VANGORDER BOX 144, WASILLA 99687 376-5672
REPRESENTING - VANGORDER CONTRACTING

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00016015 PRTY 1 03/23/82 13:04:10 ORIG: LA08 IN= 0013 OUT= 0010
FROM: NICKI IN ANCHORAGE TO: JACK IN JUNEAU
ANC TARGET: LJE5 SUBJ: H. LABOR & COMM. T/C PAGE 0001

A NOTE, BOB EVANS AND CONNIE SIPES ARE REPRESENTING THE CONSUMER PROTECTION AGENCY.
WE ALSO HAVE 2 OBSERVERS WHO MAY DECIDE TO SPEAK LATER

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00016016 PRTY 1 03/23/82 13:05:24 ORIG: LI00 IN= 0002 OUT= 0011
DIL FROM: DOROTHY IN DILLINGHAM TO: JACK/JNU
TARGET: LJE5 SUBJ: H L&C T.C. PAGE 0001

WE DO NOT HAVE ANY PARTICIPANTS IN DILLINGHAM THIS MORNING, SHOULD ANY ARRIVE, WE WILL LET YOU KNOW.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00016018 PRTY 1 03/23/82 13:09:43 ORIG: LB00 IN= 0003 OUT= 0012
BET FROM: HELEN/BETHEL TO: JACK IN JUNEAU
TARGET: LJE5 SUBJ: H. LABOR & COMM. T/C PAGE 0001

BETHEL DON'T HAVE ANY PARTICIPANTS AT THIS TIME AND I AM NOT EXPECTING ANY NO ONE HAVE CALLED IN REGARDING THIS T/C. BO, WE WILL LET YOU KNOW IF WE DO GET AN PARTICIPANT. THANK YOU.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00016023 PRTY 1 03/23/82 13:11:04 ORIG: LS00 IN= 0012 OUT= 0014
SKA FROM: SITKA TO: MODERATOR
TARGET: LJE5 SUBJ: HB 832 TELECONFERENCE PAGE 0001

TO TESTIFY:
G. KEN HELEM, SITKA ELECTRIC, BOX 1609, SITKA, AK. 99835 747-8752
TO OBSERVE:
GERALD HUGHES, CITY & BOROUGH OF SITKA, BOX 79, SITKA, AK. 99835 747-3295
TALLY THUS FAR: 4 WITNESSES AND 1 OBSERVER IN SITKA.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

KOD
MSG 82-00016024 PRTY 1 03/23/82 13:16:34 ORIG: L000 IN= 0007 OUT= 0015
FROM: KODIAK TO: JUNEAU T/C
TARGET: LJE5 SUBJ: HOUSE L&C T/C PAGE 0001

KODIAK HAS TWO MORE OBSERVERS WHO MAY WANT TO TESTIFY LATER:
DONALD SWANSON BOX 2666 KODIAK, 486-3351
JAMES WHEELER BOX 417 KODIAK, 486-3707
SCOTT ARNDT, BOX 489, KODIAK, AK. 99615. 486-3745

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

SDT
MSG 82-00016028 PRTY 1 03/23/82 13:21:42 ORIG: LL00 IN= 0002 OUT= 0016
FROM: MILLIE/SOLDOTNA TO: JACK IN JUNEAU
TARGET: LJE5 SUBJ: 3/23/82 HOUSE L.& C. PAGE 0001

LARRY DERLETH : IS HERE TO OBSERVE AND MAY DECIDE TO SPEAK LATER.
BOX 914
SOLDOTNA, AK. 99669
262-4631

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

SKA
MSG 82-00016035 PRTY 1 03/23/82 13:22:21 ORIG: LS00 IN= 0013 OUT= 0017
FROM: SITKA TO: JUNEAU
TARGET: LJE5 SUBJ: H. LABOR & COMMERCE T/C PAGE 0001

OBSERVER NUMBER 2
J.D HOLMES, 747-3030, SITKA

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

FBK
MSG 82-00016045 PRTY 1 03/23/82 13:53:29 ORIG: LF01 IN= 0007 OUT= 0018
FROM: DEBBIE/FBX TO: JACK/JUNO
TARGET: LJE5 SUBJ: CONTRACTOR'S T/C PAGE 0001

PARTICIPANTS CON'T
3. PAT VERDUGO, LITTLE LAMBS DAY CARE, 315 NOYES ST., FBX 456-4465

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

ANC
MSG 82-00016051 PRTY 1 03/23/82 13:45:34 ORIG: LA08 IN= 0014 OUT= 0001
FROM: CANDY/ANCHORAGE TO: JUNEAU T/C
TARGET: LJE5 SUBJ: HOUSE L & C TELECONFERENCE PAGE 0001

ADDITIONAL PARTICIPANTS:
ROBERT HAINES
TERRY SULLIVAN
EARL CARLYLE
MR. EARL CLOVER HAD TO LEAVE AND WILL NOT BE SPEAKING -- SOME OF
OUR OBSERVORS ARE STILL CONSIDERING SPEAKING.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

KOD
MSG 82-00016064 PRTY 1 03/23/82 14:01:52 ORIG: L000 IN= 0012 OUT= 0019
FROM: KODIAK TO: JUNEAU T/C
TARGET: LJE5 SUBJ: HOUSE L&C CONTRACTOR REG. T/C PAGE 0001

KODIAK HAS A SIXTH OBSERVER AT THIS TIME:

KOD

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

FBK MSG 82-00016071 PRTY 1 03/23/82 14:20:00 ORIG: LF01 IN= 0009 OUT= 0020
FROM: DEBBIE/FBX TO: JACK/JUNO
TARGET: LJE5 SUBJ: CONTRACTOR'S T/C PAGE 0001

MS. VERDUGO HAD TO LEAVE AND WE HAVE NO OTHER PARTICIPANTS AT THIS TIME
OBSERVERS:
1. LARS EHRLANDER, UNIQUE BUILDERS, SR BOX 30502, FBX, AK 479-3885
2. JOHN WALLNER, WALLNER BUILDERS, SR 50127, FBX, AK 99701 452-5907
3. GLENN SPAULDING, BOX 2619, FBX, 456-4957

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

SKA MSG 82-00016072 PRTY 1 03/23/82 14:20:55 ORIG: LS00 IN= 0015 OUT= 0021
FROM: SITKA TO: MODERATOR
TARGET: LJE5 SUBJ: HB 832 T.C. PAGE 0001

CONFIRMING THAT WE STILL HAVE ONE WITNESS WAITING IN SITKA. THIS IS
MR. G. KEN HELEM.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

SKA MSG 82-00016073 PRTY 1 03/23/82 14:24:38 ORIG: LS00 IN= 0016 OUT= 0022
FROM: SITKA TO: MODERATOR
TARGET: LJE5 SUBJ: HB 832 T.C. PAGE 0001

TWO ADDITIONAL OBSERVERS:
MR. & MRS. MIKE RYMAN, BOX 4222, MT. EDGECUMBE, AK. 99835
NOTE: MR. RYMAN MAY WISH TO TESTIFY BUT WANTS TO LISTEN RIGHT NOW.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

KOD MSG 82-00016074 PRTY 1 03/23/82 14:26:46 ORIG: LO00 IN= 0013 OUT= 0023
FROM: KODIAK TO: JUNEAU T/C
TARGET: LJE5 SUBJ: TODAYS T/C HOUSE L&C PAGE 0001

RICHARD RORHER WOULD LIKE TO TESTIFY
ALSO SCOTT ARNDT WOULD LIKE TO TESTIFY

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

FBK MSG 82-00016081 PRTY 1 03/23/82 14:49:46 ORIG: LF01 IN= 0010 OUT= 0024
FROM: MAXINE/FBX TO: JUNO T/C
TARGET: LJE5 SUBJ: H. LABOR & COMM T/C 3/23 PAGE 0001

FBX PARTICIPANT-------PAT VERDUGO HAS RETURNED AND WISHES TO TESTIFY
AT THIS TIME.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

SKA MSG 82-00016084 PRTY 1 03/23/82 14:56:25 ORIG: LS00 IN= 0018 OUT= 0025
FROM: SITKA TO: MODERATOR
TARGET: LJE5 SUBJ: HB 832 T.C. PAGE 0001

I HAVE ONE OBSERVER WHO WOULD NOW LIKE TO TESTIFY:
MR. MIKE RYMAN

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

M-S MSG 82-00016091 PRTY 1 03/23/82 15:16:36 ORIG: LM00 IN= 0010 OUT= 0026
FROM: DIANE/MATSU TO: JACK IN JUNEAU
TARGET: LJE5 SUBJ: PARTICIPANTS PAGE 0001

ONE MORE PARTICIPANT:
ALAN EAKER - DBA GREAT LAND INTERIORS, P.O. BOX 554, WASILLA 376-5947
ONE MORE OBSERVER:
CLIFF MARTIN - P.O. BOX 2110, WASILLA 99687 745-5858

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00016094 PRTY i 03/23/82 15:29:47 ORIG: LS00 IN= 0019 OUT= 0027
SKA
FROM: SITKA TO: MODERATOR
TARGET: LJE5 SUBJ: FINAL LIST T/C RE HB 832 CONTRACTORS PAGE 0001

TESTIFIED:
HAROLD STOCKER, STOCKER CONSTRUCTION, INC., BOX 2457, SITKA, AK.
MARY LOU VILANDRE, FRANKS PLUMBING, HEATING, AND SHEETMETAL, BOX 1420, SITKA.
WILLIAM NOVCASKI (SITKA BUILDER), BOX 896, SITKA, AK.
G. KEN HELEM, SITKA ELECTRIC, BOX 1609, SITKA, AK.
MIKE RYMAN, BOX 4222, MT. EDGECUMBE, AK.
OBSERVED:
GERALD HUGHES, CITY & BOROUGH OF SITKA, BOX 79, SITKA, AK.
J.D. HOLMES, GENERAL CONTRACTOR, STAR ROUTE, SITKA, AK.
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NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00016094 PRTY i 03/23/82 15:29:[illegible] ORIG: LS00 IN= 0019 OUT= 0027
FROM: SITKA TO: MODERATOR
TARGET: LJE5 SUBJ: FINAL LIST T/C RE HB 83[illegible] CONTRACTORS PAGE 0001

TESTIFIED:
HAROLD STOCKER, STOCKER CONSTRUCTION, INC., BOX 2457, SITKA, AK.
MARY LOU VILANDRE, FRANKS PLUMBING, HEATING, AND SHEETMETAL, BOX 1420, SITKA.
WILLIAM NOVCASKI (SITKA BUILDER), BOX 896, SITKA, AK.
G. KEN HELEM, SITKA ELECTRIC, BOX 1609, SITKA, AK.
MIKE RYMAN, BOX 4222, MT. EDGECUMBE, AK.
OBSERVED:
GERALD HUGHES, CITY & BOROUGH OF SITKA, BOX 79, SITKA, AK.
J.D. HOLMES, GENERAL CONTRACTOR, STAR ROUTE, SITKA, AK.
###

NXT MSG U/R/S R PREV MSG U/R/S _ RESEND _ CANCEL _
MSG337 NO NEXT MESSAGE WITH GIVEN QUALIFICATIONS EXISTS

Introduced: 2/16/82
Referred: Labor & Commerce and Finance

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

HOUSE BILL NO. 832

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

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

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

* Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

(24) regulation of general contractors, specialty contractors, general home contractors, and specialty home contractors.

* Sec. 2. AS 08.18.021 is amended to read:

Sec. 08.18.021. APPLICATION FOR REGISTRATION. (a) An applicant for registration as a contractor shall submit an application under penalty of perjury [OATH] upon a form to be prescribed by the commissioner and which shall include the following information pertaining to the applicant:

(1) employer social security number;

(2) type of contracting activity, whether a general, [OR] a specialty, a general home, or a specialty home contractor and if a specialty or a specialty home contractor [THE LATTER], the type of specialty;

(3) the name and address of each partner if the applicant is a firm or partnership, or the name and address of the owner if the applicant is an individual proprietorship, or the name and address of the corporate officers, registered [AND STATUTORY] agent, and person actually responsible for the supervision of the contracting activity [IF ANY,] if the applicant is a corporation;

(4) if the applicant is a general home or specialty home con-

tractor, the construction experience and business history of the applicant, including

(A) the name of any officer, principal, partner, or supervisory employee of the applicant who is, or who was, registered or licensed as a contractor;

(B) the states or jurisdictions in which a person named under (A) of this paragraph is, or was, licensed or registered, and the dates of licensure or registration; and

(C) whether a license or registration named under (B) of this paragraph is, or was, suspended or revoked, and the reasons for suspension or revocation;

(5) all other names under which the applicant is registered, or has ever been registered, as a contractor.

(b) The information contained in the application shall be maintained by the department in that applicant's file and shall be a matter of public record and open to public inspection.

* Sec. 3. AS 08.18.031 is amended to read:

Sec. 08.18.031. CERTIFICATE OF REGISTRATION -- ISSUANCE, DURATION, RENEWAL. A certificate of registration shall be renewed biennially and lapses as provided by AS 08.01.100 [EXPIRES ON JUNE 30 OF EACH YEAR FOLLOWING THE DATE OF ISSUANCE OR RENEWAL AND SHALL BE RENEWED UNDER THE SAME REQUIREMENTS AS FOR AN ORIGINAL REGISTRATION]. The commissioner shall issue to the applicant a certificate of registration upon compliance with the registration, insurance, and surety requirements of this chapter, unless registration is denied as provided by AS 08.18.125.

* Sec. 4. AS 08.18.041 is amended to read:

Sec. 08.18.041. REGISTRATION AND RENEWAL FEES. The applicant shall pay to the commissioner a registration or renewal fee as follows:

(1) general contractor.....$200 [$100]

Need time limit for claims? 1 yr - 3 yrs etc.!!!

(2) specialty contractor.....$100 [50]

(3) general home contractor.....$100

(4) specialty home contractor.....$50

* Sec. 5. AS 08.18.101 is amended to read:

Sec. 08.18.101. INSURANCE REQUIRED. Each applicant, at the time of applying for registration, shall file with the commissioner satisfactory evidence that the applicant has in effect

(1) public liability and property damage insurance covering his contracting operations in the sum of not less than $20,000 for damage to property, $50,000 for injury, including death, to any one person and $100,000 for injury, including death, to more than one person;

(2) workers' compensation insurance as required by AS 23.30-045 - 23.30.095.

* Sec. 6. AS 08.18 is amended by adding new sections to read:

Sec. 08.18.102. HOME CONSTRUCTION SURETY ACCOUNT. (a) The home construction surety account is established as a special account in the general fund to carry out the purposes of this chapter. The account consists of surety fees paid by registered general home and specialty home contractors under this section. The department may spend money in the account to satisfy claims filed under this chapter. The department may also spend money in the account, in an amount not to exceed $25,000 annually, for home construction educational purposes. "Home construction educational purposes", as used in this section, includes

(1) production and distribution of educational materials and programs for home contractors and consumers; and

(2) development and distribution of forms for contractors, customer evaluation, and complaints.

(b) A general home contractor, when applying for or renewing his registration, shall pay to the department, in addition to the registra-

tion fee, a surety fee not to exceed $1,000. A specialty home contractor, when applying for or renewing his registration, shall pay to the department, in addition to the registration fee, a surety fee not to exceed $500. A surety fee shall be paid for each name under which a contractor registers to do business as a home contractor. When the amount paid into the home construction surety account reaches $500,000, the department shall by regulation adjust the surety fees so that the account is maintained at a level of approximately $500,000. All surety fees collected by the department shall be paid at least once a month by the department into the general fund. These payments shall be credited to the home construction surety account.

Sec. 08.18.103. CLAIMS. (a) A person who has a complaint against a home contractor for loss of money, personal property, or real property may file a claim with the department. Claims may be made for a loss resulting from the following actions:

(1) misrepresentation;

(2) nonpayment to materialmen, subcontractors, or laborers;

(3) defective materials or negligent workmanship;

(4) conversion of interim construction loan funds;

(5) violation of this chapter;

(6) an unfair or deceptive act or practice under AS 45.-50.471 - 45.50.561.

(b) A claim shall be made on a form furnished by the department and shall be executed under penalty of perjury. The person making the claim shall supply the following information:

(1) the name and last known address of the home contractor;

(2) the amount of the loss;

(3) the date or period of time during which the loss occurred;

(4) the date upon which the loss was discovered;

(5) the name and address of the claimant; and

(6) a description of the transaction that resulted in the loss claimed.

(c) A copy of a claim filed with the department under this section shall be sent to the last known address of the home contractor against whom the claim is filed.

(d) Upon receipt of a claim filed under this section, the department may

(1) take and hear evidence on the claim;

(2) administer oaths and affirmations;

(3) compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents;

(4) hire an investigator, accountant, contractor, or other expert;

(5) hold a hearing, in accordance with the Administrative Procedure Act (AS 44.62), on the claim.

(e) The home contractor shall be given an opportunity, within 20 days after receipt of notification of a claim filed under this section, to file a written statement and to present evidence in opposition to the claim.

Sec. 08.18.104. FINDINGS AND AWARD. At the conclusion of its consideration of a claim filed under AS 08.18.103, the department shall make written findings and conclusions. If the department finds that the claimant has suffered a loss in a transaction as a result of an action described in AS 08.18.103(a)(1) - (6) by a home contractor, the department may award a claimant an amount out the home construction surety account not to exceed $20,000 on a claim against a general home contractor and not to exceed $10,000 on a claim against a specialty home contractor.

Sec. 08.18.105. MAXIMUM LIABILITY AND PAYMENT PRIORITY. (a) The maximum liability of the home construction surety account for claims filed in each biennial registration period may not exceed $60,000 for one general home contractor or $30,000 for one specialty home contractor. This maximum liability amount applies to all names under which a person is registered to do business as a home contractor.

(b) If the maximum liability of the home construction surety account as provided in (a) of this section is insufficient to pay in full the valid claims of all persons who have filed claims against one home contractor, the maximum liability amount shall be distributed among the claimants on a pro rata basis. Distribution shall be made among the claimants without regard to the order of time in which the claims were filed.

(c) If the balance of the home construction surety account is insufficient at a given time to satisfy a claim that has been granted by the department, the department shall, when additional amounts have been deposited in the account, satisfy unpaid claims in the order that the claims were originally filed, plus interest at the rate of 10 percent a year.

Sec. 08.18.106. SUBROGATION RIGHTS. When the department has made a payment to a claimant from the home construction surety account, the department shall be subrogated to all of the rights of the claimant and the claimant shall assign all of his rights in that portion of the claim to the department. Amounts subsequently realized by the department on the claim shall be deposited in the home construction surety account.

Sec. 08.18.107 REQUIRED PRACTICES FOR HOME CONTRACTORS. Each home contractor, registered or required to be registered under this chapter, shall

(1) pay all subcontractors and materialmen so that no liens

are filed against the customer's property, and furnish the customer, upon request, waivers of liens from all subcontractors and materialmen within 30 days of completing a job or within 30 days of notice of a lien, unless the subcontractor's or materialman's claim is the subject of a bona fide dispute; in that case, the contractor is not required to furnish a waiver until the dispute is settled;

(2) furnish to the customer, at the time of signing, a copy of all written documents signed by the customer;

(3) notify the department, within 10 days, of any change in ownership or management control or of change of address or business name;

(4) provide the customer with a written contract, if the total contract price for materials, labor, and service exceeds $200, containing the following information:

(A) total contract price or a statement of the hourly labor charge and an estimate of total cost;

(B) a description of work to be done;

(C) materials to be used, described by brand name, weight, size and color;

(D) any guarantee or warranty made to the owner, and any exclusions, exceptions, and limitations;

(E) the estimated date of completion;

(F) a payment schedule;

(G) an agreement to restore or repair any part of the customer's home or personal property destroyed or damaged as a result of the acts of the home contractor, his agent, or subcontractor; and

(H) the signatures of the customer and the home contractor and the registered business name, address and telephone number

of the home contractor;

(5) provide to the customer, at the time the work is completed, a copy of a dated invoice listing the costs of all materials and labor;

(5) provide to a prospective customer a brochure which the department shall prepare providing the following information:

(A) a statement that the department's registration of a contractor is not an endorsement or an evaluation of that contractor's qualifications;

(B) an evaluation form;

(C) the address and phone number of at least two of the department's offices where copies of all customer home contractor evaluations, complaints, and claims regarding the contractor are maintained and open to public inspection;

(D) an explanation of complaint procedures, including a description of the home construction surety account established by AS 08.18.102.

Sec. 08.18.108. PROHIBITED PRACTICES. (a) A home contractor may not misrepresent, directly or by implication,

(1) the cost of construction or repair authorized by the customer;

(2) the terms or conditions of a warranty;

(3) that construction, repairs, or alterations are necessary if they are not necessary;

(4) that construction, repairs, or alterations have been made if they have not been made; or

(5) that the home is in a dangerous condition or in a condition not in compliance with building codes.

(b) A home contractor may not collect or attempt to collect for

(1) construction, repairs, or alterations not authorized either orally or in writing by the customer;

(2) unnecessary construction, repairs, or alterations;

(3) construction, repairs, or alterations that have not been made.

(c) A home contractor who warrants his work may not refuse to repair a home in accordance with the terms and conditions of the warranty.

(d) A home contractor may not file a lien on a customer's home because the customer has refused to pay for unauthorized construction, repairs, or alterations, or because the customer has refused to pay construction, repair, or alteration charges in excess of the price authorized in the written work agreement, if the customer pays the authorized price for authorized construction, repairs, or alterations.

(e) A home contractor may not alter any part or fixture of a home with intent to create a condition requiring repairs.

(f) A home contractor may not make a material misrepresentation in the procurement of a home construction contract, or make a false promise likely to influence, persuade, or induce a customer to enter into a home construction contract.

(g) A home contractor may not gain entry or access into a prospective customer's home or onto his property under the guise of a governmental inspection, right or duty, or under the guise that the home contractor or his agent is a government or public utility inspector or representative.

(h) A home contractor may not ask or require a customer to sign a completion form before the work or job is completed in accordance with the provisions of the construction contract.

(i) A home contractor may not advertise that the advertised price

or offer includes delivery or installation, if delivery or installation is not included.

(j) A home contractor may not fraudulently execute or alter a building contract, mortgage, promissory note, or other document made in connection with a home contracting transaction.

(k) A home contractor may not perform work or use any materials in violation of the building, housing, sanitary, health, or fire laws or ordinances of the state or the local jurisdiction in which the home is located.

(l) A home contractor may not transact business under any name other than the one under which he is registered.

(m) A home contractor may not alter plans or specifications made in a home construction contract in any material respect without prior written consent of the customer.

(n) A home contractor may not display a false or forged registration.

Sec. 08.18.109. UNFAIR METHODS OF COMPETITION AND UNFAIR AND DECEPTIVE TRADE PRACTICES. An act or practice by a home contractor that does not comply with the requirements of this chapter constitutes an unfair method of competition and an unfair and deceptive act or practice for the purposes of AS 45.50.471 - 45.50.561.

* Sec. 7. AS 08.18.121 is amended to read:

Sec. 08.18.121. SUSPENSION AND REVOCATION OF REGISTRATION. (a) If the insurance required by [IN] AS 08.18.101 ceases to be in effect, the registration of the contractor shall be suspended until the insurance has been reinstated.

[(b) IF A FINAL JUDGMENT IMPAIRS THE LIABILITY OF THE SURETY UPON THE BOND OR DEPLETES THE CASH DEPOSIT SO THAT THERE IS NOT IN EFFECT A BOND UNDERTAKING OR CASH DEPOSIT IN THE FULL AMOUNT PRESCRIBED IN

AS 08.18.071, THE REGISTRATION OF THE CONTRACTOR INVOLVED SHALL BE SUSPENDED UNTIL THE BOND LIABILITY IN THE REQUIRED AMOUNT, UNIMPAIRED BY UNSATISFIED JUDGMENT CLAIMS, HAS BEEN FURNISHED.

(c) IF A BONDING COMPANY CANCELS ITS BOND OF A CONTRACTOR THE CONTRACTOR'S REGISTRATION SHALL BE REVOKED. HE MAY AGAIN OBTAIN REGISTRATION BY COMPLYING WITH THE REQUIREMENTS OF THIS CHAPTER.]

(d) If a registered [LICENSED] contractor fails to fulfill his obligations under this chapter [AS SET OUT IN AS 08.18.071] his registration [LICENSE] shall be suspended for a period of time the commissioner determines is appropriate. After two [THREE] suspensions his registration [LICENSE] may be permanently revoked.

(e) Proceedings to suspend or revoke a registration [LICENSE] issued under this section [CHAPTER] are governed by the Administrative Procedure Act (AS 44.62).

[(f) IF THE COMMISSIONER OF LABOR DETERMINES THAT A PERSON IS ACTING AS A CONTRACTOR IN VIOLATION OF THIS CHAPTER, HE SHALL GIVE WRITTEN NOTICE PROHIBITING FURTHER ACTION BY THE PERSON AS A CONTRACTOR. THE PROHIBITION CONTINUES UNTIL THE PERSON HAS SUBMITTED EVIDENCE ACCEPTABLE TO THE COMMISSIONER OF LABOR SHOWING THAT THE VIOLATION HAS BEEN CORRECTED.

(g) A PERSON AFFECTED BY AN ORDER ISSUED UNDER THIS CHAPTER MAY SEEK EQUITABLE RELIEF PREVENTING THE COMMISSIONER OF LABOR FROM ENFORCING THE ORDER.]

* Sec. 8. AS 08.18 is amended by adding a new section to read:

Sec. 08.18.125. TEMPORARY ORDERS. (a) If the commissioner has reasonable cause to believe that a contractor has engaged in or is about to engage in an act or practice in violation of this chapter or a regulation adopted under it, he may, if he considers it in the public interest,

(1) issue a temporary order directing the contractor to stop the act or practice;

(2) issue a temporary order denying, suspending, limiting, or conditioning the contractor's registration;

(3) bring an action in the superior court to enjoin the act or practice and to enforce compliance with this chapter, a regulation adopted under it, or an order issued under it;

(4) examine the books and records of the contractor;

(5) issue subpoenas for the attendance of witnesses, and the production of books, records and other documents.

(b) A temporary order under (a)(1) or (a)(2) of this section may be issued without written or oral notice to the contractor if the commissioner believes that immediate and irreparable injury, loss, or damage will result if the order is delayed. If an order is issued without notice, the order shall define the injury, describe why the injury is irreparable, and explain why the order was issued without notice. The order shall also state the date and hour of issuance, and prescribe a place and time within five days of issuance for a hearing by the commissioner or his designee to determine whether the temporary order should be continued. The commissioner shall place in his file at the time he issues the order a memorandum that describes the evidence on which he bases his belief for issuing the order without notice.

(c) The commissioner or his designee may extend the time for a hearing under (b) of this section an additional five days on his own motion or may shorten or extend the time before hearing at the request of the contractor.

(d) A temporary order under (a)(1) or (a)(2) of this section expires unless continued by the order of the commissioner or his designee at a hearing under (b) of this section. At the hearing, whether

or not the contractor appears, the commissioner or his designee may continue the order in effect for up to one year or until a hearing is held under the Administrative Procedure Act (AS 44.62), whichever is earlier.

(e) The commissioner or his designee shall be the hearing officer at the hearing under (b) of this section. If the commissioner or his designee designates a person to serve as hearing officer, the person must have the qualifications prescribed by AS 44.62.350(c).

* Sec. 9. AS 08.18.131 is amended to read:

Sec. 08.18.131. INJUNCTION. In an action instituted in the superior court by the commissioner, [OR LABOR OR] his representative, or the attorney general, a person acting in the capacity of a contractor in violation of this chapter may be enjoined from doing so.

* Sec. 10. AS 08.18.171 is amended by adding new paragraphs to read:

(4) "a construction trade" means a skill or craft commonly used in the construction, repair, or alteration of homes, including electrial work, heating and plumbing, carpentry, masonry, paving, sheetrocking, excavation, painting, roofing, fencing, landscaping, well-drilling, and septic or sewage system installation;

(5) "department" means the Department of Commerce and Economic Development;

(6) "general home contractor" means a general contractor as defined in (2) of this section who builds or offers to build, for hire or for sale, a home or homes, except that a contractor who builds for hire or for sale no more than one home in each calendar year is not a general home contractor;

(7) "home" means a one-to-four family residence or dwelling and the real property on which the residence is located;

(8) "specialty home contractor" means a specialty contractor

as defined in (2) of this section, who for hire, constructs, alters, repairs, demolishes, paints, roofs, landscapes, paves, or fences a home or any part of a home, but whose business operations require the use of no more than two distinct construction trades; a contractor who performs this type of work for hire on no more than one home in each calendar year is not a specialty home contractor.

* Sec. 11. The following laws are repealed: AS 08.18.061, 08.18.071, 08.18.081, 08.18.091, 08.18.111, and 08.18.141.

* Sec. 12. This Act takes effect July 1, 1982.

3-24-82

FEDERAL

SB 898

HB 757

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 24, 1982
1:20 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

HB 757 — An Act relating to unemployment insurance; and providing for an effective date.

Federal SB 898 — Telecommunications Competitions and Deregulation Act of 1981.

WITNESS REGISTER

Judy Knight, Special Assistant
Department of Labor
PO Box 1149
Juneau, Alaska 99811
465-2700
Position Statement: Went over HB 757 section by section and explained fiscal notes.

Harry Sturrock, Assistant Director
Unemployment Insurance
Division of Employment Security
Department of Labor
PO Box 1149
Juneau, Alaska 99811
465-2712
Position Statement: Assisted Knight in explaining HB 757.

Alex Hills
Deputy Commissioner
Division of Telecommunications
Department of Administration
Pouch C
Juneau, Alaska 99811
465-2200
Position Statement: Explained impact of federal SB 898.

PREVIOUS ACTION

HB 757 — See minutes of 3/16/82.

Statutory Reference: AS 23.20

Action Taken: No formal action taken. Committee requested department to develop additional figures and information before taking action.

Federal SB 898

No previous action. This is a federal senate bill.

Action Taken: Impact and intent of bill was explained to the committee by Alex Hills, State Division of Telecommunications.

ACTION NARRATIVE

Tape #44
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:20 p.m. Members present were: Representatives Martin, Bylsma, Randolph, and Rogers. Rep. Gardiner was absent. The chairman brought HB 757 before the committee for consideration.

Number 013

Judy Knight, Special Assistant, Department of Labor, asked Sandy Sturrock, Assistant Director of Unemployment Insurance to join her. Knight went over the bill section by section, and explained the fiscal notes.

Number 035

Rep. Rogers requested clarification of what information that is released to other agencies will be used for, and objected to violating the constitutional right to privacy.

Number 046

Knight resumed testimony. Rep. Rogers questioned changes in Section 3 (page 2). Knight picked up her testimony at Section 4.

Number 085

There was discussion of "interested parties" (page 4, line 13). Rep. Rogers wanted to set out specifically who could appeal; eg, claimant, employer, and division. Sturrock said "interested party" is defined in regulations.

Number 108

Knight resumed testimony at Section 7. She explained changes to the table. Rep. Rogers noted this would increase the top end of the benefits scale. He said the law had been written to take advantage of federal

extended benefits sooner than previous law. He asked how this would take effect. Knight explained how state benefits interact with federal benefits. Rep. Rogers explained his concern that the federal government might change extended benefits provisions. He said he would rather have more weeks benefits could be collected rather than raising benefit amounts. There was discussion of the impact on workers, how the benefits system work, and the cost of the program to Alaska.

Number 252 — Knight resumed testimony at Section 8.

Number 256 — Rep. Rogers explained how the earnings ratio is calculated and why he felt it did not work. Knight agreed the system was not perfect, but did not believe the majority of workers have the option to work one months of each calendar quarter (which is how a worker could collect more weeks of benefits than someone working four successive months). There was discussion.

Number 319 — Knight continued her testimony at Section 9.

Number 349 — There was discussion of wording in Section 11, and how availability for work is defined. Rep. Martin asked about people drawing unemployment insurance and workers compensation simultaneously. There was discussion. Knight said, to her knowledge, it is not a problem.

Number 425 — Sturrock explained Sections 12 and 13. There was discussion of the impact of changes to Section 14. Knight said this issue would be decided in court shortly.

Number 498 — Knight resumed testimony at Section 15.

Number 556 — Rep. Rogers asked, in reference to Section 17, why the department didn't just publish unemployment insurance information, as it is released to so many agencies. He said we are extending the violation of privacy every year. Knight said Congress passed the law. There was discussion.

Number 623 — Knight continued with Section 18, and passed out to the committee a recommended amendment to this section. Rep. Rogers said this would affect those who need extended

benefits the most--low income and those with children. There was discussion of the actual impact on Alaskans. Rep. Rogers requested the department develop language allowing the state to pick up extended benefits on those affected by this section. Rep. Martin asked if the department would also analyze what categories of people would be affected--people with children, and those with income over $1,000 and under $15,000.

Side E, Number 056 — Rep. Rogers suggested saying an individual not eligible for extended benefits under subsection (1) is eligible for another eight weeks extended benefits. There was discussion. Rep. Martin asked for an estimate of how many students are filing for employment benefits. This was discussed.

Number 083 — Knight said the department has many federal conformity requirements, and explained how the department addresses those requirements. She said she would have the department draft language requested by the committee.

Number 112 — Rep. Rogers referred to sections 7 and 8, previously addressed, regarding extending the schedule, and asked the fiscal impact. The impact was estimated at $2.5-million. Rogers said passing Section 8 would give to the "haves" and less to the "have-nots" by denying funds under Section 18.

Number 138 — Knight continued testifying at Section 19. She said Sections 20-24 deal with "off" and "on" triggers. Rep. Rogers requested an explanation of the affect of triggers on the extended benefits program.

Number 171 — Rep. Martin asked about benefits to people living out of state. Knight said it was not possible to give different benefits to those out of state. Rep. Rogers elaborated on how the system was set up. Rep. Martin asked if there had been any studies; Sturrock said there had been one done. This data was discussed.

Number 206 — Knight resumed her testimony at Section 25.

Number 232 — There was discussion of amendment to Section 28 regarding training in or out of the state.

Number 240

Knight picked up her testimony at Section 29. There was discussion of the definition of "wages" in Section 30. Knight said they would check into the definition. She continued testifying at Section 31. There was discussion of effective dates.

Number 347

Rep. Martin said the bill would be heard again. He asked others wishing to testify on the bill if they could return at a later date. Rep. Rogers requested an estimate of the cost to the Unemployment Insurance Trust Fund and example of affect on employer.

Number 367

The committee took up discussion of Federal Senate Bill 898. Rep. Martin asked Alex Hills, Deputy Commissioner of the Division of Telecommunications, to come before the committee to testify.

Number 377

Hills introduced Max Clements of Matanuska Telephone Association, and Stu Brown of Telelink, to the committee. Hills said the issues in S 898 are some of the most critical telecommunications issues facing the stat .

Number 403

Hills said the issue has been around since the 1950s. He went over telecommunications decisions that have been historically made: the "hushaphone" decision and the "carterphone" decision. He said the competitions issue is not new in the telephone industry. He said the present problem is how the industry can be structured in order to accommodate competition. Hills said this is a double sided problem: maintaining the level of service, while providing for competition. Hills said there are three arenas where these decisions are made: 1) courts (AT&T antitrust suit); 2) FCC (the Computer II case, which deregulates customer premises equipment and enhanced services, and the MTS-WATS market structure, making long distance telephone service competitive); and 3) Congress (communications rewrite legislation, which rewrites the communication: act of 1934. He referred to S 898 and HR 5158).

Number 560

Hills said the provisions affecting Alaska relate to television.

Number 570 — Hills said that telephone service has been cross subsidized: the urban payer supports the rural, and the long distance user supports the local caller. This is designed to keep costs low to everyone, but particularly to keep local and rural rates at reasonable levels. Hills said this was possibly in a monopoly situation. He said support for local and rural rates is being withdrawn, so a mechanism is needed to prevent drastic increases in local and long distance rates.

Number 652 — Hills said universal services is a national goal. This is the availability of telephone services at a reasonable rate. He said not using the network degrades national service.

Number 674 — Rep. Rogers asked what costs are to the consumer if this philosophy is not followed. Hills said at least a 200-300% increase. He felt the costs would be much higher in rural Alaska.

Tape 45, Number 022 — Hills said HR 5158 talks about how funds would be structured, and how and in what situations payments would be made. He said it contains local rate support, but does nothing about long distance rates.

Number 037 — Hills said cable TV is no longer addressed in HR 5158, but S 898 contains a couple brief sections: one addressed cross-ownership (whether phone companies can provide cable TV service); he said it specifies that phone companies may not except in rural areas. Regarding cable TV rates, Hills said S 898 deregulates rates, except for required government, public or educational access channels, and when no reasonably available alternative media exist.

Number 077 — Hills said HR 5158 is presently in the House. He said if it passes, both bills will go to conference committee.

Number 080 — Rep. Martin asked, regarding new satellites, if they are required to look at all fifty states. Hills said Senator Stevens introduced language requiring all satellites within our service area orbital positions reach all fifty states. He said this is favorable to our state. Hills said now the

RCA satellites reach us, but that many others could. There was discussion of requesting other satellite owners to serve us.

Number 116

There being no further business to come before the committee, the meeting was adjourned at 3:02 p.m.

Absent: Gardiner

3/24/82 H. Labor & Commerce Tape # 44 & 45

HB 757

federal SB 898

1:26

000 Call to order, introduction of members.

HB ~~215~~ 757

008 HB ~~215~~ 757 brought before comm..

013 Judy Knight, Spec asst, DOL; asked Sandy Sturrock, asst dir, unemp ins, to join her. & Went over bill sect by section, & explained fiscal notes

035 Rogers, requested clarifn of ~~Clearfied~~ what info will be used for & ~~objected~~ objected to ~~concern~~ abt violating constl right to privacy.

046 Knight resumed testimony.

057 Rogers, re Sec. 3, (p.2) gotnd changes

070 Knight resumed testimony (Sec. 4)

085 There was discussion of "interested parties" (p. 4, l. 13); Rogers wants to set out specifically who may appeal; eg, claimant, employer, & division. Sturrock said "intd party" is defined in regs.

108 Knight resumed test'y at Sec 7. Explained chngs to table. Rogers noted this wd increase top end of benefits scale. Said law had been written to take adv of fed'l extended benefits sooner than prev law. He ~~understands~~ asked abt how this takes effect. Knight explained how state benefits interact w/ fed'l. Rogers explained his concern that fed'l govt might chng extended benefits provns. Wd rather have more weeks benefs cd be collected, rather than raising benef amts. Discussion of impact on workers — how benefits system works & cost of prgm to Alaska.

252 Knight resumed test'y at Sec 8.

256 Rogers explained how earnings ratio is calculated & why he felt it didn't work. Knight agreed system was not perfect, but didn't believe majority of wkrs ~~co~~ have the option to work 1 month of each calendar quarter (which is how a worker cd collect ~~much~~ more weeks of benefits than someone working 4 successive months). Discussion

319 Knight cont'd w/ Sec 9.

349 Discussion of wording in Sec. 11 & how availability for work is defined. Rep. Martin asked abt people drawing unemp & wkrs comp simultaneously. Discussion. Knight said to her knowledge it was not a prob.

425 ~~Sec 12~~ Sturrock explained Sec. 12, 13, ~~14~~

There was discussion of the impact of change to Sec. 14. Knight said this wd be decided in concert shortly.

498 Knight resumed testy at Sec 15.

556 Rogers asked, in re Sec 17, why dept didn't just publish unemp ins info, as it's released to so many agencies. Extending violation of privacy every year. Knight said Congress passed the law. There was discussion.

603 Knight cont'd at Sec. 18; passed out recommended amdmt.

~~Then w~~ Rep Rogers said this wd affect those who need extended benefits most — low income & those w/ children. There was discussion of actual impact on Alaskans. Rogers req'd dept develop lang allowing state to pick

Side B up extended benefits or those affected by this section. Martin asked if dept wd also analyze what ~~dat~~ categories of people wd be affected — people w/kids & those w/ income over $1,000 & under $15,000.

suggested savings for extended benefits

056 Rogers, ~~said~~ indic not eligible, under (l.) is eligible for another 8 wks extended benefits. Discussion. Martin asked for estimate of how many students are filing for unemplmt benefits. There was discussion.

083 Knight said dept has many fed'l conformity reqmts & explained how dept addresses those reqmts.

104 Knight said she wd have dept draft lang.

112 Rogers referred to, ~~new sec & asked~~ prevld addressed sec 7 & 8 re extending schedule & asked fiscal impact (2.5-million). Said, this is giving more to haves & less to have-nots by passing sec 8 & ~~add~~ by denying funds under sec. 18.

138 Knight resumed testy at sec. 19. Secs 20-24 deal w/ "off" & "on" triggers. Rogers req'd explanation of triggers to extended benefits pgm.

171 Martin asked abt benefits to people living out of state. Knight said it wasn't possible to give different bennies to those out of state. Rogers elaborated on how system was set up. Martin asked if any studies were done; Sturrock said one had been done. ~~Those~~ This data was discussed.

206 Knight resumed testy at sec. 25.

232 Discussion of amdmt to sec. 28 regarding training in & out of state.

240 Knight resumed at sec. 29. There was discussion of definition of "wages" in sec. 30. Knight said they would check into defn.

278 Resumed at sec. 31.

There was discussion of effective dates.

347 Martin said bill wd be heard again; asked witnesses if they cd return at a later date. Rogers requested est of cost to UI Trust Fund & ~~example~~ example of affect on empyr.

367 Brought fed SB 898 before committee. Asked Hills for overview of affect of bill.

377 Alex Hills, Dep. Comm., Div of Telecomm, DO admin. Int'd Max Clements, MTA, & Stu Brown, Telelink. Hills said issues are, some of most critical telecomms issue facing state. telecommunications

403 Issue has been around since 1950s. Went over decisions that have been historically made: "hushaphone" decision; "carterphone" decision & Competition issue not new in telephone industry. Present p'blm is ~~not~~ how industry can be structured in order to accommodate competit. Double sided prob'm: maintaining level of svc ~~wh~~ while providing competition.

3 arenas:

1) Court: AT+T antitrust suit

2) FCC – a) computers II case (deregulates customer premises equip)
b) MTS - Watts market structure - making long distance & enhanced svcs phone svc competitive

3) Congress – communications rewrite legis – rewrites communications act of 1934. S898 + HR 5158 (?) – devoted to structure of AT+T corp.

560 Said affecting Ak
~~Explains~~ provns, relating to television.

570 Phone svc has been cross-subsidized. ~~Long~~ Urban payer supports rural, & long distance user supports local, to keep costs low. Keeps local & rural rates at reasonable levels. This was possible in monopoly situ.
Support for local & rural rates is being w/drawn, ~~so~~ so need to prevent drastic increases in local & long distance rates.

652 Universal svcs is a national goal – availability of ph svcs at reasonable rate. Not using network degrades national service.

674 Rogers asked what costs to consumer of this philosophy is not followed. Hills said at least 2-300%; probably much higher in rural Alaska

719 Hills mechanism wkd out on nat'l level is "nat'l telecomm fund" – wd be admin'd by carriers from surcharges on interconnect pymts. Wd target assistance to high cost companies (above 110% of nat'l average). Urban ratepayers wd subsidize urban in name of universal svcs. Wd accommodate competit while keeping rates at reasonable levels.

Tape 2
022 HR 5158 talks abt how fnds wd be structured, & how & in what situ pymts wd be made. Contains local rate support, but does nothing abt long distance rates.

037 Cable TV – no lang in 5158, but in SB, a couple brief sections: 1 address X-ownership (whether ph cos can provide cable TV svc); specifies ph cos may not except in rural areas.

Re cable TV rates: S898 deregs rates, except ~~rural~~ not dereg'd for reg'd govt ~~access~~, public, or educational access channels, & when no reasonably avail alternative media are available.

077 HR5158 presently in House; if it passes, both bills will go to conf comm.

080 Martin asked, on new satellites, must go to all 50 states. Hills said Stevens int'd lang reg'g all satellite w/in our svc area orbital posns reach all 50 states. Favorable to our state. Hills said now there ~~are~~ ~~serving Alaska~~ RCA satellites reach us, but many cd. Discussion of requesting other satellites owners to serve us.

116 3:00 adjourned.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/24/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:04	
Rep. D. Randolph	✓		1:20	~~2:15 30 minutes Late mtg. returned~~
Rep. B. Rogers	✓		1:20	
Rep. T. Gardiner		✓		
Rep. T. Martin, Chair	✓		1:04	

Subject Matter:

House Bill No. 757

Senate Bill No. _____

Special Orders:

Discussion of federal SB 898 re telecommunications

COMMITTEE TAPE LOG 1982

tape no. _____

committee: House Labor & Commerce

date 3/24/82 to _____

bill numbers: HB 757

other information: also discussed federal SB898

Date/ Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
3/24/82			

MEMORANDUM State of Alaska

TO: Sandy Sturrock
Asst. Director UI

DATE: March 15, 1982

FILE NO:

TELEPHONE NO: 465-4519

FROM: Elfrieda Mullin
Labor Economist

SUBJECT: Estimate of New Ineligible Claimants for EB Under Alternatives 1 and 2 of New Federal Legislation

The federal restrictions under the newly passed Budget Reconciliation Act (H.R. 3982) require that an individual may not be eligible for extended compensation unless the individual had 20 weeks of full-time employment in base period employment. For states not collecting weeks of work information, two alternative paragraphs may be substituted for calculation of the "equivalent".

Alternative 1: A claimant must have 1.5 times his high quarter earnings in order to be eligible for extended benefits.

Under our current law, claimants with a ratio under 1.5 are eligible for a potential duration of 16 weeks.

For Calendar year 1981, out of a total of 39,017 reported eligible claimants, 6,162 were eligible for 16 weeks duration.

6162/39017 = 16%

Thus, approximately 16% of claimants would not be eligible for extended benefits under Alternative 1.

Alternative 2: A claimant must have 40 times his Augmented WBA in his base period in order to be eligible for extended benefits.

All low income claimants with base period earnings less than $1,440 (entitled to $34 or $36 WBA) would be ineligible under this alternative. This affects 1.2% of eligible claimants. In addition to these, certain claimants with base period earnings between $1,440 and $6,000, primarily those with dependents, would be ineligible because 40 X their augmented WBA does not exceed their base period earnings. An additional 2.2% of currently eligible claimants would be affected by this for a total of 3.4%.

3.4% of 39,017 = 1,327 claimants.

Recommended Changes to House Bill 757

Department of Labor

Section 18 (p. 13)

Change section designation from "(j)" to "(l)" - line 8

Change "excluding" to "including" - line 12

HB 757

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
GARTH PATTERSON	423 3rd ST Juneau	Dept H S S	YES	465 3360

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3-24-82

HB757

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Judy Knight	Juneau	Dept of Labor	Yes	465-2700
Carl C. Jenkins		NFIB	Yes	586-4100
Elfreda Mullin	Juneau	Dept of Labor	no	465-4519
Ron Torgerson	Juneau	Dept of Labor	No	465-4531
Harry Sturrock	Juneau	Dept of Labor	Yes	2712
Steve Plummer	Pouch C	Admin	no	465 2041
Al Hills	" "	"	no	465-2200

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3/24/82

SIGN-IN SHEET HB 757

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Ted McIntire	Dept. of Administration	Telecommunication	NO	2041
R.M. CLEGHEATS	BOX 38 PALMER 59645	MONTANA TELEPHONE	NO	
~~JIM - JOHN HECHT~~	~~240 MAIN JUNEAU~~	n/a	~~NO~~	~~6-4076~~
S. Browne	Box 1608 Juneau	TELELINK	No	6-6228
T Otness	Pouch V	Rep. Haugen	NO	3712

HOUSE LABOR & COMMERCE COMMITTEE HEARING DATE: 2-24-82

3-25-82

HB642

SB771

SB611

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 25, 1982
1:10 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph
Rep. Rogers

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

SB 611 — An Act revising the criminal penalties for unlawful operation of an aircraft.

SB 771 — An Act exempting restaurants, grocery stores, and established fish markets from the labor bond required of fish processors and primary fish buyers; and providing for an effective date.

HB 642 — An Act establishing the Alaska natural resource trust; and providing for an effective date.

WITNESS REGISTER

Senator Eliason
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-4916
Position Statement: Prime sponsor of SB 771.

Judy Knight
Special Assistant
Department of Labor
Box 1149
Juneau, Alaska 99811
465-2700
Position Statement: Supported SB 771.

Beth Robinson
Administrative Assistant to Rep. Sutcliffe
Pouch V
Juneau, Alaska 99811
465-4940
Position Statement: Supported SB 771.

Roger Painter

United Fishermen of Alaska
no address or phone given
Juneau, Alaska
Position Statement: Supported SB 771.

Don Magnusson
Alaska Retail Association
310 2nd
Juneau, Alaska 99811
586-6706
Position Statement: Supported SB 771.

Jim Lear
LAA Legal Services
Pouch Y
Juneau, Alaska 99811
465-2450
Position Statement: Commented of constitutionality of HB 642.

PREVIOUS ACTION

SB 611	Senate Action: First reading 1/11/82. Reported from Labor & Commerce 2/9/82. Reported from Judiciary 2/25/82. Reported from Rules 3/1/82. Taken up immediately; went into second reading 3/1/82. Advanced to third reading by unanimous consent. Passed third reading 3/1/82. House Action: First reading 3/1/82. Labor & Commerce Committee referral added 3/5/82. Statutory Reference: AS 02.30.040; AS 03.35.120 Action Taken: No action taken. Bill scheduled for further hearing on 4/14/82.
SB 771	Senate Action: First reading 2/16/82. Reported from Labor & Commerce 3/11/82. Reported from Rules 3/12/82. Taken up immediately; advanced to second reading 3/12/82. Labor & Commerce Committee Substitute adopted by unanimous consent. Amendment adopted by unanimous consent. Advanced to third reading by unanimous consent. Passed third reading with effective date vote same as passage on 3/12/82. House Action: First reading 3/15/82. Assigned to Labor & Commerce committee.

Rep. Sutcliffe, referred to HB 744, which is a similar bill. She said they support SB 771. Regarding the cash buyer situation, she gave an example of a situation that could be harmful to a fisherman.

Number 177 — Roger Painter, United Fisherman of Alaska, supported the bill. He said it will make it easier to have a small scale market for fresh fish, and will also promote seafood consumption in Alaska.

Number 229 — Rep. Rogers asked clarification of primary fish buyer. There was discussion.

Number 266 — Don Magnusson, Alaska Retail Association, totally supported the bill. He said it would make the purchase and sale of raw fish much simpler.

Number 286 — Rep. Randolph moved that CSSB 771 (L&C) am be reported out of committee by unanimous consent. There being no objection, the motion passed.

Number 302 — The chairman brought HB 611 before the committee.

Number 305 — Rep. Rogers explained why the bill was introduced. He said most pilots are unaware there are any state laws regarding aviation except for the emergency provisions law. He said the laws are so closely related to federal laws that they are difficult to legislate.

Number 355 — Rep. Martin said he wished to better publicize the bill and bring it back before the committee. He said interested parties would be contacted, and the bill scheduled for rehearing on April 14.

Number 384 — Rep. Rogers went over other portions of the statute which he feels need changes, for instance, references to airmen rather than pilots. He said he would draft proposed amendments in advance of the next hearing. Rep. Martin asked that John Hartle, administrative assistant to Rep. Rogers, work with Kent Woodman of AOPA and Alaska Airmen's Association, on the bill.

Number 413 — HB 642 was brought before the committee. Rep. Randolph, prime sponsor of the bill,

explained the intent of the bill and how the trust would work.

Number 482 — Rep. Rogers said he does not completely agree with the findings, but supported it for purposes of expediting the bill.

Number 490 — Rep. Martin had questions about resolution and about the fiscal note. Rep. Rogers suggested putting a one-year delay on the effective date.

Number 511 — There was discussion of the state's tax structure and how state government could continue if the trust went into effect. Rep. Randolph said the money would come from royalty revenues and bonus sales, not from taxes.

Number 552 — Rep. Rogers explained the affect of the fund: decreasing people in state assistance programs, and reducing the need for capital projects funding.

Number 586 — Rep. Bylsma said it would amount to people being forced to again pay income taxes. Rep. Randolph felt those wanting services should pay for them. He explained alternatives to income tax. Rep. Bylsma said people would flock to the state. Rep. Rogers said if they weren't residents at the time of enactment, they could not receive benefits of the trust until there was another source of funding of the trust. Rep. Bylsma reiterated that people would move here for the money. Rep. Randolph agreed, but said our social programs draw in just as many. Rep. Rogers disagreed, saying the biggest increase in migration is for the number of jobs created by capital projects, high paid state jobs, and subsidized loan programs.

Number 716 — Jim Lear, LAA Legal Services, said the bill was drafted by Tom Sofo, who said the bill was used as a "vehicle", so Lear felt changes may be needed. He said the bill has constitutional problems. He felt that restricting benefits to people who are residents on a date certain and denying those who become residents after that was unconstitutional.

Side B, Number 008 — Rep. Rogers disagreed with Lear, as the

state would be distributing an asset. He said this does not create a class of people. Lear said resources provide the funds on an ongoing basis, now and in the future, so future residents would be deprived.

Number 026 — Rep. Randolph said he had spoken with several attorneys, and he is certain there are ways to get around this. He said that if there weren't, the past homesteading laws of the entire country would be invalid. He said this bill would give a share, just as though it were a piece of land, which would belong to the people, and the income derived from the share would also belong to them.

Number 046 — Rep. Rogers felt the "public purpose" was an even bigger issue. He explained his position about how the issue should be addressed. There was discussion.

Number 104 — Rep. Randolph felt these constitutional issues should be looked at by the Judiciary Committee.

Number 106 — Rep. Randolph moved to pass HB 642 to the next committee of referral. On the question: for--Randolph, Rogers; opposed--Bylsma, Martin. Motion failed.

Number 118 — There being no further business to come before the committee, the meeting was adjourned at 2:06 p.m.

AIRCRAFT OWNERS AND PILOTS ASSOCIATION

THE HONORABLE RAMONA L BARNES
Chairperson, House Judiciary Committee
The Capitol Building, Room 122
Pouch V, Juneau, Alaska 99811

Atten: Mr Dave Stancliff

064-22

Dear Dave,

05 March 1982

This letter, with attachments, will confirm our several conversations, and provide the input to SB 611 from both the Alaska Airmen's Association (the largest general aviation organization in the State of Alaska, representing the interests of over 12,500 pilots) and the AOPA (the largest general aviation organization in the world).

We were alarmed by press reports of some of the impact of SB 611 on certain Alaskan flying operations, and this caused the research. First let me tell you that that research into Title 2 of Alaska Statutes was an eye-opener for me, a pilot in Alaska for over 20 years! Virtually every pilot I have spoken to had absolutely no knowledge of Alaskan flying regulations with the exception of 02.35.110; Emergency rations and equipment.

As it turns out, the Associated Press coverage of the intent and effects of the bill were incorrect, but we completed our researches in any event, with the idea of allowing this opportunity to present a complete review of the Statute and to update and fix it all in one shot. Attached to this letter are two documents:

a. A proposed amendment to SB 611, containing all the "repairs" we feel are required to update.

b. A description sheet providing all the rationale' and references for each of the proposed changes.

Thank you so much for the opportunity of visiting with you on the bill. It would be our pleasure to participate in teleconference, in-person testimony on the bill and/or subcommittee efforts to complete proper language for a substitute. Please be advised that we feel strongly enough about these provisions to lobby as required, and this is not casual input. After you have reviewed the materials herein, please comment on the timing and appropriateness of releasing it to the Senate sponsors so that they may be ready for joint committee. We intend to go public with the positions as required.

Box 2386 STAR Rte 1
Anch. AK 99507

KENT LEE WOODMAN
Regional Representative

encl: Amended SB 611
Data sheets

cy to: Alaska Airmen's Association
Alaska Air Carriers Association

Introduced: 1/11/82
Referred: Labor & Commerce
and Judiciary

IN THE SENATE

BY RAY AND DANKWORTH

HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 611

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION
BILL

For an Act entitled: "An Act revising the criminal penalties for unlawful operation of an aircraft."

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

* Section 1. STATEMENT OF INTENT CONCERNING CHAPTERS 30 & 35 OF TITLE 2, ALASKA STATUTES. It is recognized by the Legislature, that from time to time certain Statutes require revision in order that they comply with Federal provisions, state of the art and public concern and safety. For these reasons, the intent of the Legislature in this bill is to make those revisions to the two above noted Chapters of Alaska Statutes which will at once cause them to operate in concert with applicable Federal Aviation Regulations, actual operating characteristics of the aircraft and aircrews involved, and to focus attention on the several areas of violation which the Legislature perceives as areas of major public concern. The Legislature recognizes that Air Commerce is an invaluable portion of the activities of the State, but that safety and operations of those aircraft so involved are such that without a high degree of professionalism and carefully prepared and enforced controls, the public is hopelessly at the mercy of the various operators. Therefore the following provisions are hereby enacted to provide workable statutes which do not provide duplication of penalties without genuine purpose.

* Section 2 AS 02.30.010 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 3. AS 02.30.030 (a) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 4. AS 02.30.030 (b) is amended to read:

Sec. 02.30.010 (a) No person may operate an aircraft occupied by a crew member [or passenger] who is obviously under the influence of intoxicating intoxicating liquor or [habit-forming] drugs.

* Section 5. AS 02.30.030 (c) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 6. AS 02.30.030 (d) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 7. AS 02.30.040 is repealed and reenacted to read:

Sec. 02.30.020. PENALITIES A person violating AS 02.30.010 shall be guilty of a class B misdemeanor.

* Section 8. AS 02.35.010 is amended to read:

Sec. 02.35.010. Federal law followed. It is declared that the policy, principals, and practices established by the United States Air Commerce Act of 1958 [1926], and all amendments to it are adopted and extended and made applicable to cover all air traffic in this state, so far as not covered by federal law.

* Section 9. AS 02.35.020 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 10. AS 02.35.030 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 11. AS 02.35 040 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 12. AS o2.35.050 is repealed effective June 1. 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 13. AS 02.35.060 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 14. AS 02.35.070 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 15. AS 02.35.080 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 16. AS 02.35.090 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 17. AS 02.35.100 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 17. AS 02.35.110 is amended to read:

Sec. 02.35.020. Emergency rations and equipment. (a) No airman may make a flight inside the State with an aircraft unless emergency equipment is carried as follows:

(1) The minimum equipment to be carried during the summer months is as follows:

(A) food for each occupant sufficient to sustain life for two weeks;

(B) one axe or hatchet;

(C) One first aid kit <u>with capacity for each passenger and crewmember carried, as stated by the kit manufacturer</u>;

(D) one pistol, revolver, shotgun or rifle, and ammunition for same <u>in the following minimum quantities: pistol or revolver: 50 rounds shotgun or rifle: 20 rounds</u>;

(E) one small gill net, and an assortment of tackle such as hooks, flies, lines, sinkers etc.;

(F) one knife <u>with a blade at least 5" long</u>;

(G) [two small boxes of matches] <u>two waterproof containers of matches each containing at least 25 matches, or equal</u>;

(H) one mosquito headnet for each occupant;

(I) [two] four small signaling devices [such as] to include 2 colored smoke bombs, [railroad fuses] and 2 colored rocket or flare devices or Very pistol shells, in sealed metal containers, accompanied by the appropriate pistol or launching device.

(2) In addition to the above, the following must be carried as minimum equipment from October 15 to April 1 of each year:

(A) one pair of snowshoes or one pair of cross country skis with proper bindings, poles and boots;

(B) one sleeping bag;

(C) one wool blanket for each occupant over four years of age, for whom a sleeping bag is not provided;

(b) However, operators of multi-engine aircraft licensed to carry more than 15 passengers need carry only the food, mosquito nets and signalling equipment at all times other than the period from October 15 to April 1 of each year, when two sleeping bags, and one blanket for every two passengers shall be carried. All of the above requirements as to emergency rations and equipment are considered to be minimum requirements which are to remain in full force and effect, except as further safety measures may be from time to time imposed by the department, in the form of published regulations.

* Section 18. AS 02.35.115 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 19. AS 02.35.120 is repealed and reenacted to read:

Sec. 02.35.030. Penalties for violation of this chapter. A person who violates a provision of this chapter shall be guilty of a class B misdemeaner.

* Section 20. AS 02.35.130 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 21. AS 02.35.140 is amended by changing its identification to AS 02.35.040.

* Section 22. AS 02.35.150 is amended by adding a second paragraph to read:

AS 02.35.050 (b) "AIRCRAFT" is defined in this chapter means a device that is used or intended to be used for flight in the air, and includes helicopters, gyrocopters, airplanes, sailplanes and gliders.

RATIONALE' AND EXPLANATION

SEC. 02.30.010. Two-way radios required.

Inasmuch as this section refers to "Commercial" aircraft operations with passengers, the applicable portions of the FAR's are found in Part 135. We note that those commercial operations that do not carry passengers, are not covered in the present language, thus allowing training flights with crew or ferry flights in uncontroled airspace, and we feel that this is correct and needs no attention.

Part 135.157, however, provides that:

> *(a) No person may operate, under VFR, an aircraft carrying passengers at night, in a control zone or, except as provided in paragraph (c) of this section, over-the-top unless that aircraft has two-way radio communications equipment able, at least in flight, to transmit to, and receive from, ground facilities 25 miles away.*

This part goes on with additional, similar language for other conditions, as shown in parts (b) and (c), but they are redundant for these purposes.

RATIONALE': The FAR is much more comprehensive and far better wording. The State statute is vague and sloppy. As one simple example, almost no aircraft radio will work 50 miles on the ground, and no other provision is allowed in the State language. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

Finally, the effect of SB 611, as written, would add CRIMINAL penalties to what is basically a technical equipment area of concern. As a practical matter, all part 121 (airline) aircraft always comply. Additionally, it would be a rare situation to find a part 135 (air-taxi/Charter) operator without at least one such aircraft radio; they often have 2 or more!

SEC. 02.30.030. (a) Reckless operation.

This section is also found, almost verbatum in several FAR's, and is redundant.

Part 91.8, provides:

> *No person may assault, threaten, intimidate, or interfere with a crewmember in the performance of the crewmember's duties aboard an aircraft being operated.*

Part 91.9, provides:

> *No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.*

RATIONALE': The FAR's more than adequately cover the problem and provide penalties for violation. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

If the desire is to provide stiffer penalties, then this may be accomplished by simply making reference to the specific FAR and provide Class A or B misdemeaner status.

Sec. 02.30.030 (b) (liquor or drugs)

The Alaska Airmen's Association and AOPA both heartily agree that aircrew members who violate this or parallel FAR's are a serious threat to public safety and are a discredit to an honorable profession. We have no objection to the State tacking on Criminal penalties to his portion.

We do however, have problems with the language of the present section, wherein

> *"No person may operate an aircraft occupied by a crew member --- ---*

Part 91.11, provides:

(a) No person may act as a crewmember of a civil aircraft-

(1) Within 8 hours after the consumption of any alcoholic beverage;
(2) While under the influence of alcohol; or
(3) While using any drug that effects his faculties in any way contrary to safety.

(b) Except in an emergency, no pilot of a civil aircraft may allow a person who is obviously under the influence of intoxicating liquors or drugs (except a medical patient under proper care) to be carried in that aircraft. (emphasis added)

Part 135.115, provides:

(a) No person may drink any alcoholic beverage aboard an aircraft unless the certificate holder operating the aircraft has served that beverage.

(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.

(c) No certificate holder may allow any person to board any of its aircraft it that person appears to be intoxicated.

(d) Each certificate holder shall, within 5 days after the incident, report to the Administrator the refusal of any person to comply with paragraph (a) of this section, or any disturbance caused by a person who appears to be intoxicated aboard any of its aircraft. (emphasis added)

RATIONALE': Inasmuch as the FAR's are explicit and more comprehensive than the current State statute section, recommend they be the controling directive; especially in light of Sec. 02.35.010 Specifically adopting the FAR's for State compliance.

We do however, have difficulty in making it a CRIMINAL offence as relates to the passengers. Terms such as "obviously under the influence" also include those suffering a hangover from the previous night, and they do not offer a threat to the Public traveling aboard an aircraft. As a matter of fact, they are docile. Terms such as "appears to be intoxicated" and the like are often used in this context. We submit that rigid enforcement of this portion would, as a practical matter, cut air commerce in this State in half over night.

Recommend that the FAR's be adopted and that the more severe penalty for Air Crew members be adopted on its own.

Sec. 02.30.030 (c) (over water)

This section is more than adequately covered in the FAR's, with little confusion and excellent language:

Part 91.33 (11) provides:

If the aircraft is operated for hire over water and beyond the power-off gliding distance from shore, approved floatation gear readily available to each occupant, and at least one pyrotechnic signaling device. (is required)

Part 91.79 (a) provides:

Except when neccessary for takeoff or landing, no person may operate an aircraft lower than the following altitudes:

(a) ANYWHERE. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

Part 135.167 provides:

No person may operate an aircraft in extended overwater operations unless it carries:

(note: This section is extremely long, and contains all manner of specific relations to rafts, floatation and signalling devices and the like. None of that is required here to make the point that there is no reference to any specific distances from land; only equipment

RATIONALE': To begin with, the current State language, if enforced, would halt approximately 50% of the air commerce in the State immediately. Here are several obvious examples:

1. A single-engine land plane flying from Anchorage to Kodiak. (not uncommon)

To comply with this part, the aircraft would need to fly higher than 25,000 feet! Only those aircraft equipped with both turbochargers and pressurization could possibly comply.

2. A single-engine land plane flying from Anchorage to Juneau or Ketchikan. (not uncommon)

After Yakutat, heading southeasterly, the beach rapidly ends, replaced by beautiful mountains, covered with large trees, ending in rocks and surf. There is no beach; no "landing" is possible. One ditches in the Gulf of Alaska near shore and wades ashore with survival gear.

We feel that the Federal regulations more than adequately cover this contingency, with far better language, in all instances. Inasmuch as Sec. 02.35.010 adopts the FAR's for compliance by the State, it is redundant and confusing to establish still another, poorly worded criteria.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deleting the section.

Sec. 02.30.030 (d) (snow and ice)

This section is more than adequately covered by FAR's:

Part 135.85, provides:

(a) No pilot may take off an aircraft that has-

(1) Frost, snow, or ice adhering to any rotor blade, propeller, windshield, or powerplant installation, or to an airspeed, altitimeter, rate of climb, or flight attitude instrument system;

(2) Snow or ice adhering to the wings, or stabilizing control surfaces; or

(3) Any frost adhering to the wings, or stabilizing control surfaces, unless that frost has been polished to make it smooth.

(there are additional sections, but they are redundant for these purposes)

Part 91.209 provides virtually identical text.

RATIONALE': The FAA language is far more comprehensive. Inasmuch as Sec. 02.35.010 adopts the FAR's for State compliance, it is redundant and confusing to establish yet another, less comprehensive and confusing standard.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs to be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deletion of this section.

Sec. 02.35.010 Federal law followed

This is an excellent section, and would and is referred to above and in other sections not herein noted. Unfortunately the United States Air Commerce Act of 1926 has been void since it was replaced with the 1958 edition. Recommend adoption of the current one.

Sec 02.35.040 Registration of Aircraft

This section provides that all the registration and documentation already required by applicable FAR's, and already on file with the FAA in Oklahoma City, and already available to the public upon request, and already printed in a government circular at least semi-annually, also be duplicated and filed with the Department of Transportation and Public Facilities.

We are unaware of <u>any</u> general aviation pilot who is aware of this provision or complies. We are unaware of any attempts by DOTPF to implement this section. We are unaware of any requirement for it. Recommend its deletion as an unnecessary, expensive and duplicating bureaucratic requirement with no valid requirement.

Sec. 02.35.050, Registration of Airmen

See section 02.35.040 above. Recommend deletion of this ineffective portion as well for the same reasons.

Sec. 02.35.060, 070 & 080.

See items above. Recommend deletion of these sections, which provide administrative control of the previous sections.

COMMENT: Inasmuch as these four (4) sections appear to have been in Public Law since 1949, and no attempt to comply has ever been initiated to our certain knowledge, this fact alone attests to the lack of requirement.

Sec. 02.35.090 License and permit to be exhibited on reque t.

Part 61.3, provides:

> *(a) No person shall act as pilot in command or in any other capacity as a required pilot flight crew member of a civil aircraft of United States reg stry unless he has in his personal possesion a current pilot certificate issued to him under this part.*
>
> *(h) Each person who holds a pilot certificate, flight instructor certificate, medical certificate, authorization, or license required by this part shall present it for inspection upon request of the Administrator, an authorized representative of the National Transportation Safety Board, or any Federal, State, or local law enforcement officer.*

Part 91.27, provides:

> *(a) Except as provided in part 91.28 (foreign aircraft), no person may operate a civil aircraft unless it has the following.*
>
> > *(1) An appropriate and current airworthiness certificate. Each U.S. airworthiness certificate used to comply with this subparagraph (except a special flight permit, a copy of the applicable operations specifications issued under 21.197(c) of this chapter, appropriate sections of the air carrier manual required by parts 121 or 127 of this chapter contianing that portion of the operations specificatiojs under 21.187(c), or an authorization under 91.45), must have on it the registration number assigned to the aircraft under part 47 of this chapter. However, the air worthiness certificate need not have on it an assigned special identification number before 10 days after that number is first affixed to the aircraft. A revised airworthiness certificate having on it an assigned special identification number, that has been affixed to an aircraft, may only be obtained upon application to an FAA flight standards district office.*
>
> > *(2) a Registration Certificated issued to its owner.*
>
> *(b) No person may operate a civil aircraft unless the airworthiness certificate required by paragraph (a) of this section or a special flight authorization issued under 91.28 is displayed at the cabin or cockpit*

RATIONALE' Obviously the Federal language more than adequately covers the entire situation and others not even dreampt of by State officials. Recommend deleting it and relying on Sec. 02.35.010 for application of the FAR's in Alaska.

Sec. 02.35.100 Temporary permit.

This entire section covers an area expressly preempted by the Federal Government. There simply is no legal way for the State of Alaska to license pilots under any circumstances. This is 100% an FAA matter.

As a practicle matter, here is what would happen should there be an earthquake, major fire, flood or other State emergency: The authorized State official on the scene (Civil Defense Director, member of the National Guard etc), invoking whatever emergency authority may be available under other statutes, would notify the pilot/owner of an aircraft that it was required for service to say, send a generator to Bethel, evacuate something, haul medicine or supplies or the like. At that moment, the operator of the aircraft is under control and contract of the State of Alaska, and may operate any aircraft with no licenses at all.

He or she is operating in what is called the PUBLIC SERVICE, much the same as FAA pilots, military pilots, and even State pilots.

Recommend deletion of this entire section.

Sec. 02.35.110 Emergency rations and equipment.

This is an important part of the aviation Safety field in Alaska, and it should remain. There are, however, two (2) items which require updating:

1. Item (2) (A) requires showshoes. We recognize that a pair of cross-country skis, poles and boots are superior to snowshoes for survival travel, and recommend addition of the skis as shown on the attached proposed amended bill.

2. Item (1)(D) requires a firearm and ammunition. While this is an excellent suggestion, there are two (2) problems with the provision:

   a. In most cases a hand-gun is not a suitable survival weapon. Of far more value would be a lightweight shotgun and a supply of slugs and shot. We will not, however, offer this as an amendment at this time, as we have been counseled that it may be a controversial enough issue to bog down passage of the more important safety items. We urge consideration, however.

   b. There is no specified amount of ammunition, and one round could qualify. Recommend a minimum amount such as 25 or 50 rounds.

Sec. 02.35.115 Downed aircraft transmitting devices. (ELT's)

Sec. 91.52, provides

(a) Except as provided in paragraphs (e) and (f) of this section, no person may operate a U.S. registered civil airplane unless it meets the applicable requirements of paragraphs (b), (c) and (d) of this section.

(b) To comply with paragraph (a) of this section, each U.S. registered civil airplane must be equipped as follows:

(1) For operations governed by the supplemental air carrier and commercial operator rules of part 121 of this chapter, or the air travel club rules of part 123 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicability requirements of TSC-C91;

operable condition and meets the applicable requirements of TSO-C91;

(3) For operations governed by Part 135 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91; and

(4) For operations other than those specified in subparagraphs (1), (2) and (3) of this paragraph, there must be attached to the airplane a personal type or an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91.

(Note: there are 2 more pages of technical details that are not required to demonstrate sufficiency here.)

RATIONALE' There is obviously very complete and thorough Federal regulation to cover the installation, maintenance and operation of ELT's in all aircraft operations in this state; commercial and private. This is an area over which the state has no authority whatsoever, and where the state regulations CONFLICT with the appropriate Federal regulations.

Additionally, and as a much more practicle matter, one notes that under the FAR's, such ELT is inspected each year during the annual inspection of the aircraft under FAA criteria, and the aircraft is grounded if the ELT is not present, not in proper order or has an expired battery date. There is no such inspection system established or required under State authority.

Recommend that the item be deleted in its entirety and that reference to the FAR's via Sec. 02.35.010 for application in Alaska be sufficient.

Sec. 02.35.120, Penalties for violation of Chapter

This section will be reduced in scope by the actions above. The only requirement for the section remaining in in those areas which the State desires to inflict CRIMINAL penalties on top of Federal penalties. These re reflected in the attached, proposed substitute bill.

Sec. 02.35.130, Penalty for violation of 90 or 110 of this chapter.

Same as above.

Sec. 02.35.150, Deffinitions

Because of difficulties in interpretation, we suggest that "aircraft" and "airplane" be defined here precisely as they are in FAR's.

AIRCRAFT means: a device that is used or intended to be used for flight in the air, and when used in air traffic control terminology, may include the aircrew. (includes aircraft, helicopters, gyrocopters and all other heavier-than-air equipment, as well as gliders and sail planes)

AIRPLANE means: a divice such as above, but not including helicopters or gyrocopters.

GENERAL: Penalties under the FAR's are found in two (?) areas:

Sec. 609: wherein the Administrator has authority to revoke, suspend, or modify certificates. This includes pilot certificates, aircraft certificates and operator certificates. This is considered severe and serious penalty authority, and exceeds anything the State is empowered to do.

Sec. 901; wherein the FAA may impost Civil Penalties. Such penalties are limited in current law to $1,000 for each violation.

SEC. 02.30.010. Two-way radios required.

Inasmuch as this section refers to "Commercial" aircraft operations with passengers, the applicable portions of the FAR's are found in Part 135. We note that those commercial operations that do not carry passengers, are not covered in the present language, thus allowing training flights with crew or ferry flights in uncontroled airspace, and we feel that this is correct and needs no attention.

Part 135.157, however, provides that:

> *(a) No person may operate, under VFR, an aircraft carrying passengers at night, in a control zone or, except as provided in paragraph (c) of this section, over-the-top unless that aircraft has two-way radio communications equipment able, at least in flight, to transmit to, and receive from, ground facilities 25 miles away.*

This part goes on with additional, similar language for other conditions, as shown in parts (b) and (c), but they are redundant for these purposes.

RATIONALE': The FAR is much more comprehensive and far better wording. The State statute is vague and sloppy. As one simple example, almost no aircraft radio will work 50 miles on the ground, and no other provision is allowed in the State language. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

Finally, the effect of SB 611, as written, would add CRIMINAL penalties to what is basically a technical equipment area of concern. As a practical matter, all part 121 (airline) aircraft always comply. Additionally, it would be a rare situation to find a part 135 (air-taxi/Charter) operator without at least one such aircraft radio; they often have 2 or more!

SEC. 02.30.030. (a) Reckless operation.

This section is also found, almost verbatum in several FAR's, and is redundant.

Part 91.8, provides:

> *No person may assault, threaten, intimidate, or interfere with a crewmember in the performance of the crewmember's duties aboard an aircraft being operated.*

Part 91.9, provides:

> *No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.*

RATIONALE': The FAR's more than adequately cover the problem and provide penalties for violation. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

If the desire is to provide stiffer penalties, then this may be accomplished by simply making reference to the specific FAR and provide Class A or B misdemeaner status.

Sec. 02.30.030 (b) (liquor or drugs)

The Alaska Airmen's Association and AOPA both heartily agree that aircrew members who violate this or parallel FAR's are a serious threat to public safety and are a discredit to an honorable profession. We have no objection to the State tacking on Criminal penalties to his portion.

We do however, have problems with the language of the present section, wherein

> *"No person may operate an aircraft occupied by a crew member or passenger who is obviously under the influence of intoxicating liquor or habit-forming drugs." (emphasis added)*

Part 91.11, provides:

(a) No person may act as a crewmember of a civil aircraft-

(1) Within 8 hours after the consumption of any alcoholic beverage;
(2) While under the influence of alcohol; or
(3) While using any drug that effects his faculties in any way contrary to safety.

(b) Except in an emergency, no pilot of a civil aircraft may allow a person who is obviously under the influence of intoxicating liquors or drugs (except a medical patient under proper care) to be carried in that aircraft. (emphasis added)

Part 135.115, provides:

(a) No person may drink any alcoholic beverage aboard an aircraft unless the certificate holder operating the aircraft has served that beverage.

(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.

(c) No certificate holder may allow any person to board any of its aircraft it that person appears to be intoxicated.

(d) Each certificate holder shall, within 5 days after the incident, report to the Administrator the refusal of any person to comply with paragraph (a) of this section, or any disturbance caused by a person who appears to be intoxicated aboard any of its aircraft. (emphasis added)

RATIONALE': Inasmuch as the FAR's are explicit and more comprehensive than the current State statute section, recommend they be the controling directive; especially in light of Sec. 02.35.010 Specifically adopting the FAR's for State compliance.

We do however, have difficulty in making it a CRIMINAL offence as relates to the passengers. Terms such as "obviously under the influence" also include those suffering a hangover from the previous night, and they do not offer a threat to the Public traveling aboard an aircraft. As a matter of fact, they are docile Terms such as "appears to be intoxicated" and the like are often used in this context. We submit that rigid enforcement of this portion would, as a practical matter, cut air commerce in this State in half over night.

Recommend that the FAR's be adopted and that the more severe penalty for Air Crew members be adopted on its own.

Sec. 02.30.030 (c) (over water)

This section is more than adequately covered in the FAR's, with little confusion and excellent language:

Part 91.33 (11) provides:

If the aircraft is operated for hire over water and beyond the power-off gliding distance from shore, approved floatation gear readily available to each occupant, and at least one pyrotechnic signaling device. (is required)

Part 91.79 (a) provides:

Except when neccessary for takeoff or landing, no person may operate an aircraft lower than the following altitudes:

(a) ANYWHERE. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

Part 135.167 provides:

No person may operate an aircraft in extended overwater operations unless it carries:

(note: This section is extremely long, and contains all manner of specific relations to rafts, floatation and signalling devices and the like. None of that is required here to make the point that there is no reference to any specific distances from land; only equipment required when flying off shore.)

RATIONALE': To begin with, the current State language, if enforced, would halt approximately 50% of the air commerce in the State immediately. Here are several obvious examples:

1. A single-engine land plane flying from Anchorage to Kodiak. (not uncommon)

To comply with this part, the aircraft would need to fly higher than 25,000 feet! Only those aircraft equipped with both turbochargers and pressurization could possibly comply.

2. A single-engine land plane flying from Anchorage to Juneau or Ketchikan. (not uncommon)

After Yakutat, heading southeasterly, the beach rapidly ends, replaced by beautiful mountains, covered with large trees, ending in rocks and surf. There is no beach; no "landing" is possible. One ditches in the Gulf of Alaska near shore and wades ashore with survival gear.

We feel that the Federal regulations more than adequately cover this contingency, with far better language, in all instances. Inasmuch as Sec. 02.35.010 adopts the FAR's for compliance by the State, it is redundant and confusing to establish still another, poorly worded criteria.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deleting the section.

Sec. 02.30.030 (d) (snow and ice)

This section is more than adequately covered by FAR's:

Part 135.85, provides:

(a) No pilot may take off an aircraft that has-

(1) Frost, snow, or ice adhering to any rotor blade, propeller, windshield, or powerplant installation, or to an airspeed, altitimeter, rate of climb, or flight attitude instrument system;

(2) Snow or ice adhering to the wings, or stabilizing control surfaces; or

(3) Any frost adhering to the wings, or stabilizing control surfaces, unless that frost has been polished to make it smooth.

(there are additional sections, but they are redundant for these purposes)

Part 91.209 provides virtually identical text.

RATIONALE': The FAA language is far more comprehensive. Inasmuch as Sec. 02.35.010 adopts the FAR's for State compliance, it is redundant and confusing to establish yet another, less comprehensive and confusing standard.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs to be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deletion of this section.

Sec. 02.35.010 Federal law followed

This is an excellent section, and would and is referred to above and in other sections not herein noted. Unfortunately the United States Air Commerce Act of 1926 has been void since it was replaced with the 1958 edition. Recommend adoption of the current one.

Sec 02.35.040 Registration of Aircraft

This section provides that all the registration and documentation already required by applicable FAR's, and already on file with the FAA in Oklahoma City, and already available to the public upon request, and already printed in a government circular at least semi-annually, also be duplicated and filed with the Department of Transportation and Public Facilities.

We are unaware of <u>any</u> general aviation pilot who is aware of this provision or complies. We are unaware of any attempts by DOTPF to implement this section. We are unaware of any requirement for it. Recommend its deletion as an unnecessary, expensive and duplicating bureaucratic requirement with no valid requirement.

Sec. 02.35.050, Registration of Airmen

See section 02.35.040 above. Recommend deletion of this ineffective portion as well for the same reasons.

Sec. 02.35.060, 070 & 080.

See items above. Recommend deletion of these sections, which provide administrative control of the previous sections.

COMMENT: Inasmuch as these four (4) sections appear to have been in Public Law since 1949, and no attempt to comply has ever been initiated to our certain knowledge, this fact alone attests to the lack of requirement.

Sec. 02.35.090 License and permit to be exhibited on request.

Part 61.3, provides:

> *(a) No person shall act as pilot in command or in any other capacity as a required pilot flight crew member of a civil aircraft of United States registry unless he has in his personal possesion a current pilot certificate issued to him under this part.*
>
> *(h) Each person who holds a pilot certificate, flight instructor certificate, medical certificate, authorization, or license required by this part shall present it for inspection upon request of the Administrator, an authorized representative of the National Transportation Safety Board, or any Federal, State, or local law enforcement officer.*

Part 91.27, provides:

> *(a) Except as provided in part 91.28 (foreign aircraft), no person may operate a civil aircraft unless it has the following.*
>
> *(1) An appropriate and current airworthiness certificate. Each U.S. airworthiness certificate used to comply with this subparagraph (except a special flight permit, a copy of the applicable operations specifications issued under 21.197(c) of this chapter, appropriate sections of the air carrier manual required by parts 121 or 127 of this chapter contianing that portion of the operations specificatiojs under 21.187(c), or an authorization under 91.45), must have on it the registration number assigned to the aircraft under part 47 of this chapter. However, the air worthiness certificate need not have on it an assigned special identification number before 10 days after that number is first affixed to the aircraft. A revised airworthiness certificate having on it an assigned special identification number, that has been affixed to an aircraft, may only be obtained upon application to an FAA flight standards district office.*
>
> *(2) a Registration Certificated issued to its owner.*
>
> *(b) No person may operate a civil aircraft unless the airworthiness certificate required by paragraph (a) of this section or a special flight authorization issued under 91.28 is displayed at the cabin or cockpit entrance so that it is legible to passengers or crew.*

RATIONALE' Obviously the Federal language more than adequately covers the entire situation and others not even dreampt of by State officials. Recommend deleting it and relying on Sec. 02.35.010 for application of the FAR's in Alaska.

Sec. 02.35.100 Temporary permit.

This entire section covers an area expressly preempted by the Federal Government. There simply is no legal way for the State of Alaska to license pilots under any circumstances. This is 100% an FAA matter.

As a practicle matter, here is what would happen should there be an earthquake, major fire, flood or other State emergency: The authorized State official on the scene (Civil Defense Director, member of the National Guard etc), invoking whatever emergency authority may be available under other statutes, would notify the pilot/owner of an aircraft that it was required for service to say, send a generator to Bethel, evacuate something, haul medicine or supplies or the like. At that moment, the operator of the aircraft is under control and contract of the State of Alaska, and may operate any aircraft with no licenses at all.

He or she is operating in what is called the PUBLIC SERVICE, much the same as FAA pilots, military pilots, and even State pilots.

Recommend deletion of this entire section.

Sec. 02.35.110 Emergency rations and equipment.

This is an important part of the aviation Safety field in Alaska, and it should remain. There are, however, two (2) items which require updating:

1. Item (2) (A) requires showshoes. We recognize that a pair of cross-country skis, poles and boots are superior to snowshoes for survival travel, and recommend addition of the skis as shown on the attached proposed amended bill.

2. Item (1)(D) requires a firearm and ammunition. While this is an excellent suggestion, there are two (2) problems with the provision:

   a. In most cases a hand-gun is not a suitable survival weapon. Of far more value would be a lightweight shotgun and a supply of slugs and shot. We will not, however, offer this as an amendment at this time, as we have been counseled that it may be a controversial enough issue to bog down passage of the more important safety items. We urge consideration, however.

   b. There is no specified amount of ammunition, and one round could qualify. Recommend a minimum amount such as 25 or 50 rounds.

Sec. 02.35.115 Downed aircraft transmitting devices. (ELT's)

Sec. 91.52, provides

(a) Except as provided in paragraphs (e) and (f) of this section, no person may operate a U.S. registered civil airplane unless it meets the applicable requirements of paragraphs (b), (c) and (d) of this section.

(b) To comply with paragraph (a) of this section, each U.S. registered civil airplane must be equipped as follows:

(1) For operations governed by the supplemental air carrier and commercial operator rules of part 121 of this chapter, or the air travel club rules of part 123 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicability requirements of TSC-C91;

(2) For charter flights governed by the domestic and flag air carrier rules of Part 121 of this chapter, there must be attached to the

operable condition and meets the applicable requirements of TSO-C91;

(3) For operations governed by Part 135 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91; and

(4) For operations other than those specified in subparagraphs (1), (2) and (3) of this paragraph, there must be attached to the airplane a personal type or an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91.

(Note: there are 2 more pages of technical details that are not required to demonstrate sufficiency here.)

RATIONALE' There is obviously very complete and thorough Federal regulation to cover the installation, maintenance and operation of ELT's in all aircraft operations in this state; commercial and private. This is an area over which the state has no authority whatsoever, and where the state regulations CONFLICT with the appropriate Federal regulations.

Additionally, and as a much more practicle matter, one notes that under the FAR's, such ELT is inspected each year during the annual inspection of the aircraft under FAA criteria, and the aircraft is grounded if the ELT is not present, not in proper order or has an expired battery date. There is no such inspection system established or required under State authority.

Recommend that the item be deleted in its entirety and that reference to the FAR's via Sec. 02.35.010 for application in Alaska be sufficient.

Sec. 02.35.120, Penalties for violation of Chapter

This section will be reduced in scope by the actions above. The only requirement for the section remaining in in those areas which the State desires to inflict CRIMINAL penalties on top of Federal penalties. These are reflected in the attached, proposed substitute bill.

Sec. 02.35.130, Penalty for violation of 90 or 110 of this chapter.

Same as above.

Sec. 02.35.150, Deffinitions

Because of difficulties in interpretation, we suggest that "aircraft" and "airplane" be defined here precisely as they are in FAR's.

AIRCRAFT means: a device that is used or intended to be used for flight in the air, and when used in air traffic control terminology, may include the aircrew. (includes aircraft, helicopters, gyrocopters and all other heavier-than-air equipment, as well as gliders and sail planes)

AIRPLANE means: a divice such as above, but not including helicopters or gyrocopters.

GENERAL: Penalties under the FAR's are found in two (2) areas:

Sec. 609: wherein the Administrator has authority to revoke, suspend, or modify certificates. This includes pilot certificates, aircraft certificates and operator certificates. This is considered severe and serious penalty authority, and exceeds anything the State is empowered to do.

Sec. 901; wherein the FAA may impost Civil Penalties. Such penalties are limited in current law to $1,000 for each violation.

Absent: Gardiner

3/25/82 H. Labor & Commerce Tape # 46

SB 771 HB 642
SB 611

Senator Eliason

1: 10

000 Call to order

CSSB 771 / Sen. Eliason — effort to strike a blow for uncle liberties.
006 Went over situations which this bill wd alleviate.

044 Rogers said he supported bill. Saw other problems with bonding statute, such as buyer being req'd to post a bond when he pays cash.
Discussion.

068 Martin asked why grocery stores were included. Sen Eliason said stores are legit. businesses that have assets, so shdn't have to post bond.
Discussion.

097 Judy Knight, DOL — dept supports passage of bill, & explained their posn

115 Rogers had gotns; there was discussion of cash payments & what people shd be included in the law.

143 Martin asked clarification abt f/n

159 Beth Robinson, AA to Sutcliffe; req'd HB 744, which is similar. Support SB 771. Re cash buyer situ, gave example of situ that cd be harmful to fisherman.

177 Roger Paynor, UFA — supported bill; will make easier to have small scale market for fresh fish; wd also promote seafood consumption in Alaska.

229 Rogers asked clarification of primary fish buyer. Discussion.

266 Don Magnusson, Alaska Retail Assn — totally support bill. Wd make purchase & sale of raw fish much simpler.

Apr. 14 (?)

Jim Lear
Legal svcs

286 Randolph moved ~~SCS~~ SB 771 (2 & C) am be reported out by unan consent. Mo passed w/o objection.

302 ~~Rogers~~ HB 611 was brought before comm.

305 Rogers explained why bill was intd. Rogers said most pilots are unaware there are state laws except the ~~emer~~ emergency provisions law. Laws so closely related to federal laws; difficult to legislate.

355 Martin said he would better publicize the bill & bring it back before committee. Said to wire people & to schedule bill for 4/14.

384 Rogers went over other portions of the statutes which he feels need chng, eg ref to airmen rather than pilot. Said he would draft prop'd amdts in advance of next hrg. Martin asked that John Hartle work w/ Woodman on bill.

413 HB 642; Randolph explained content of bill & how trust would work.

482 Rogers said he doesn't completely agree w/ findings, but supports it for purposes of expediting bill.

490 Martin had gotns abt resolution & abt f/n. Rogers suggested putting 1 yr delay on effective date ~~how~~ wd continue if state govt.

501 There was discussion of the state's tax structure & ~~how~~ whether ~~money for the~~ trust ct went into effect. Randolph said money wd come from royalty revenues & bonus sales, not taxes.

557 Rogers explained effects of the fund – decreasing people in state assistance pgms; read for some capital projects wd be reduced.

586 Byloma ~~felt~~ said it wd amt to people being forced to again pay income taxes. Randolph felt those wanting services shd pay for them. He explained alternatives to income tax. Byloma said people wd flock to the state. Rogers said if they weren't residents at the time of enactment, they could not receive benefits of the trust until there was another source of funds. Byloma reiterated that ppl's wd move here for the money. Randolph agreed, but said our social pgms draw just as many. Rogers said biggest increase in migration is # jobs created by capital projects, state jobs, & subsidized loan pgms.

716 Jim ~~Lehr~~ Lear, LAA Legal Svcs – said bill was drafted by Soto, who said bill was used as "vehicle" so changes may be needed. Said bill has constl probs – restricting benefits to people who are residents on date certain & denying those who become residents after that.

Side B

008 Rogers disagreed as it wd distribute an asset. Doesn't create a class of people. Lehr said resources provide funds on an ongoing basis, now & in the future, so future residents wd be deprived.

026 Randolph spoke w/ sev attys & is certain there are ways to get around this. If there weren't, the, just homesteading laws of the entire ~~gov~~ country wd be invalid. This is giving a share, just as though it were a piece of land; belongs to people & income that share derives belongs to them.

046 Rogers felt "public purpose" was even bigger issue. Explained his posn abt how the issue shd be addressed. Discussion.

104 Randolph felt these constl issues shd be looked at by Judiciary.

106 Rand moved to pass bills to next comm of referral
for - R, R opp'd Byloma, Martin
Motion failed

2:06

118 Adjourned.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/25/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:10	
Rep. D. Randolph	✓		1:05	
Rep. B. Rogers	✓		1:08	
Rep. T. Gardiner		✓		
Rep. T. Martin, Chair	✓		1:05	

Subject Matter:

House Bill No. 642

Senate Bill No. 771 511

Special Orders:

CSSB 771(L&C) Am

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Rodger Painter		United Fishermen	yes	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3-25-82

SIGN-IN SHEET

HB642

Name (please print)	Address	Representing	Testify? (YES or NC)	Phone Number
James H. Lear		LAA Legal Servs.	Yes	2450

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

SIGN-IN SHEET

CSSB 77

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
DON MAGNUSSON	310 2ND JUNEAU	ALASKA RETAIL ASSN	?	G-6706
Judy Knight	Box 1149 Juneau	AK Dept of Labor	Yes	465-2700
Beth Robinson	Pouch V	Rep. Sutcliffe	Yes	4940

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

RULES

**** ** ** *** *** ***

SB 611 SENATE ACTION 09:40 3/26/82 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/11/82	01	0005	FIRST READING -- COMMITTEE REPORTS
02/09/82	02	0236	L&C -- DP02. [illegible]R01
02/25/82	03	0388	JUD -- DP03
03/01/82	04	0411	RLS -- OTHER04
			TAKEN UP IMMEDIATELY
03/01/82	05	0412	SECOND READING
03/01/82	06	0412	ADVANCED TO 3RD READING BY UNAN CONSENT
03/01/82	07	0412	THIRD READING
03/01/82	08	0412	PASSED BY DIV 17-00-02

**** ** ** *** *** ***

SB 611 HOUSE ACTION 09:40 3/26/82 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/01/81	09	0631	FIRST READING -- COMMITTEE REPORTS
03/05/82	10	0701	L&C CMTE REFERRAL ADDED
			LABOR & COMMERCE
			JUDICIARY
			RULES

**** ** ** *** *** ***

SB 771 SENATE ACTION 09:40 3/26/82 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/16/82	01	0299	FIRST READING --- COMMITTEE REPORTS
03/11/82	02	0530	L&C --- CS05
03/12/82	03	0555	RLS --- OTHER03
			TAKEN UP IMMEDIATELY
03/12/82	04	0559	SECOND READING
03/12/82	05	0559	L&C CS ADOPTED BY UNAN CONSENT
03/12/82	06	0559	AM01 ADOPTED BY UNAN CONSENT
03/12/82	07	0559	ADVANCED TO 3RD READING BY UNAN CONSENT
03/12/82	08	0559	THIRD READING
03/12/82	09	0560	PASSED BY DIV 17-00-03
03/12/82	10	0560	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** *** ***

SB 771 HOUSE ACTION 09:40 3/26/82 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/15/82	11	0793	FIRST READING --- COMMITTEE REPORTS
			LABOR & COMMERCE

3-29-82
HB866

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 29, 1982
1:14 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph
Rep. Rogers

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

HB 866 An Act establishing a special investment tax credit; and providing for an effective date.

WITNESS REGISTER

R.R. Kesel, Director
Division of Audit
Department of Revenue
Juneau, Alaska 99811
465-2320
Position Statement: Opposed bill.

Phil Holdsworth
Alaska Miners Association
Juneau, Alaska
586-1383
Position Statement: Suggested amendment to bill.

George Krusz, President
Alaska State Chamber of Commerce
Juneau, Alaska
586-2323
Position Statement: Supported principle of bill, but felt it discriminatory.

Roy Huhndorf, president
Cook Inlet Region, Inc.
Anchorage, Alaska
274-8638
Position Statement: Strongly supported concept of bill; encouraged adoption.

Lance W. Anderson
Vice President of Finance
Cook Inlet Region, Inc.
Anchorage, Alaska
274-8638
Position Statement: Recommended bill be passed.

R.A. Bradley
LAA Legal Services
Pouch Y
Juneau, Alaska 99811
465-3867
Position Statement: Answered questions about legality of bill.

PREVIOUS ACTION

HB 866

See minutes of 3/10/82.

Statutory Reference: AS 43.20.036

Action Taken: Rep. Randolph moved to report bill out of committee. He withdrew that motion. There was discussion. Rep. Randolph again moved to report bill out of committee. There being no objection, the motion passed. Bill was reported out with individual recommendations.

ACTION NARRATIVE

Tape #47
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:14 p.m. Members present were: Representatives Martin, Bylsma, Rogers, and Randolph. Rep. Gardiner was absent. Rep. Rogers left immediately after the call to order. HB 866 was before the committee.

Number 009

R.R. Kesel, Director of Audit, Department of Revenue, opposed the bill. He said it does not accomplish its intended purpose. He addressed three hypothetical situations to illustrate his point of view. He said the bill would benefit only those companies with large incomes, and would be costly to the state.

Number 072

Phil Holdsworth, Alaska Miners Association, suggested an amendment to prevent transferral of tax credits. He said he understands the Department of Revenue's concerns. He said a more reasonable percentage would still be beneficial to the Alaska mining industry. Rep. Martin asked Holdsworth questions about the proposed amendment.

Number 105

George Krusz, president of the Alaska State

Chamber of Commerce, supported the principal of the bill, but felt it was conceptually discriminatory because it excludes a number of industries. He proposed an amendment which would allow all industries to take advantage. He said he was sympathetic to the Department of Revenue's concerns. (Krusz passed out his proposed amendment to the committee; this is available for inspection.) There was discussion.

Number 141

Roy Huhndorf, president of Cook Inlet Region, Inc., strongly supported the concept of the bill. He said it could help strengthen and broaden the economy. He said the state should adopt the bill to encourage diversification of the economy. He said the tax credit policy would encourage early development of natural resources on native-owned land. He felt it would also make investment by third parties in native-owned resources more attractive. He said more money would be invested in the state's economy, and that more year round and diverse employment opportunities would be created, which would help the economy. There was discussion. Rep. Martin felt this singled out special corporations. Huhndorf though those industries were selected for their potential large development, which would provide jobs and a revenue base. He felt the size of the tax credit and the transferability were both important in creating this economic base. Huhndorf said limiting this to Alaska would inhibit the bill somewhat. He said he would like to see the general concept embodied in a bill.

Number 265

Lance W. Anderson, vice president of Finance, Cook Inlet Region, Inc., rebutted the 3/9/82 written testimony offered by Stevens of the Department of Revenue. He felt the fiscal impact figures were incorrect, and presented his own figures to back his position. He recommended the bill be passed. Rep. Martin asked what the impact would be this year. Anderson said it would be minor. He said it would not affect smaller operations, but that it is vital to larger projects. Anderson said the impact would be several years down the line. The impact today is in determining the feasibility of projects. He said it enhances marginal investments.

Number 371

Rep. Randolph asked the ratio of tax credit to investment required. Anderson said it was 10% of the qualified investment (tangible personal property). There was discussion. Anderson said he felt there was no constitutionality question. There was discussion of the legality of the bill. Anderson said he would provide a legal opinion.

Number 431

Rep. Randolph said he thought the bill was good, and that it should be moved. He moved to report the bill out of committee. Rep. Martin felt the proposed amendments should be considered first. Rep. Randolph withdrew his motion.

Number 454

Rep. Martin asked P.A. Bradley, LAA Legal Services, if there were legal questions with the bill. Bradley said he was not asked to achieve a purpose in drafting the bill, so he did not know if the goal was achieved. He thought there were no constitutional problems, as tax laws are different.

Number 478

Rep. Martin asked for motions on the amendments so legal opinion could be obtained. He explained the Chamber of Commerce's amendment to delete reference to specific industries. Anderson said he opposed the amendment. He said the reason for the bill is to encourage long-term development of four base industries in Alaska. He said the fiscal impact of the amendment would be detrimental to passage of the bill. Anderson said of the second proposed amendment, regarding sale of credits, that the federal decision to allow sale of investment tax credits is excellent philosophy. He said the same situation exists in Alaska, that the state needs to encourage investment. He recommended neither amendment be included in the bill. Rep. Randolph agreed, due to the shortness of the session. Krusz agreed with Randolph, that if the amendments would kill the bill, he withdrew their proposed amendments and supported the bill. Kesel said he was led to believe much of the mining industry investment would be subject to investment tax credit. He read a definition of "qualified investment". There was discussion of qualified investments.

Number 698	Rep. Randolph moved to report the bill out of committee. There being no objection, the motion passed. Bill was reported out with individual recommendations. Rep. Martin recommended the Department of Revenue do a better tax evaluation, and said the committee would have the other amendments evaluated.
Number 725	There being no further business to come before the committee, the meeting was adjourned at 1:59 p.m.

SIGN-IN SHEET

HB 866

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
R R Kesel	SOB	Rev Dept. - offices Bldg	Yes	465-3310
R A. BRADLEY	6005 Court Bldg	—	Unknown	
Phil Holdsworth.	Juneau	Alaska Miners Assn.	Yes	586-1383
Jen Kim	Juneau	Ak State Cham C	Yes	586-2323
Mary Hutmacher	Anchorage	Cook Inlet Regional	Yes	274-8638
JANICE ANDERSON	ANCHORAGE	COOK INLET REGION	YES	274-8638

Very important to have white Sec 38 deleted.
Det definition off top of Mr Kesel

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/22/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:07	
Rep. D. Randolph	✓		1:32 ~~1:14~~	
Rep. B. Rogers	✓		1:14	
Rep. T. Gardiner		✓		
Rep. T. Martin, Chair	✓		12:55	

Subject Matter:

House Bill No. 866

Senate Bill No. _____

Special Orders:

Absent: Gardiner

3/29/82
H. Labor & Commerce

HB 866 Tape # 47

1: 14

000 Call to order; Rep. Rogers left imm. after call to order.

HB 866

069 R.R. Kesel, Dir of Audit ~~Kesselt~~, Dept. Revenue — opposed bill; doesn't accomplish intended purpose. Addressed 3 hypothetical situs to illustrate his point of view. Wd benefit only those companies with large incomes; wd be costly to the state.

072 Phil Holdsworth ~~Holsworth~~, Ak Miners Assocn — suggested amdmt to prevent xfrad of tax credits. Understands to Dept. Revenue's concerns. More reasonable percentage wd still be beneficial to Ak mining industry.

100 Astns — Martin — re prop'd amdmt.

105 George Kreeg, Pres, Ak St Chambers of Commerce — supports principle of bill; conceptually, discriminatory because it excludes a # of industries. Prop'd amdmt which wd allow all industries ~~is~~ to be advantage. Sympathetic to Revenue's concerns. (Gave prop'd bill to comm.) Discussion.

141 Roy Hunndorf ~~Handorf~~, pres., Cook Inlet Region Inc — strongly supports concept. Can help strengthen & broaden economy. State shd adopt this to encourage diversification of the economy. Tax credit policy will encourage early devpt of nat resources on native-owned land. Also makes investment by third parties in native owned resources more attractive. More money wd be invested in state's economy. More yr round & diverse emplmt opps wd be created, which wd help economy. Discussion —

184 Martin felt this singled out special corpns. Handorf felt those industries were selected for their potential large devpt, which wd provide jobs & revenue base.

Handorf -

215 felt size of tax credit & xfr ability were both important in creating this economic base. Limiting to ak wd inhibit bill somewhat. Wd like to see general concept embodied in bill; ~~not particularly concerned with~~

265 Lance W. Anderson, VP Finance, Cook Inlet Region Inc - rebuttal of 3/9/82 Dept Revenue w/Hse testimony by Stevens. Felt fiscal impact figures were incorrect. Presented figures to back his position. Recommended bill be passed.

343 Martin asked impact this yr; Anderson said it wd be minor. Wd not affect smaller operations, but is vital to larger projects. Impact several yrs down the line. Impact today is in determining feasibility of projects. Enhances marginal investments.

371 Randolph - asked ratio of tax credit to investment req'd. Anderson - 10% of qualified investment (tangible personal property). Discussion.

395 Martin asked his specialty; Anderson - tax mgmt. - felt there was no constitutionality question. Discussion of legality of bill. Said he'd provide legal opinion.

431 Randolph felt bill was good & that it shd be moved. Moved to report bill out.

440 Martin felt amdmts shd be considered first. Randolph w/drew motion.

454 Martin asked Bradley, Legal Svcs, if there were legal gotchas w/bill. Bradley said he was not asked to achieve a purpose, so doesn't know if goal was achieved. Thought there were no constl probs as tax laws are different.

478 Martin asked for motions on the amendments so legal opinion cd be obtained. Explained Chamber of Commerce amdmt (delete ref to specific industries).

~~533~~ Amdmt #1 by Chamber before the comm.

539 Anderson – oppose amdmt. Reason for bill is to encourage long term devpt of 4 base industries in Alaska. Fiscal impact wd be detrimental to passage.

Re ~~second~~ amdmt – sale of credits – ~~allowing~~ federal decision to sale of investment tax credits is excellent philosophy; same with AK, need to encourage investment. Recommended neither amdmt be included in bill.

610 Randolph agreed, due to shortness of session.

618 Kruse – agree w/Randolph; if amdmts wd kill bill, withdraw their amdmts & support bill.

632 Kessell – ~~don't think~~ led to believe much of mining industry investment wd be subject to investment tax credit. Read a definition of qualified investment. Discussion of qualified investments.

698 Randolph moved to report bill out. No objection, so passed, w/ind'l recommendations. Martin recommended Dept Revenue do better tax evaluation & ~~comm~~ said comm wd have other amdmts evaluated.

1:59
725 Mtg adjourned.

definition of qualified investment according to R.R. Kessell of dept. of revenue.

U.S. Master Tax Guide, referring to what is Section 38 property.

"The investment credit is available only for expenditures on Section 38 property. Section 38 property is either recovery property or other depreciable or amortizable property having a useful life of 3 yrs or more; that is,

1) tangible personal property;
2) other tangible property used as an integral part of mfg, extraction, production.

3-30-82

HB 794

HB 795

(HB 642)

(TELE-
CONFERENCE)

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 30, 1982
1:09 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Gardiner
Rep. Randolph
Rep. Rogers

Members Absent: No members absent.

COMMITTEE CALENDAR

TELECONFERENCE HEARING

HB 794 — An Act relating to sales practices of motor vehicle dealers.

HB 795 — An Act relating to motor vehicle rustproofing services; and providing for an effective date.

HB 642 — An Act establishing the Alaska natural resource trust; and providing for an effective date.

WITNESS REGISTER

Phil Blackstone
Endrust of Alaska
Anchorage, Alaska
Position Statement: Opposed both HB 794 and HB 795.

George Cada
Arctic Service Rustproofing
Anchorage, Alaska
Position Statement: Supported HB 795.

Max Hodel
Alaska Sales & Service
Anchorage, Alaska
Position Statement: Felt both HB 794 and HB 795 unnecessary.

Jack Mann
Kodiak Auto Center
Box 788
Kodiak, Alaska
486-5703
Position Statement: Felt HB 795 imposed a hardship on small communities.

Richard Sims
Berg Motors
Box 9
Kodiak, Alaska
486-4751
Position Statement: Opposed both HB 794 and HB 795.

R.L. Silberer
Universal Motors
Anchorage, Alaska
Position Statement: Opposed both HB 794 and HB 795.

Fred Morino
Eero Volkswagen
Anchorage, Alaska
Position Statement: Opposed both HB 794 and HB 795.

Bahne Martensen
Continental Motor Company
Anchorage, Alaska
Position Statement: Opposed both HB 794 and HB 795.

Connie Boe
Consumer Protection Office
Office of the Attorney General
Anchorage, Alaska
Position Statement: Defended need for HB 795.

Bob Evans
Consumer Protection Office
Office of the Attorney General
Anchorage, Alaska
Position Statement: Defended need for HB 794.

John Beard
counsel for Continental Motors
Anchorage, Alaska
Position Statement: Felt both HB 794 and HB 795 superfluous.

PREVIOUS ACTION

HB 794 — See minutes of 3/11/82.

Statutory Reference: AS 45.45; AS 45.50.

Action Taken: Committee considered workdraft committee substitute. Testimony was heard; no formal action taken.

HB 795 — See minutes of 3/11/82.

Statutory Reference: AS 45.45; AS 45.50.

Action Taken: Committee considered workdraft committee substitute. Testimony was heard; no formal action taken.

HB 642

See minutes of 2/24/82 and 3/25/82.

Statutory Reference: AS 37.

Action Taken: Rep. Randolph moved to pass HB 642 out of committee with individual recommendations. On the question: for--Rogers, Randolph, Gardiner; opposed--Bylsma, Martin. Motion passed.

ACTION NARRATIVE

Tape #48
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:09 p.m. Members present were: Representatives Martin, Bylsma, Gardiner, Randolph, and Rogers. There were no members absent. This meeting was a teleconference hearing which included the sites of Anchorage, Fairbanks, Kodiak, Ketchikan, and Juneau. Testimony was taken on HB 794 and HB 795, and the workdraft committee substitutes.

Number 015

Phil Blackstone, Endrust of Alaska, Anchorage, opposed both bills. He saw no need for the legislation. He said there have been no complaints about rustproofers. He said the bill does not limit competition, if that is the aim. He questioned how the law would actually work in various situations. He had problems with terminology and definitions. He forewar problems with warranties, accidents, inspections, and conflicts with national warranties. He thought HB 794 would end up costing consumers more. He said it is cheaper to install accessories on a mass production basis at the factory. He said it will cost the consumer more if the dealer has to specify options or install them himself. He said the industry can balance itself and take care of itself.

Number 117

George Cada, Arctic Service Rustproofing, Anchorage, said he is a deale· with Ziebart International. In order to protect the Alaska corporation, he supported HB 795. He

said it would protect the auto dealer, as well as the general public.

Number 134 — Rep. Martin explained that the Consumer Protection Agency had initiated the request for legislation.

Number 145 — Max Hodel, Alaska Sales & Service, Anchorage, said HB 794 is unnecessary. He said it asks for dealer restriction, and then eliminates the restriction in section (b). He felt it was an impractical and unneeded bill. He said for a dealer to maintain inventory in Alaska and offer a choice of product, he must commit to the supplier as much as six months ahead. He said the consumer is given a wide choice of options, and the bill won't help the consumer.

Regarding HB 795, Hodel said he has never had a consumer problem dealing with rust on autos. He said rust inhibitors have been very effective. He did not feel legislation should be passed that gives the idea that rustproofing is necessary in Alaska. Hodel said, compared to other areas of the United States, we have a much less serious problem. He wanted an interpretation of warranty on rustproofing to be equated to the proper use of undercoating. He said they have all vehicles undercoated when the come to Alaska. He said there is a high degree of consumer acceptance, and some benefit as rustproofing.

Number 253 — Rep. Rogers said he appreciated Hodel's comments on HB 794. He felt there may be a legal problem with the dealer misrepresenting the actual cost of transportation. Hodel said the laws covered this.

Number 271 — Rep. Rogers said the committee had been given copies of rustproofing warranties which appeared not to cover the product. He asked if a standard should be established. Hodel said this goes against his philosophy. He said it is not necessary for the government to impose details. He would be surprised if the auto industry would be willing to accept such language. He said, as a dealer, he would not want to be injected into this chain of supply. Rep.

Rogers thought his concerns were good, but he assumed there must be a problem in Anchorage, or the legislation would not have been introduced. Rep. Martin commented on materials before the committee about rustproofing problems in other areas of the country.

Number 371

Jack Mann, franchise Toyota and Chrysler products dealer in Kodiak, testified regarding HB 795. He was concerned about the effect on several suppliers outside the state providing services to Alaska dealers. He wondered about the effect on those companies and what good bonding would do. He asked how it would apply to auto manufacturers. He said there is a problem with rust in Kodiak and other coastal areas. He felt passing legislation would raise the cost to Alaska consumers, and would be a particular hardship on dealers in small communities. He said the Consumer Protection Agency should confine itself to areas where there are consumer complaints. Mann said small communities are being legislated against. He said the high bond will either raise the cost to consumers, or be affordable only to those dealers in larger communities. Rep. Martin commented on Mann's testimony.

Number 443

Richard Sims, Berg Motors, Kodiak, said that HB 794 would be a detriment to the consumer because they do require people to buy certain features; he used as examples winterizing and positraction. He said the dealer, knowing the area, can do a better job of ordering than the consumer. Regarding HB 795, Sims said this would be a problem, especially in rural areas. He explained situations where rustproofing cannot work, such as when a vehicle is being immersed in salt water daily to launch boats. Rep. Bylsma asked if cars come from the manufacturer with the degree of antifreeze needed for protection. Sims said they have a small degree of protection, but not enough to withstand minus-forty-degree weather such as is encountered on the shipping vessels.

Number 538

Rep. Randolph moved to report HB 642 out of committee with individual recommendations. On the question: for--Rogers, Randolph,

Gardiner; opposed--Bylsma, Martin. Motion passed.

Number 560

Dick Silberer, Universal Motors, Anchorage, supported Hodel's statements and those of others opposed to HB 795. He said the real cause of rust was brought about by the state's and municipalities' treatment of roads. He said the legislation should inhibit the use of salt and calcium on streets. He could not support the bill as drafted.

Regarding HB 794, Silberer asked if an individual could request a dealer to remove rustproofing or accessories the individual did not want on a car. He went on to ask if there was a list of complaints signed by people requesting the bills. Rep. Martin said they did have some testimony regarding problems, and that Connie Sipe of CPA had more. He said there was not much, but that the feeling is that prevention is cheaper than cure. Rep. Martin agreed with Silberer's statement regarding governmental entities evaluating the materials being put on roads.

Number 683

Fred Morino, Eero Volkswagen, Anchorage, said the other witnesses had expressed his concerns. He said auto dealers do the best job they can. He considered rustproofing a form of insurance, similar to the tiles on the exterior of the space shuttle. He was opposed to either bill, as dealers are doing a good job and being responsive to needs.

Side B, Number 013

Rep. Martin asked if it is possible for an individual to buy a stripped down version of a car, without undercoating, and other options. Morino said a consumer can be provided with any vehicle he requests, with or without options, by ordering from the factory.

Number 035

Bahne Martenson, Continental Motor Company, Anchorage, responded to the letter he had sent to the committee. He said he does not require a consumer to purchase anything. He said the average retail price he pays for undercoating is $75-100, and that it is a good option. He said rustproofers are trying to get a share of the automobile business through referral commissions. He

said he does not make referrals because he cannot vouch for the quality of the work. Martensen said rustproofing retails for an average of $295 for an economy car. He said HB 795 would take away the consumer's option to buy undercoating. He felt it should be left up to the customer to read and evaluate warranties and to choose the product he wants to buy.

Number 095

Connie Sipe, Consumer Protection Office, Anchorage, testified about HB 795. She said the CPA has been given the power and duty to respond to general complaints brought by people without a specific complaint. She said CPA conducts independent investigations, which they have done in the areas covered by both bills. She said the workdraft committee substitute covers situations the witnesses spoke to. She said the bill would not apply to a dealer selling a car with a manufacturer warranty, but would apply to a dealer selling a service.

Number 131

Sipe said her concern with undercoating is that their staff had been told by dealers that undercoating is rustproofing. She said the bill is to eliminate such misrepresentation. Sipe said the CPA is interested in preventive legislation. She said CPA would support the bill even without the bond provision. She said they want to do away with potentially deceptive warranty terms. Sipe said the law would apply to Seattle suppliers. She said dealers should not be injected into a chain unless they provide a rustproofing service or represent undercoating as rustproofing.

Number 208

Rep. Martin said the bonding provision might be deleted from the bill.

Number 220

Bob Evans, Consumer Protection Office, Anchorage, testified regarding HB 794. He gave examples of situations illustrating the need for the law. He said dealerships wield substantial power in stating the conditions under which consumers will purchase vehicles. He said the interest if consumers, of secondary competitors, and of dealers will be served by the bills. He said that the result of "shopping" the Anchorage area is that the shoppers were told that vehicles were not available

without options.

Number 325 — John Beard, counsel for Continental Motors, Anchorage, said he was a lawyer in private practice, and that he had experience representing auto sales dealers. Beard said he was testifying at the request of Martensen. Beard said both bills are superfluous. He said what is prohibited in the bills is unfair practices. Beard said the definition of unfair practices is too broad; that even the Supreme Court could not define it. Beard said this is determined by a variety of items, and that people trying to comply with the law have no way to determine what is lawful under the statute.

Number 386 — Regarding HB 794, Beard said a person must order a new vehicle for delivery. He said if this is intended to mean "when a purchaser offers to buy", it could lead to problems. He gave an example. Beard said the state is managing a dealer's inventory if it disallows him the option of ordering accessories he feels the public wants to buy. Beard attempted to discern the bill sponsor's intent.

Regarding HB 795, Beard said the effect of the bill would be, by the definition of rustproofing, to make the same standards applicable to products not intended as rustproofing, but that do inhibit rust.

Number 545 — Rep. Martin asked Beard to work with the Consumer Protection Office on legislation. Beard said he would.

Number 580 — The Anchorage LTN moderator said she had been asked to convey that Steppe and Yaeger wished to go on record in opposition to both bills.

Number 598 — Jack Mann, Kodiak, responded to Sipe's testimony regarding rustproofing provided by secondary companies by asking about rustproofing provided by manufacturers. He said, regarding options and secondary suppliers, that in rural communities there are no secondary suppliers. Rep. Martin replied.

Number 640 — Rep. Martin said no further action would be taken at this time. He said if any action

was considered, the participants in the teleconference would be notified.

Number 653

There being no further business to come before the committee, the meeting was adjourned at 2:37 p.m.

MSG 82-00017563 PRTY 1 03/30/82 12:52:03 ORIG: LA08 IN= 0010 OUT= 0020
FROM: MICKI IN ANCHORAGE TO: JUNEAU T/C
TARGET: LJE5 SUBJ: H. LABOR & COMMERCE - CAR SALES/RUSTPRFN PAGE 0001

TO PARTICIPATE IN ANCHORAGE
1. PHILIP BLACKSTONE, ENDROST OF ALASKA
2. GEORGE CADA, ARCTIC SERVICE RUSTPROOFING
3. MAX HODEL, AK SALES & SERVICE
4. JERRY CHADWICK, UNIVERSAL MOTORS
PLUS 2 OBSERVERS

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00017576 PRTY 1 03/30/82 12:55:51 ORIG: LA08 IN= 0011 OUT= 0021
FROM: MICKI IN ANCHORAGE TO: JUNEAU T/C
TARGET: LJE5 SUBJ: H. LABOR & COMM. T/C CAR SALES/RUSTPRFNG PAGE 0001

MORE TO SPEAK IN ANCHORAGE
5. R.L. SILBERER, UNIVERSAL MOTORS
WILL SEND MORE AS THEY COME IN, EXPECT ABOUT 15-20 PARTICIPANTS

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00017577 PRTY 1 03/30/82 13:06:41 ORIG: LA08 IN= 0012 OUT= 0022
FROM: MICKI IN ANCHORAGE TO: JUNEAU T/C
TARGET: LJE5 SUBJ: H. LABOR & COMMERCE/CAR SALES/RUSTPROFNG PAGE 0001

TO SPEAK IN ANCHORAGE:
6.FRED MORINO, FERO VW
7. BAHNE MARTENSEN, CONTINENTAL MOTORS
8. CONNIE STPE, ATTORNEY GENERAL SPEAKING ON HB 795
9. BOB EVANS, ATTORNEY GENERAL SPEAKING ON HB 794
10. JOHN BEARD, CONTINENTAL MOTORS
*******JERRY CHADWICK PREVIOUSLY LISTED AS SPEAKER NUMBER 4 DOES NOT WISH TO SPEAK**********

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00017585 PRTY 1 03/30/82 13:11:53 ORIG: L000 IN= 0004 OUT= 0023
FROM: KODIAK TO: JUNEAU
TARGET: LJE5 SUBJ: 11A.M. T/C H.L&C PAGE 0001

HERE TO PARTICIPATE IS: JACK MANN....KODIAK AUTO CENTER
BOX 788, KODIAK PH.#486-5703
RICHARD SIMS...BERG MOTORS
BOX 9, KODIAK PH.#486-4751

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00017634 PRTY 1 03/30/82 14:21:18 ORIG: L000 IN= 0007 OUT= 0024
FROM: KODIAK TO: JUNEAU
TARGET: LJE5 SUBJ: HB 794 PAGE 0001

IS THERE ANY WAY WE COULD GET THAT CS FOR HB 794 TELECOPIED TO US.
OUR PARTICIPATES WOULD LIKE TO SEE IT DURING THE TELECONFERENCE.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

SIGN-IN SHEET HB 795

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
R. O. Bennett	Box 91650 College, AK	Myself	No	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3-30-82

SIGN-IN SHEET HB 794

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
R.O. Bennett	Box 81650 College, AK	MYSELF	NO	
Jim Welch	2529 Scott Dr. Juneau	Myself	NO	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3-30-82

3/30/82 TELECONFERENCE Tape # ____

Absent:

HB 794
HB 795

Make copy of tape for Mat-Su

1:09

000 Call to order; intro of members; referred to bills.

both bills Anchorage Cada Holden

015 Phil Blackstone, — opposed both bills. Sees no need for legislation: ~~Does~~ there have been no complaints abt rustproofers; bill does not limit competition, if that is the aim. ~~Does~~ ~~not~~ question ~~does~~ how law wd actually work in various situs. Problems with terminology & definitions. Foresaw probs w/ warranties, accidents, inspections, & ~~other situs~~ conflicts w/ national warranty. Thought HB 794 wd end up costing consumers more. Cheaper to install accessories on mass production basis at factory; will cost customer more if dealer has to specify options, or install them himself. Industry can balance itself & take care of itself.

HB 795
117 George Cada, Arctic Svc Rustproofing — dealer w/ Zubart Int'l — in order to protect Ak cosm, support HB 795. Wd protect auto dealer as well as gen'l public.

134 Martin explained that CPA originated request for legislation.

HB 794
145 Max Holden (Hodel?), Ak Sales & Svc — HB 794 — bill unnecessary - asks for dealer restriction & then eliminates restriction in section (b). Impractical & unneeded bill. For dealer to maintain inventory in Alaska & offer choice of product, must commit to suppliers as much as 6 mos. ahead. Consumer is given wide choice of options. Bill won't help consumer.

HB 795 Re HB 795 — he has never had consumer prob dealing w/ rust on autos. Rust inhibitors have been very effective. Doesn't feel we shd pass legisn that gives idea rustproofing is necessary in Ak

Anc

Hodel

~~Holden~~, cont'd — compared to other areas of U.S., we have much less serious prob. Wants interpretation of warranty on rustproofing to be equated to proper use of undercoating. They undercoat all vehicles when they come to Alaska; high degree of consumer acceptance & some benefit in rustproofing.

253 Rogers — appreciated comments on 794; may be legit prob with dealer misrepresenting actual cost of xptn. Hodel felt other laws covered this. ~~Rogers~~

271 Rogers said comm. had been given cpy of rustproofing warranties which appeared not to cover product; asked if standard shd be established. Hodel said this goes against his philosophy; not necessary for govt to impose details. Wd be surprised that auto industry wd be willing to accept such language. As a dealer, wd not wanted to be injected into this chain of ~~process~~ supply.

331 Rogers thought his concerns were good. Assumed there must be a prob in Anc or there legsn wd not have been intd.

343 Martin commented on mails before committee about rustproofing probs in other areas of the country.

Kodiak

371 Jack Mann, franchise Toyota & Chrysler products dealer — re HB 795 — concerned that out suppliers outside state provide svce to Ak dealers: curious abt affect on these companies & what good bonding will do; how it will apply to auto mfrs. Prob w/rust in Kodiak & other coastal areas — passing legs will raise cost to Ak consumers; particular hardship on dealers in small communities. CPA shd confine itself to areas where there are consumer complaints.

Mann, cont'd – small comm. being legislated against. High bond will either raise cost to consumers or be affordable only to those dealers in larger communities.

Martin commented on Mann's testimony.

443 Richard ~~Simms~~ Sims, Berg Motors, Kodiak – re both bills – HB 794 wd be detriment to consumer because they do require people to buy certain features – gave examples: winterizing, protraction. Dealer, knowing area, can do better job of ordering than consumer.

480 HB 795 – prob, esp in rural areas – situations where rustproofing can't work, such as when vehicle is being immersed in salt water daily to launch boats.

508 Bylsma – ~~Sims~~ re winterizing – don't cars come from mfr w/ degree of antifreeze needed for protection? Simms said they have small degree of protection, but not enough to w/stand -40° weather such as is encountered on the shipping vessels.

HB 642

538 Randolph moved to pass HB 642 out of comm w/ ind'l recommendn.

Question: for – Rog Rand, Gard opp'd – Bylsma, Martin.

passed.

~~Sen~~ Anchorage Dist ~~Spielberg (Silver?)~~ Silberer, Universal Motors – supported Hidel's stmts + others opp'd to HB 795. Real cause of rust brought abt by state + municipality's treatment of rds. Shd inhibit use of salt + calcium on streets. Bill as Cd not support bill as drafted.

560 Re HB 794 – asked if ind'l cd request dealer to remove rustproofing or accessories ind'l did not ~~want~~ apply to purchase car.

Ane, cont'd –

Asked if there was a list of complaints signed by people requesting bills.

642 Martin said they did have some testimony re proba, & Sipes, CPA, has more. Not much, but feeling is prevention is cheaper than cure. Agreed w/ govts evaluating materials being put on roads.

683 Fred Morino – Ford Exec VW – other witnesses expressed his concerns. ~~Also concerned~~ They do best job they can. He considers rustproofing a form of insurance, similar to tiles on exterior of space shuttle. Opposed to either bill as dealers are doing good job & being responsive

Side B to needs.

013 Martin asked if it's possible for indiv to buy ~~the~~ stripped down version of car – w/o undercoating & other options. Morino said consumer can be provided w/ any vehicle he requests, with & w/o options, by ordering fm factory.

035 Bahne ~~Martenson~~ martensen, Continental Motor Co – both bills – referred to Ltr he sent to comm. ~~How~~ He doesn't require consumers to purchase anything. Average retail price they pay for undercoating is $75-100 – good option. Rustproofers are trying to get share of automobile business, through referral commissions. They don't make referrals because they can't vouch for quality. Rustproofing retails av of $295 for an economy car. HB 795 wd take away consumer's option to buy undercoating. ~~This~~ It shd be left up to customer to read & evaluate warranties & choose product he wants to buy.

Anc, contd

095 Connie Sipes, CPA office — re HB 795 — CPA has been given pwr + duty to respond to complaints given by people w/o specific complaint. They conduct independent investigations, which they have done in areas covered by both bills. CS covers ~~cases~~ situations witnesses ~~dealers~~ spoke to. ~~Theirs~~ Bill wd not apply to dealer selling car w/ mfr warranty, wd apply to dealer selling svc.

131 Concern w/ undercoating is — their staff had been told by dealers that undercoating is rustproofing. Bill is to ~~assure~~ eliminate such misrepresentation. ~~CPA~~ CPA is interested in preventive legislation. CPA wd support bill even w/o bond provision. Want to do away w/ potentially deceptive warranty terms. Wd apply to Seattle suppliers.

Dealers shd not be injected into a chain unless they provide rustproofing svc or represent undercoating as rustproofing.

208 Martin said bonding might be deleted from bill.

Anc –

020 Bob Evans, CPA – re HB 794 – re options; gave examples of sites illustrating need for law. Dealerships wield substantial pwr in stating conditions under which consumers will purchase vehicles. Interests of consumers, secondary competitors, & dealers will be served by bills. Result of "shopping" Anc areas is that shoppers were told vehicles were not available w/o options.

325 John Beard, Conte Motors – lawyer in private practice – has had exper repg auto sales dealers -- there at request of Martinson – bills are superfluous. What is prohibited is unfair practice -- definition ~~is~~ is too broad, Supreme Ct can't define it. Determined by variety of items. People trying to comply w/ law have no way to determine what is lawful under the statute.

386 HB 794 – person must order new vehicle for delivery; if this is intended to mean "when purchaser offers to buy", ed lead to problems. Gave examples. ~~Wd dealer be obliged to remove options consumer doesn't want? And must consumer Asked if dealer violates law if he refuses to remove~~ State is managing dealer's inventory if it disallows him the option of ordering accessories he feels public wants to buy. ~~&~~ Beard attempted to discern bill sponsor's intention.

HB 795 – effect of bill wd be, by defn of rustproofing, to make same standards applicable to products not intended as rustproofing, but that do inhibit rust.

545 Martin asked him to work w/CPA on legislation.
Beard said he would.

580 Steppe + Yaeger went on record in opposition to both bills, per Anne LTN.

598 Kodiak - Jack Mann - re Sipes testimony re rustproofing provided by dairy companies - what abt r/proofing provided by mfrs. Also, re options & secondary suppliers - in rural communities, where are no secondary suppliers. Martin replied.

640 Martin said no further action wd be taken at this time; said if any action was considered, participants wd be notified.

653 1:37 Mtg adjourned.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/30/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:04	1:50
Rep. D. Randolph	✓		1:12	1:54
Rep. B. Rogers	✓		1:07	1:58
Rep. T. Gardiner	✓		1:07	1:58
Rep. T. Martin, Chair	✓		12:55	

Subject Matter:

House Bill No. 794 795 _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

330-82

TELE-

CONFERENCE

HB794

HB795

MORE. THANKS.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL _

MSG 82-00016961 PRTY 1 03/26/82 12:03:49 ORIG: LM00 IN= 0004 OUT= 0001
FROM: MARY/MATSU TO: JOAN/H L&C
TARGET: LJHY SUBJ: STATUS PAGE 0001

HAVE A REQUEST FOR ANY COMMITTEE ACTION ON HB 852 (CONTRACTORS)
NEED IMMEDIATELY. PLEASE LET ME KNOW WHAT ACTION IF ANY, OR, WHEN
SCHEDULED FOR WORK SESSION. THANKS!

HB 806 tomorrow

HB 703 ? April 6
HB 831

Alaska State Legislature
HOUSE OF REPRESENTATIVES
REP. TERRY MARTIN, CHAIRMAN
LABOR AND COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99811

General Manager
Hal Moore Motors
9099 Glacier Highway
Juneau, AK 99801

Alaska State Legislature
HOUSE OF REPRESENTATIVES
REP. TERRY MARTIN, CHAIRMAN
LABOR AND COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99811

MOVED, LEFT NO ADDRESS

Miller Machinery
226 Illinois
Fairbanks, AK 99701

Alaska State Legislature
HOUSE OF REPRESENTATIVES
REP. TERRY MARTIN, CHAIRMAN
LABOR AND COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99811

OFFICIAL BUSINESS
STATE OF ALASKA
STATE PENALTY FOR
PRIVATE USE

NO SUCH NUMBER
ATTEMPTED - NOT KNOWN
ROUTE NO. 113 INITIALS RL

Stepp Brothers
750 W. 5th Avenue
Anchorage, AK 99501

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

MEMO

To: All Interested Parties
From: Terry Martin, Chairman
House Labor & Commerce Committee
Date: March 17, 1982
Subject: Teleconference

House Bill 794, relating to sales practices of motor vehicle dealers, and House Bill 795, relating to motor vehicle rustproofing services, will be the subject of a teleconference hearing of the House Labor & Commerce Committee on Tuesday, March 30, at 1:00 PM PST (11:00 AM AST). You are invited to participate in this teleconference through your local legislative information office. Copies of the bills may be obtained from the information office, as well.

If you desire more information, contact the House Labor & Commerce Committee at 465-3669.

Terry Martin

Terry Martin, Chairman
House Labor & Commerce Committee

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

Contact: Joan Mathews
465-3657/3783

For Immediate Release

RUSTPROOFING AND AUTO SALES PRACTICES SUBJECT OF TELECONFERENCE

House Bill 794, relating to sales practices of motor vehicle dealers, and House Bill 795, relating to motor vehicle rustproofing services, will be the subject of a teleconference hearing of the House Labor & Commerce Committee on Tuesday, March 30, at 1:00 PM PST (11:00 AM AST). Anyone interested is invited to participate in this teleconference through the local legislative information office. Copies of the bills may be obtained from the information office, as well.

For more information, contact the House Labor & Commerce Committee at 465-3669.

--30--

ALASKA
STATE LEGISLATURE
MEMORANDUM

I Gene's Auto Service Inc.
1804 Cushman - 452-7116

II ~~Jenkins~~ SEEKINS FORD-LINCOLN-MERCURY
530 old Steese Hwy. ph. 452-1991

III DEVLINS ALASKAN AUTOMOTIVE
2401 Ilege Rd.
FRKS. AK. 99701 - Ph: 479-2829

IV Alaska Motors
1648 Cushman
Frks. Ak. 99701 ph: 452-1901

V Miller Machinery
226 Illinois
Frks. ak. 99701 452-4234

VI Auto Service Co
3285 S. Cushman ST
Frks. Ak. 99701 ph: 456-6217

VII Tip Top Chevrolet
1916 Cushman
Frks. Ak. 99701 - 452-8211

VIII Subaru Sales & Service
1573 Cushman
Frks. ak. 99701 - ph: 452-2050

IX ~~Aurora~~
AURORA MTRS. INC.
416 - 1st
Fairbanks, Ak. 99701 - ph - 452-3300

X A & B Auto Sales Inc.
618 Gaffney
Frks. ak. 99701 - ph: 456-6161

XI FRKS. DATSUN
3101 So. CUSHMAN
FRKS. AK. 99701 - ph: 452-1701

XII O.K.A.Y CARS
410 WICKERSHAM
FRKS. AK. 99701 - ph 456-6901

XIII JOHN DAY ALL CAR SALES
600 Steese Hwy.
FRKS. AK. 99701 - ph: 452-4348

newspapers please

① Frks. Daily News Miner
200 No. Cushman St.
Frks. Ak. 99701
Ph: 456-6661

② all Alaska Weekly
Box 970 - Frks. Ak. 99701
Ph: 456-6426

IEE152I ENTER CANCEL 0 C/K

IEE163I MODE= RD
MSG 82-00014045 PRTY 1 03/15/82 15:42:04 ORIG: LJG0 IN= 0001 OUT= 0004
FROM: JOAN MATHEWS, H LABOR & COMMERCE TO: FAIRBANKS
TARGET: LJHY SUBJ: TELECONFERENCE--HB 794, 795 PAGE 0001

WILL YOU PLEASE FORWARD THE MESSAGE BELOW TO THE FOLLOWING AUTOMOBILE DEALERS, EITHER BY PHONE OR IN WRITING, OR BOTH IF YOU HAVE TIME. I WILL PUT THE MESSAGE ON THE NEXT PAGE SO IT IS EASILY XEROXED.
NOTIFY OWNERS OR GENERAL MANAGERS OF THE FOLLOWING:
GENE-S AUTO SERVICE, INC. 1804 CUSHMAN (452-7116)
SEEKINS FORD-LINCOLN-MERCURY, 530 OLD STEESE HIGHWAY (452-1991)
DEVLIN'S ALASKAN AUTOMOTIVE, 2401 COLLEGE ROAD (452-2829)
ALASKA MOTORS, 1648 CUSHMAN (457-1901)
MILLER MACHINERY, 226 ILLINOIS (452-4234)
AUTO SERVICE COMPANY, 3285 S. CUSHMAN STREET (456-6217)
TIP TOP CHEVROLET, 1916 CUSHMAN (452-8211)
SUBARU SALES & SERVICE, 1573 CUSHMAN (452-2050)
AURORA MOTORS, INC., 416 1ST (452-3300)
A&B AUTO SALES, INC., 618 GAFFNEY (456-6161)
FAIRBANKS DATSUN, 3101 SOUTH CUSHMAN (452-1701)
OKAY CARS, 410 WICKERSHAM (456-6904)
JOHN DAY ALL CAR SALES, 600 STEESE HIGHWAY (452-4348)

MSG 82-00014045 PRTY 1 03/15/82 15:42:04 ORIG: LJG0 IN= 0001 OUT= 0004
FROM: JOAN MATHEWS, H LABOR & COMMERCE TO: FAIRBANKS
TARGET: LJHY SUBJ: TELECONFERENCE--HB 794, 795 PAGE 0002

MESSAGE:

HOUSE BILL 794, RELATING TO SALES PRACTICES OF MOTOR VEHICLE DEALERS, AND HOUSE BILL 795, RELATING TO MOTOR VEHICLE RUSTPROOFING SERVICES, WILL BE THE SUBJECT OF A TELECONFERENCE HEARING OF THE HOUSE LABOR & COMMERCE COMMITTEE ON TUESDAY, MARCH 30, AT 1:00 P.M. PST (11:00 A.M. FAIRBANKS TIME). YOU ARE INVITED TO PARTICIPATE IN THIS TELECONFERENCE THROUGH YOUR LOCAL LEGISLATIVE INFORMATION OFFICE. COPIES OF THE BILL CAN ALSO BE OBTAINED FROM THE INFORMATION OFFICE. IF YOU DESIRE MORE INFORMATION, CONTACT THE HOUSE LABOR & COMMERCE COMMITTEE AT 465-3669.

MSG 82-00014045 PRTY 1 03/15/82 15:42:04 ORIG: LJG0 IN= 0001 OUT= 0004
FROM: JOAN MATHEWS, H LABOR & COMMERCE TO: FAIRBANKS
TARGET: LJHY SUBJ: TELECONFERENCE--HB 794, 795 PAGE 0003

INFORMATION OFFICE--IF YOU KNOW OF ANY OTHER AUTO DEALERS OR RUSTPROOFERS, FEEL FREE TO CONTACT THEM. WE WISH TO ENCOURAGE AS MUCH PARTICIPATION IN THIS TELE-CONFERENCE AS POSSIBLE. SITES PARTICIPATING IN THIS TELECONFERENCE WILL BE ANCHORAGE, FAIRBANKS, KETCHIKAN, JUNEAU, AND KODIAK, UNLESS THERE IS INTEREST IN ANOTHER AREA OF THE STATE. IF YOU HAVE QUESTIONS, PLEASE CONTACT ME AT 465-3657 OR PRINTER LJHY. HOPE YOU HAD A GOOD WEEKEND.....JOAN

PS TO MAXINE--MARY ISAACS SAID TO TELL YOU HELLO.

Sites: Anch. Fbks. Ketchikan and JUNEAU & KODIAK
on March 30th ourtime 1-3:P.m.
Anch Times 11AM-1:P.m.
Fbks

JOAN:
Each of these auto dealers should be notified by L.I. Overseas tele. & Ketchikan they have (2) new car dealers (per Ben Ziegler's office) they are as follows
South East Motors - 225-5155
Ramsgate Volkswagon - 225-5223

In Kodiak
BERG MTR. Co. 486-4721
KODIAK AUTO CENTER 486-5703
KODIAK MTRS. INC. 486-3201

MSG 82-00013268 PRTY 1 03/11/82 12:37:16 ORIG: LA00 IN= 0006 OUT= 0046
FROM: CAROL, ANCH. TO: JUNEAU INFO
TARGET: LJH2 SUBJ: MESSAGE FOR REP. MARTIN PAGE 0001

TO: REP. TERRY MARTIN, CHAIRMAN, HOUSE LABOR AND COMMERCE COMMITTEE
REPRESENTATIVES BYLSMA, GARDINER, RANDOLPH, AND ROGERS
FROM: FRED MORINO
EERO VOLKSWAGON
935 GAMBELL STREET
ANCHORAGE 99501 (H) 345-3100 (W) 272-5522

RE: HOUSE BILLS 794 AND 795

BOTH OF THESE BILLS NOW BEFORE YOUR COMMUNITY APPEAR TO DESERVE INPUT FROM THOSE IT MAY AFFECT. I RECEIVED A COPY OF THE BILLS ON MARCH 9, 1982, AND UP TO THAT DATE WAS UNAWARE OF THE BILLS. ON MARCH 10, 1982, I PERSONALLY CALLED ALASKA SALES AND SERVICE, ANCHORAGE CHRYSLER, STEPP BROTHERS, UNIVERSAL MOTORS, SUNSET MOTORS, PIONEER AUTOMOTIVE, EUROPEAN MOTORS, CONINENTAL MOTORS, NORTHERN MAZDA, CAL WORTHINGTON FORD, AND HENDRUST OF ALASKA ASKING ALL OF THE OWNERS OR GENERAL MANAGERS IF THEY

→ his name is Phil Blackstone - ph: 279-3061

MSG 82-00013268 PRTY 1 03/11/82 12:37:16 ORIG: LA00 IN= 0006 OUT= 0046
FROM: CAROL, ANCH. TO: JUNEAU INFO
TARGET: LJH2 SUBJ: MESSAGE FOR REP. MARTIN PAGE 0002

HEARD OF THESE BILLS EITHER VERBALLY OR IN WRITTEN FORM. NO ONE HAD ANY KNOWLEDGE OF THESE BILLS AND ALL OF THEM INDICATED AN INTEREST IN GIVING INPUT TO YOUR COMMITTEE ON THESE BILLS. PLEASE ALLOW US TIME TO INVESTIGATE THESE BILLS AND SUBMIT.

THANK YOU FOR YOUR COOPERATION.

HB 794
HB 795

MSG 82-00014088 PRTY 1 03/15/82 17:05:39 ORIG: LJG0 IN= 0002 OUT= 0005
FROM: JOAN MATHEWS, H LABOR & COMMERCE TO: ALL SITES
TARGET: LJHY SUBJ: TELECONFERENCE--HB 794, 795 PAGE 0001

TO ALL SITES (EXCEPT JNU, FBK, KTN, KODIAK)
I WANT TO LET YOU KNOW OF A TELECONFERENCE THIS COMMITTEE HAS SCHEDULED FOR MARCH 30 ON HB 794 AND HB 795. I HAVE ASKED ANCHORAGE, FAIRBANKS, KODIAK, AND KETCHIKAN OFFICES TO NOTIFY AUTO DEALERS AND RUSTPROOFERS IN THEIR AREAS OF THIS HEARING. HOWEVER, IF YOU HAVE THESE BUSINESSES IN ANY OF YOUR AREAS, PLEASE CONTACT THEM WITH THE MESSAGE I WILL PRINT ON THE NEXT PAGE (YOU CAN JUST XEROX IT OR PHONE IT). WE ARE NOT LIMITING THE TELECONFERENCE TO THE SITES I MENTIONED, BUT WE ARE NOT AWARE OF AUTO DEALERS/RUSTPROOFERS IN OTHER AREAS. IF YOU HAVE THESE BUSINESSES IN OTHER AREAS, OR IF YOU HAVE QUESTIONS, PLEASE CONTACT ME AT PRINTER LJHY OR AT 465-3657.

I PLAN TO SEND OUT A SHORT PRESS RELEASE SOMETIME THIS WEEK.

THANKS...JOAN

MSG 82-00014088 PRTY 1 03/15/82 17:05:39 ORIG: LJG0 IN= 0002 OUT= 0005
FROM: JOAN MATHEWS, H LABOR & COMMERCE TO: ALL SITES
TARGET: LJHY SUBJ: TELECONFERENCE--HB 794, 795 PAGE 0002

MESSAGE:

HOUSE BILL 794, RELATING TO SALES PRACTICES OF MOTOR VEHICLE DEALERS, AND HOUSE BILL 795, RELATING TO MOTOR VEHICLE RUSTPROOFING SERVICES, WILL BE THE SUBJECT OF A TELECONFERENCE HEARING OF THE HOUSE LABOR & COMMERCE COMMITTEE ON TUESDAY, MARCH 30, AT 1:00 P.M. PST (_____.M. LOCAL TIME). YOU ARE INVITED TO PARTICIPATE IN THIS TELECONFERENCE THROUGH YOUR LOCAL LEGISLATIVE INFORMATION OFFICE. COPIES OF THE BILLS CAN ALSO BE OBTAINED FROM THE INFORMATION OFFICE. IF YOU DESIRE MORE INFORMATION, CONTACT THE HOUSE LABOR & COMMERCE COMMITTEE AT 465-3669.

MSG 82-00014094 PRTY 1 03/15/82 17:14:07 ORIG: LJG0 IN= 0003 OUT= 0006
FROM: JOAN TO: MARY, MATSU
TARGET: LJHY SUBJ: TELECONFERENCE PAGE 0001

MARY
YOU SHOULD RECEIVE, JUST BEFORE THIS MESSAGE, AN OMNI REGARDING A TELECONFERENCE ON HB 794 AND HB 795. I HAD FORGOTTEN ABOUT HARTLEY MOTORS--THEY MAY BE INTERESTED, SO GIVE THEM A CALL OR SEND THEM A COPY OF THE MESSAGE. THAT SHOULD TAKE CARE OF THE VALLEY (I HOPE).

I HAD THE BEST WEEKEND EVER. IT WAS SURE GOOD TO SEE YOU. TAKE CARE...JOAN

Kodiak Automobile Dealers - New Cars

Berg Motor Co.	486-4751
Kodiak Auto Center Inc.	486-5703
Kodiak Motors Inc.	486-3201

KODIAK AUTO CENTER, INC.
P. O. BOX 788
KODIAK, ALASKA 99615

MAR 10 1982

March 5, 1982

Representative Fred Zharoff
Alaska State Legistature
Pouch V (MS3100)
Juneau, Alaska 99811

RE: HOUSE BILL NO. 795
MOTOR VEHICLE RUSTPROOFING

Dear Fred,

Enclosed are copies of House Bill No. 795, a Master Shield rustproofing warranty booklet and brochure.

As I stated in our phone conversation, the passing of this bill, particularly the portions stating what the warranty will be and the bonding requirements, are unduly repressive and restrictive and repress free trade within the State. Warranty requirements are already spelled out in the federal Moss-Magnusen Warranty Act.

If this Bill is passed, it would restrict all but the largest dealers in metropolitan areas from applying rustproofing. If all companies and businesses that offer warranties were required to post a bond of this size or a cash deposit, there would be very few businesses operating in Alaska.

The Chrysler Corporation's rustproofing warranty is the best in the automotive field. It is issued through Chrysler Corparation and backed by a major American insurance company. The American Standards Testing Bureau reported that Master Shield Rust Protection gave "superior results," "full compliance" and "exceeded the requirements" of the very demanding U.S. Military Specification for a corrosion-preventive compound.

The end result of this Bill's passage would be legislating rustproofing out of existance in small Alaska communities— a service which is sorely needed as evidenced by the number of vehicles on the road with serious rust damage.

KODIAK AUTO CENTER, INC.
P. O. BOX 788
KODIAK, ALASKA 99615

I solicit your support in defeating House Bill NO. 795 and if I can provide you with any further information concerning the rustproofing process, please feel free to write or call.

Sincerely,

Jack E Mann

Jack E. Mann
Kodiak Auto Center, Inc.

MASTER SHIELD

RUST PROTECTION

PRESERVES APPEARANCE...

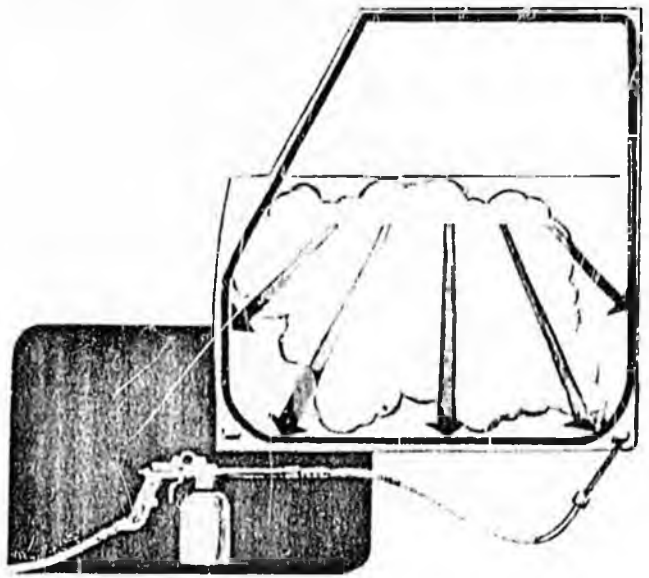
MAINTAINS VALUE...

PROTECTS YOUR INVESTMENT

REVOLUTIONARY NEW COMPOUND PENETRATES... COVERS...SEALS

An advanced-technology combination of waxes and rust-inhibiting chemicals is sprayed on all rust-prone metal surfaces and crevices, forming an electrochemical bond and a clear, hard coat that resists cracking, chipping, breaking or peeling. Tested and proved in military, industrial and automotive applications worldwide, this protection is now approved and recommended by Chrysler Engineering. Master Shield Rust Protection gives you extra assurance against natural and man-made corrosive elements that can start rust from the inside out.

THE INVISIBLE BARRIER OF MASTER SHIELD



Master Shield compound is applied in an atomized fog which covers all inner surfaces and creeps into all seams and crevices. It then forms a clear, waterproof, acid-resistant seal against the corrosive elements that could attack the metal from inside. Because it's a clear, odorless chemical compound, there's no smell, no mess, no cleanup. And Master Shield resists the formation of rust so well it carries a Lifetime Limited Warranty.

MASTER SHIELD RUST PROTECTION CAN PAY DIVIDENDS

Too often, when it's time to trade or sell, rust damage can reduce the value of your vehicle by hundreds of dollars. So Master Shield Rust Protection is not only a sensible precaution, it may return far more than its cost when you sell, and the Lifetime Limited Warranty is transferable, too. It may be the best investment you make when buying your new car.

CHECK THE REASONS YOU SHOULD HAVE MASTER SHIELD RUST PROTECTION

- ✓ *American Standards Testing Bureau* reported that Master Shield Rust Protection gave "superior results," "full compliance" and "exceeded the requirements" of the very demanding U.S. Military Specification for a corrosion-preventive compound.
- ✓ Master Shield Rust Protection's Lifetime Limited Warranty is backed by one of America's largest insurance companies.
- ✓ Master Shield Rust Protection guards against interior rust in hidden areas—rust-through damage is covered by the Warranty up to $2,000.
- ✓ No limit on transfer of the Warranty. No limit on mileage.
- ✓ Master Shield Rust Protection treatment includes FREE inspections every two years.
- ✓ Master Shield Rust Protection is applied only by Chrysler Corporation Dealers' factory-trained technicians.

MASTER SHIELD RUST PROTECTION
LIFETIME LIMITED WARRANTY
(New Vehicles)

The effectiveness of Master Shield Rust Protection compound is warranted by its manufacturer for the REGISTERED LIFETIME OF THE VEHICLE and is applied to new vehicles, within the first three months of first registration date.

If, within the registered life of the vehicle, the rusting-through of parts originally treated with Master Shield Rust Protection should occur (exhaust systems excluded as well as load areas of commercial vehicles) the damaged areas will be repaired or replaced under this Lifetime Limited Warranty at no cost to the owner, up to two thousand U.S. dollars ($2,000) per vehicle.

This Lifetime Limited Warranty does not apply to surface rust; rust caused by external damage from dents, scratches or chipped paint, fair wear and tear attributed to normal driving conditions, manufacturing defects and defects covered under manufacturer's new-car warranty, unless otherwise covered by this Warranty.

There is no limit to the number of transfers of this Warranty to subsequent owners.

THIS LIFETIME LIMITED WARRANTY IS THE ONLY EXPRESS WARRANTY APPLICABLE TO CORROSION PERFORATION ON THIS VEHICLE. ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS APPLICABLE TO CORROSION PERFORATION ON THIS VEHICLE IS LIMITED IN DURATION TO THE DURATION OF THIS WRITTEN WARRANTY.

Some states or provinces do not allow the exclusion or limitation of incidental or consequential damages or limitations on how long an implied warranty lasts, so the above limitation or exclusions may not apply to you.

This warranty gives the owner specific legal rights and the owner may also have other rights which vary by state.

MASTER SHIELD RUST PROTECTION
LIFETIME LIMITED WARRANTY

Conditions

The following conditions must be met for this Lifetime Limited Warranty to remain valid:

1. Inspections (NO CHARGE)—The vehicle must be presented for inspection to an authorized Master Shield Rust Protection dealer every 24 months (30 days before or after due date). These inspections must be recorded on the Coupons in the Warranty Book and mailed to the Master Shield Protection Center.
2. Warranty Registration—Immediately after Master Shield Rust Protection has been applied, dealer and owner must complete the Registration Coupon in the Owner's Warranty Booklet and mail it to the Master Shield Protection Center. The Booklet is the owner's record of Warranty, and remains valid as long as all Warranty conditions are complied with.
3. Accident Damage—Any treated parts damaged through accident must be retreated with Master Shield Rust Protection (at the owner's expense) and such treatment recorded on the Coupon provided and mailed to the Master Shield Protection Center.
4. Vehicle Registration—The protected vehicle must be continuously registered for road use. Any lapse of such registration will invalidate this Warranty.
5. Transfer of Warranty—There is no limit to the number of transfers to subsequent owners, provided such transfers are recorded on the Coupon provided and mailed to the Master Shield Protection Center. Previous owners must have complied with all conditions of the Warranty for such transfers to be valid. There is NO CHARGE for these transfers for the first six years from date of Master Shield Rust Protection treatment. A $25 transfer fee must accompany notice of transfer if the transfer date is more than six years from date of treatment.
6. Warranty Claims—A Damage Claim form must be completed by an authorized Master Shield Rust Protection dealer within 30 days of first knowledge of damage covered by the Lifetime Limited Warranty. Covered damage requiring less than $500 in repair charges will be repaired by the dealer at the owner's convenience. Damage requiring more than $500 in repair charges must be reported to the Master Shield Protection Center, and written approval must be received before repairs are made.

MASTER SHIELD RUST PROTECTION FOR USED VEHICLES, TOO.

AVAILABLE ONLY THROUGH AUTHORIZED DEALERS OF

THE NEW CHRYSLER CORPORATION

MASTER SHIELD

RUST PROTECTION

SEALS OUT THE RUST-MAKERS!

LIFETIME LIMITED WARRANTY PROTECTS AGAINST RUST-THROUGH FOR THE LIFE OF YOUR CAR

MSG 82-00013883 PRTY 1 03/15/82 10:01:14 ORIG: LJE1 IN= 0001 OUT= 0001
FROM: JOAN MATHEWS, H LABOR & COMMERCE TO: ANCHORAGE LIO
TARGET: LJHY SUBJ: TELECONFERENCE--HB 794, 795 PAGE 0001

WILL YOU PLEASE FORWARD THE MESSAGE BELOW TO THE FOLLOWING AUTOMOBILE DEALERS, EITHER BY PHONE OR IN WRITING, OR BOTH IF YOU HAVE TIME. I WILL PUT THE MESSAGE ON THE NEXT PAGE SO IT IS EASILY XEROXED. SORRY I DON'T HAVE ALL THE PHONE NUMBERS.
NOTIFY OWNERS OR GENERAL MANAGERS OF THE FOLLOWING:
ALASKA SALES AND SERVICE
ANCHORAGE CHRYSLER
STEPP BROTHER
UNIVERSAL MOTORS
SUNS MOTORS
PIONEER AUTOMOTIVE
EUROPEAN MOTORS
CONTINENTAL MOTORS
NORTHERN MAZDA
CAL WORTHINGTON FORD
ENDRUST OF ALASKA (PHIL BLACKSTONE, 279-3061)
EERO VOLKSWAGON (FRED MORINO, 272-5522)

MSG 82-00013883 PRTY 1 03/15/82 10:01:14 ORIG: LJE1 IN= 0001 OUT= 0001
FROM: JOAN MATHEWS, H LABOR & COMMERCE TO: ANCHORAGE LIO
TARGET: LJHY SUBJ: TELECONFERENCE--HB 794, 795 PAGE 0002

MESSAGE:

HOUSE BILL 794, RELATING TO SALES PRACTICES OF MOTOR VEHICLE DEALERS, AND HOUSE BILL 795, RELATING TO MOTOR VEHICLE RUSTPROOFING SERVICES, WILL BE THE SUBJECT OF A TELECONFERENCE HEARING OF THE HOUSE LABOR & COMMERCE COMMITTEE ON TUESDAY, MARCH 30, AT 1:00 P.M. PST (11:00 A.M. ANCHORAGE TIME). YOU ARE INVITED TO PARTICIPATE IN THIS TELECONFERENCE THROUGH YOUR LOCAL LEGISLATIVE INFORMATION OFFICE. COPIES OF THE BILL CAN ALSO BE OBTAINED FROM THE INFORMATION OFFICE. IF YOU DESIRE MORE INFORMATION, CONTACT THE HOUSE LABOR & COMMERCE COMMITTEE AT 465-3669.

MSG 82-00013883 PRTY 1 03/15/82 10:01:14 ORIG: LJE1 IN= 0001 OUT= 0001
FROM: JOAN MATHEWS, H LABOR & COMMERCE TO: ANCHORAGE LIO
TARGET: LJHY SUBJ: TELECONFERENCE--HB 794, 795 PAGE 0003

INFORMATION OFFICE--IF YOU KNOW OF ANY OTHER AUTO DEALERS OR RUSTPROOFERS, FEEL FREE TO CONTACT THEM. WE WISH TO ENCOURAGE AS MUCH PARTICIPATION IN THIS TELE-CONFERENCE AS POSSIBLE. SITES PARTICIPATING IN THIS TELECONFERENCE WILL BE ANCHORAGE, FAIRBANKS, KETCHIKAN, JUNEAU, AND KODIAK, UNLESS THERE IS INTEREST IN ANOTHER AREA OF THE STATE. IF YOU HAVE QUESTIONS, PLEASE CONTACT ME AT 465-3657 OR PRINTER LJHY.

HOPE YOU HAD A GREAT WEEKEND--I WAS UP THERE (IN WASILLA) ENJOYING THE SUNSHINE OVER THE WEEKEND, IT WAS SO GOOD TO BE HOME. HOPE TO MEET YOU ONE DAY....JOAN

MSG 82-00013894 PRTY 1 03/15/82 10:19:19 ORIG: LJE1 IN= 0002 OUT= 0002
FROM: JOAN MATHEWS, H LABOR & COMMERCE TO: KETCHIKAN
TARGET: LJHY SUBJ: TELECONFERENCE--HB 794, 795 PAGE 0001

WILL YOU PLEASE FORWARD THE MESSAGE BELOW TO THE FOLLOWING AUTOMOBILE DEALERS, EITHER BY PHONE OR IN WRITING, OR BOTH IF YOU HAVE TIME. I WILL PUT THE MESSAGE ON THE NEXT PAGE SO IT IS EASILY XEROXED.

NOTIFY OWNERS OR GENERAL MANAGERS OF THE FOLLOWING:
SOUTHEAST MOTORS (225-5155)
RANNIGER VOLKSWAGON (225-5223)

IF YOU KNOW OF ANY OTHER AUTO DEALERS OR RUSTPROOFERS, PLEASE NOTIFY THEM AS WELL.

MSG 82-00013894 PRTY 1 03/15/82 10:19:19 ORIG: LJE1 IN= 0002 OUT= 0002
FROM: JOAN MATHEWS, H LABOR & COMMERCE TO: KETCHIKAN
TARGET: LJHY SUBJ: TELECONFERENCE--HB 794, 795 PAGE 0002

MESSAGE:

HOUSE BILL 794, RELATING TO SALES PRACTICES OF MOTOR VEHICLE DEALERS, AND HOUSE BILL 795, RELATING TO MOTOR VEHICLE RUSTPROOFING SERVICES, WILL BE THE SUBJECT OF A TELECONFERENCE HEARING OF THE HOUSE LABOR & COMMERCE COMMITTEE ON TUESDAY, MARCH 30, AT 1:00 P.M. PST. YOU ARE INVITED TO PARTICIPATE IN THIS TELECONFERENCE THROUGH YOUR LOCAL LEGISLATIVE INFORMATION OFFICE. COPIES OF THE BILLS CAN ALSO BE OBTAINED FROM THE INFORMATION OFFICE. IF YOU DESIRE MORE INFORMATION, CONTACT THE HOUSE LABOR & COMMERCE COMMITTEE AT 465-3669.

MSG 82-00013894 PRTY 1 03/15/82 10:19:19 ORIG: LJE1 IN= 0002 OUT= 0002
FROM: JOAN MATHEWS, H LABOR & COMMERCE TO: KETCHIKAN
TARGET: LJHY SUBJ: TELECONFERENCE--HB 794, 795 PAGE 0003

INFORMATION OFFICE--FOR YOUR INFORMATION, SITES PARTICIPATING IN THIS TELECONFERENCE WILL BE ANCHORAGE, FAIRBANKS, KETCHIKAN, JUNEAU, AND KODIAK, UNLESS THERE IS INTEREST IN ANOTHER AREA OF THE STATE. IF YOU HAVE QUESTIONS, PLEASE CONTACT ME AT 465-3657 OR PRINTER LJHY.

HOPE YOU HAD A GOOD WEEKEND.....JOAN

MSG 82-00013900 PRTY 1 03/15/82 10:27:36 ORIG: LJE1 IN= 0003 OUT= 0003
FROM: JOAN MATHEWS, H LABOR & COMMERCE TO: KODIAK
TARGET: LJHY SUBJ: TELECONFERENCE--HB 794, 795 PAGE 0001

WILL YOU PLEASE FORWARD THE MESSAGE BELOW TO THE FOLLOWING AUTOMOBILE DEALERS, EITHER BY PHONE OR IN WRITING, OR BOTH IF YOU HAVE TIME. I WILL PUT THE MESSAGE ON THE NEXT PAGE SO IT IS EASILY XEROXED.

NOTIFY OWNERS OR GENERAL MANAGERS OF THE FOLLOWING:
BERG MOTOR COMPANY (486-4751)
KODIAK AUTO CENTER, INC. (486-5703)
KODIAK MOTORS, INC. (486-3201)

IF YOU KNOW OF ANY OTHER AUTO DEALERS OR RUSTPROOFERS, FEEL FREE TO CONTACT THEM. WE WISH TO ENCOURAGE AS MUCH PARTICIPATION IN THIS TELECONFERENCE AS POSSIBLE. SITES PARTICIPATING IN THIS TELECONFERENCE WILL BE ANCHORAGE, FAIRBANKS, KETCHIKAN, JUNEAU, AND KODIAK, UNLESS THERE IS INTEREST IN ANOTHER AREA OF THE STATE. IF YOU HAVE QUESTIONS, PLEASE CONTACT ME AT 465-3657 OR PRINTER LJHY. HOPE YOU HAD A GOOD WEEKEND....JOAN

MSG 82-00013900 PRTY 1 03/15/82 10:27:36 ORIG: LJE1 IN= 0003 OUT= 0003
FROM: JOAN MATHEWS, H LABOR & COMMERCE TO: KODIAK
TARGET: LJHY SUBJ: TELECONFERENCE--HB 794, 795 PAGE 0002

MESSAGE:

HOUSE BILL 794, RELATING TO SALES PRACTICES OF MOTOR VEHICLE DEALERS, AND HOUSE BILL 795, RELATING TO MOTOR VEHICLE RUSTPROOFING SERVICES, WILL BE THE SUBJECT OF A TELECONFERENCE HEARING OF THE HOUSE LABOR & COMMERCE COMMITTEE ON TUESDAY, MARCH 30, AT 1:00 P.M. PST (11:00 A.M. AST). YOU ARE INVITED TO PARTICIPATE IN THIS TELECONFERENCE THROUGH YOUR LOCAL LEGISLATIVE INFORMATION OFFICE. COPIES OF THE BILLS CAN ALSO BE OBTAINED FROM THE INFORMATION OFFICE. IF YOU DESIRE MORE INFORMATION, CONTACT THE HOUSE LABOR & COMMERCE COMMITTEE AT 465-3669.

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD GYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

MEMO

To: All Interested Parties
From: Terry Martin, Chairman
House Labor & Commerce Committee
Date: March 17, 1982
Subject: Teleconference

House Bill 794, relating to sales practices of motor vehicle dealers, and House Bill 795, relating to motor vehicle rustproofing services, will be the subject of a teleconference hearing of the House Labor & Commerce Committee on Tuesday, March 30, at 1:00 PM PST (11:00 AM AST). You are invited to participate in this teleconference through your local legislative information office. Copies of the bills may be obtained from the information office, as well.

If you desire more information, contact the House Labor & Commerce Committee at 465-3669.

Terry Martin

Terry Martin, Chairman
House Labor & Commerce Committee

To: Rep. Terry Martin, Chariman, House Labor and Commerce Commitee

We the undersigned franchised automobile and truck dealers representing in excess of 50% of the annual sales in Alaska oppose House Bill # 794 and # 795 as drafted and if any further action is to be considered, we request a teleconference with the committee and further request written notification in advance of any further action regarding these two bills so representation from the franchise dealers could be present. # NOTE ↔

Pioneer Automotive Inc.
1733 East Dowling Road
Anchorage, AK 99507
Elsie Johnson

Sunset Motor Co. Inc.
4748 Seward Hwy.
Anchorage, AK
Ivan Felton

Stepp Bros. Lincoln Mercury
730 E. 5th Ave.
Anchorage, AK 99501
Michael D. Stepp

Worthirgton Ford of Alaska
1950 Gambell
Anchorage, AK 99501
Ray Jaeger

Continentol Motor Co. Inc.
4940 Old Seward
Anchorage, AK 99503
Boline Martensen

Alaska Sales & Service
1300 E. Fifth Ave.
Anchorage, Ak 99501
A. Douglas Hulen

EERO Volkswagen Inc.
P. O. Box 2058
Juneau, AK 99803
Eero Tetri

Universal Motors Inc.
821 East 5th Ave.
Anchorage, AK
R.L. Silberer

EERO Volkswagen of Anchorage Inc.
935 Gambell St.
Anchorage, AK 99501
Fred Morino

3-31-82
MEETING W/
ALASKA POWER
AUTHORITY &
STATE DIV. OF
RISK MGT.

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 31, 1982
1:07 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Gardiner

Members Absent: Rep. Randolph

COMMITTEE CALENDAR

General meeting with Alaska Power Authority and Division of Risk Management regarding insurance practices.

WITNESS REGISTER

Dick Pettinger
Alaska Chapter, Associated General Contractors
Box 4-2500
Anchorage, Alaska
276-5354
Position Statement: Opposed APA wrap-up insurance program (APCOP).

Eric Yould, Director
Alaska Power Authority
334 West Fifth
Anchorage, Alaska 99501
277-7641
Position Statement: Explained why APA opted to use net of insurance.

John Haywood, Director
Division of Risk Management
Department of Administration
Pouch C
Juneau, Alaska 99811
465-2180
Position Statement: Explained why Division of Risk Management supported use of net of insurance by APA.

Daryl A. Cody
Daryl A. Cody Company
201 Danner Street
Anchorage, Alaska 99502
Position Statement: Opposed to APA's use of net of insurance.

Representative Sutcliffe
Alaska State Legislature

Pouch V
Juneau, Alaska 99811
465-3715
Position Statement: Asked questions of witnesses.

Don Koch, Director
Market Surveillance Section
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2577
Position Statement: Explained his division's involvement in APA's selection of method of insuring.

Kenneth Moore, Director
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2515
Position Statement: Testified with Koch regarding division's involvement in APA's selection of method of insuring.

Ken Vassar
Department of Law
Pouch K
Juneau, Alaska 99811
465-3600
Position Statement: Explained his role in providing legal advice to APA.

Commissioner Ernst W. Mueller
Department of Environmental Conservation
and
Vice Chairman, Board of Directors
Alaska Power Authority
Pouch O
Juneau, Alaska 99811
465-2600
Position Statement: Defended Board's decision to use net of insurance.

PREVIOUS ACTION

There were no bills before the committee. This was an informational meeting.

ACTION NARRATIVE

Tape #49
Recording
Number 000 The meeting was called to order by Chairman

Martin at 1:07 p.m. Members present were: Representatives Martin, Bylsma, Gardiner, and Rogers. Rep. Randolph was absent. Representatives Cotten, Sutcliffe, Grussendorf, and Haugen also attended the meeting. Rep. Martin explained the purpose of the meeting, which was to explore policy decisions regarding sole contract of insurance by the Alaska Power Authority.

Number 015 — Dick Pettinger, Alaska Chapter, Associated General Contractors, said his association represented 675 construction-related firms. He said the Chapter opposes the Alaska Power Authority wrap-up insurance program known as APCOP. Pettinger said that, nationally, the association has been opposed to this type of insurance program for years. He described stands taken by the AGC in the past.

Number 040 — Pettinger asked why regulation or statute permitted a wrap-up insurance program. He asked why APA instituted the program. He said that all bids on the Tyee project included insurance costs, and asked why APA did not notify the public of their intent before imposing the program on the project. He said APA said this program would be cost saving to the rate payer.

Number 054 — Pettinger said one of the contractor's tools is removed by this type of insurance program. He explained how safety factors affect the cost of insurance. He said a company with a better safety factor would normally submit a lower bid. Pettinger said APCOP penalizes the safety-conscious contractor. He said that APA assuming insurance means the contractor would not be held responsible for claims. He questioned the ability of APA to ensure proper safety procedures. He questioned the savings as a result. (Pettinger promised to provide the committee with a copy of his written testimony.)

Number 084 — Pettinger said major disadvantages are that owner controlled programs are disliked by most contractors. He said administration is a disadvantage due to the length of the project and turnover of personnel. He felt insurance company agents' interests may be diverse, hence there could be a conflict of interest with one company serving all

parties. He felt this could lead to claims control problems and legal difficulties, as well. He spoke about consolidating policies. Pettinger said the true cost of insurance is often not determined for 5-7 years after completion of a project. Pettinger felt with wrap-up insurance, the owner often becomes involved in many insurance disputes that normally take place between the general contractor and the subcontractor.

Number 123 — Pettinger said the best incentive for risk control lies with self insurance programs. He felt APCOP would result in the opposite. He objected to government intervention into the private sector. He requested immediate elimination of APCOP.

Number 135 — Rep. Martin asked when the situation first came to his attention; Pettinger responded that it was early in November, and added that the contract was let in August. There was discussion.

Number 165 — Eric Yould, Director of Alaska Power Authority, and John Haywood, Director of the Division of Risk Management, then came before the committee. Yould said that APA had two options with respect to insurance: 1) bidding under normal procedures, with the contractor providing his own insurance; or, 2) bidding net of insurance (also referred to as a wrap-up program). Yould said the Division of Risk Management provided information that indicated benefits to APA in keeping the cost of insurance premiums down if they provided their own insurance. He said it is their intent to proceed with an owner-insured program. He said the Division of Risk Management used the state's present insurance brokers to provide coverage; AGC then objected to the program.

Number 216 — Yould said at the last board meeting on March 21, the issue was reviewed. Division of Risk Management came before the board and indicated advantages to the state to take part in the program. The AGC opposed this, and Jeff Barry, Labor & Commerce committee aide, posed questions. He said many of the questions presented by Barry on behalf of the Committee should have been addressed to Risk Management, and said that Risk

Management had assisted in answering the questions.

Number 238

Yould said the next project is Terror Lake. He said bid opening is planned for April 26. He said APA would request two bids from each contractor--one reflecting costs with net of insurance, and one with the owner providing his own insurance. He said the board would then decide which type of insurance to use.

Number 250

Rep. Rogers asked when bid opening for Tyee Lake occurred; Yould responded it was September 25, and that the board met on October 2. Rep. Rogers asked if the bids were for net of insurance or if they included costs of insurance; Yould responded the bids included insurance, and that they subsequently requested the winning contractor to remove insurance costs from his bid. Rep. Rogers asked if the other bidders had an opportunity to respond to the bid as modified; Yould said they did not. Rep. Rogers suggested this might have created a different lowest responding bidder. Yould said there was litigation against the bid award for another reason, and that no one else litigated. He said the board went forward with the bid on October 2, but did not sign the agreement until December 2. There was discussion to clarify the dates. Haywood said the program was in place at the time the bidder was asked to back out his insurance costs. He said the contractor voluntarily agreed to back out insurance costs. After that, at Risk Management's recommendation, they felt it would make sense to draft a memorandum of agreement, but the program was in effect at the time.

Number 319

Rep. Rogers said that the state is managing the contractor's risks. Haywood said they were talking about a situation where the state has a joint interest in workers compensation, general liability, and builders risk. He said the workers compensation statute has proven that state entities are liable in the event of a claim without adequate insurance. He said that since World War II, most major public construction authority programs have been handled by wrap-up programs. Rep. Rogers referred to the statute which requires a

contractor to submit proof of workers compensation insurance at the time of bid.

Number 360

Rep. Martin said Harrison Western was the fourth lowest bidder, and that they did not comply with the law in submitting proof of insurance. Haywood said he wasn't involved in opening of the bids, but he understood that Harrison Western was the second lowest bidder. He said at the time the insurance certificates came in, the decision had been made to go with the APCOP program. Yould said he understood Harrison Western did have insurance at the time of the bid. Rep. Rogers asked if they required notice of current coverage of workers compensation prior to awarding bids. Yould wasn't certain.

Number 402

Rep. Rogers was concerned about a couple issues where APA appeared to be circumventing or violating law. He asked if interim financing had been arranged for both Swan Lake and Tyee. Yould said it was. Rep. Rogers asked what would happen if revenue bonds could not be sold and the legislature did not make an appropriation. Yould said advisors and underwriters advised that long term bonds could be issued if necessary. Rep. Rogers asked what the obligation of the state would be if bonds went to 20%. Yould said APA is liable, but that the state would not let its credit be impaired. Rep. Rogers was concerned about an agency of the state making obligations on behalf of the legislature. He asked if there would be a capital reserve account. Yould said there would be, with bond proceeds. Rep. Rogers asked if Swan Lake had received complete legislative authorization. Yould said it had. Rep. Rogers asked if it was the same interim financing issue. Yould said there was a straight bank loan. Rep. Rogers said the Authority said it wouldn't incur debt service that would make the power provided more expensive than diesel. He asked now the APA could ensure this. Yould said the legislature could change the program.

Number 480

Rep. Rogers said current law speaks to a uniform power rate. He asked, if the rate goes above the ceiling, how both the law and the contractual obligation could be met.

Yould said it was not the intent of the legislature to increase the cost of power. Rep. Rogers said the legislature required 10% of the capital costs annually unless there was $5-billion appropriated. Yould said the cost would still be lower than the cost of diesel. He said this was analyzed, and they do not foresee a situation where the cap will come into play. He said people will always have to remain in the system to pay their share of the debt service. Rep. Rogers asked if Yould was agreeing there is a ceiling. Yould said at least on their portion of the debt service. Rep. Rogers requested clarification. Yould responded that in the event the bond market goes, up, it is questionable whether revenue bonds could be sold to cover the program.

Number 554

Rep. Rogers asked if APA has an attorney. Yould responded that Ken Vassar, Department of Law, did legal work for them. He said Vassar doesn't review all the contracts, that they have other attorneys. He said the contract was reviewed by the Department of Law under the Transportation Section, but was primarily reviewed by private counsel.

Number 575

Rep. Martin asked if Division of Insurance had been consulted. Haywood said yes. He said owner wrap-up is a common way of handling major construction projects all over the country for the past 25 years. He said Alyeska was an owner wrap-up program. He said they met with the Division of Insurance several times before going into the program. Haywood said there had been a question of whether special regulations would need to be adopted, and that it had been decided they were not. He said they set the cutoff at $50-million projects for a wrap-up program.

Number 614

Rep. Martin asked if Commissioner Hudson had given permission for a wrap-up program. Haywood said the risks of the state of Alaska would tap a majority of the world-wide marketplace capacity. He said the contract was on the basis of professional services, and would be kept in effect for 3-5 years. He said this was done early in 1981, and that Marsh & McLennan and Coroon & Black/Dawson were selected.

Number 654

Rep. Martin asked why these companies should get paid for an insurance program when the memorandum of agreement was dated three months after the insurance coverage went into effect. Haywood said the insurance was there by October 15. Rep. Martin asked if that was when they decided Harrison Western did not have coverage. Haywood responded that their lack of insurance was not an issue, and that they did not meet other specifications. Rep. Martin asked at what time the Commissioner signed the sole source contract. Haywood said the contract was put together for Tyee Lake insurance. He said insurance is a contract of "utmost good faith". He compared it to car or homeowner's insurance that is ordered by telephone. He said this was the same situation--the coverage was put into place as of 10/1, contracts followed. He said this is standard practice.

Number 734

Rep. Martin said he understood the contractor could not get insurance because they were a high insurance risk. He pointed out, in addition, that it was not a $50-million contract. Haywood said it would be a $90- to $100-million contract when it was done. He said Terror Lake, with one prime contract for a $175-million project, was a better example than Tyee, which was bid in three phases.

Side B, Number 005

Rep. Rogers asked if Coroon & Black would then get the insurance contract on Tyee, Terror Lake, and Susitna. Haywood said they didn't have a contract like that. Rep. Rogers asked if they could extend the contract to all projects. Haywood said it was part of the selection process.

Number 027

Haywood said they need four to five months lead time to give the broker time to put together the program needed. He said they now have two projects on-line: Terror Lake and Tyee. He said this is a Risk Management service, it is not separate.

Number 042

Rep. Rogers asked, since the contractor bears no cost of insurance, what is the incentive for a good safety program. Haywood says statistics show they run safer jobs. He said they build safety specs into the project, centralize safety coordinating

and facilities on the job, and report losses to the National Safety Council, so insurance modification factors continue to run. There was discussion of incentive for a good safety program.

Number 076 — Haywood said the state isn't forcing safety on the contractor. He said statistics show these jobs are run safely. He said Rep. Rogers was missing the humanism. He said there are so many hidden costs related to an injury that no well-managed contractor would risk that. Rep. Rogers pointed out that a poorly-managed contractor might.

Number 111 — Rep. Martin asked what public entities use wrap-up programs. He noted that it seems that private agencies are moving away from it. Haywood said wrap-ups are going as strong now as ever. He said the cutback in federal funds is slowing down major wrap-up programs. He passed out a partial list of owner-controlled programs and documented savings. (This list is available for inspection from the committee.)

Number 130 — Rep. Martin asked if Commissioner Hudson signed a document to authorize this. Haywood said it went through contract review in the Department of Administration. Rep. Martin said the insurance was done after the fact. He said that, by regulation, the company selected was not qualified as it had no insurance included in the bid. Haywood said insurance was included in the bid.

Number 148 — Rep. Bylsma said, in the contract with the insurance company, they provide APA and prime contractors with a safety incentive formula prior to conception. He asked how they could do this if the job was contracted before the insurance was in force. Haywood said the intention of the agreement is that language for policy be in the contract. He said it is designed for a project where language is included in the bid specification. Rep. Bylsma asked what the safety incentive formula is. Haywood responded that APA got a return of $100,000 to use on other projects, and $200,000 to use as incentive programs with contractors on the basis of good performance. Rep. Bylsma asked if the contractor and APA split that money. Haywood said the incentive is

based on losses.

Number 195 — Rep. Bylsma said that, on 10/2, premium return was mentioned. He said he was led to believe it would come back to the state, not the contractor.

Number 215 — Daryl Cody, president of Daryl A. Cody Company, a business consulting firm with offices in Anchorage and Washington state, said one of his specialties is assisting contractors in the acquisition of surety bonds and construction insurance. He listed his qualifications.

Number 250 — Cody described wrap-up programs that were attempted to be instituted in Washington state in the 1960s that were stopped because what they suggested as savings was over anything they could justify. He said he has been injured by the action of APA, as they took insurance out of one of his clients' hands. He said he is co-chairman of the Insurance Taxing and Bonding Committee of the Alaska Chapter of AGC, and that he holds an office in the national AGC.

Number 280 — Cody said he favors the free enterprise system. He is opposed to anything unnecessary, which is his first reason for opposing APCOP. He said it takes the normal insurance buying process away from the contractor. He said cost of insurance is a major consideration in putting bids together.

Number 297 — Cody was opposed to government involvement in business where no need or purpose is served, as in this case. He said the state and the APA are in the private sector, where they aren't wanted or needed. Cody said in APA's public relations program, they said they would save money. He saw no way they could save money over the way general contractors buy their own insurance. He commented on the document which was passed out to justify use of a wrap-up plan. He said they went back 25 years to find 25 projects. He referred to one project showing a 38% savings. He said these savings have no credibility, as the base used to show savings was subject to question. He did not feel the statistics were credible. He said wrap-ups don't save

money; he believed it would cost more.

Number 360 — Cody referred to APA's inference that money would stay in Alaska. He said they hired two of the largest brokers in the world, and that all the effort has been centered around the Seattle offices of those firms. Cody felt these firms could be considered non-Alaskan firms. Cody said the net of insurance does not save costs; it interferes with contractors' normal insurance buying processes; that contractual liability becomes confused because of the grey areas created by the net of insurance. He said the state is exposing itself beyond the protection of insurance, which is an additional cost.

Number 409 — Rep. Sutcliffe asked if the state has liability by providing the wrap-up. Cody said they assumed a risk greater than they were insuring. There was discussion. Rep. Rogers asked if the builders risk could be larger than the state is insured for. Cody said, if for any reason coverage is denied by the carrier, the state is liable. He said the state is acting as an insurance intermediary. Rep. Bylsma asked if that would be different if the general contractor had private insurance. Cody said yes, the contract specifies the contractor is liable.

Number 470 — Cody referred to exhibits attached to his prepared testimony.

Number 500 — Rep. Rogers tried to clarify the order of events. Cody said the tone of the message to the contractor regarding the change order (after the court battle) was: "Here is the contract. We'll sign it if you sign the change order."

Number 550 — Rep. Bylsma asked what law Washington had passed regarding wrap-up insurance. Cody said the committee has a copy of the law on file. The law prohibits an agency of state or local government in directing the purchase of surety bonds on a state or local project. He said the law was passed in 1967 or 1968.

Number 584 — Rep. Sutcliffe asked, if the state of Washington had built and owned projects as Alaska will, if there was a wrap-up

insurance program and if the state couldn't totally fund the project, would there be any implication that the insurance companies would pay out so m[illegible]t would reflect back on the state? Cody [illegible]uld not think of a situation where overall financial feasibility of projects could be affected. He believed brokers and Risk Management people capable of handling risk and risk management. He questioned their right to involve state government in private business, and the right of the contractor to protect himself as he wishes to be protected.

Number 625 — Rep. Martin asked who paid for the public relations firm hired, and asked if there was any relationship between any of the board members of APA and the public relations firm hired. Cody assumed APA paid for the services. He said that, as of ten days ago, the firm was still working on the project.

Number 642 — Rep. Martin announced that the hearing would be continued on Friday, when a bill or resolution might be introduced.

Number 645 — Don Koch, Chief of Market Surveillance, Division of Insurance, and Ken Moore, Director of the Division of Insurance, came to testify before the committee. Moore said formal hearings were held in 1971 regarding the pipeline. Two years ago, when the pipeline was out and running, private enterprise approached them about having a wrap-up. As of August 26, the Division had published a worksheet of guidelines.

Tape 50, Number 003 — Koch said he contacted other states to find out their attitudes toward wrap-up programs. He got very little response, and said that some did not know what it was. He commenced work last summer because of a potential wrap-up on the pipeline and on other projects. Rep. Martin said he understood there was a wrap-up on the marine ferries. Koch said there had been only one that he was aware of: the Alyeska pipeline, a private project.

Number 030 — Rep. Martin asked Koch what advice he had given Risk Management and APA. Koch recalled discussions of self-insurance and wrap-up insurance. He said the discussion

was fairly general, and that he had given no advice.

Number 044 — Rep. Martin asked if Koch foresaw the state being solely responsible for paying workers compensation claims. Koch was not sure. He believed that should be considered.

Number 058 — Rep. Martin asked if the Division of Insurance had any overview responsibility, or if Risk Management was independent. Moore said Division of Insurance had no responsibility at all over Risk Management. Koch said they regulate provider coverage.

Number 071 — Rep. Martin asked if they had evaluated the program. Koch said they had not. He said if they were directed to look at it, all they would be required to say is whether or not it covers workers. He said they don't have the expertise to say if it is an appropriate program for those circumstances; that this is not one of the Division's roles.

Number 093 — Rep. Bylsma asked what effect elimination of wrap-up would have on workers compensation (he used Washington state as an example). Moore said it could have an effect. Koch said that whether compensation was a prime consideration when the legislation was created would be a factor.

Number 110 — Rep. Martin asked if the Division could evaluate the policy--percentage of risk and true value to the state. Koch said they did not have the expertise, and that they would have to contract that out if they were requested to provide such an evaluation.

Number 125 — Ken Vassar, attorney in the Department of Law, came before the committee. Rep. Rogers asked if he had reviewed the power sale agreement. Vassar had not. He responded to Rep. Rogers that he had not reviewed the interim financing agreement, either. Vassar said the APA has outside counsel, and he believed they had reviewed the documents in question. Rep. Rogers asked if Vassar had reviewed any of the insurance issues discussed. Vassar said he had. Rep. Rogers went over the occurrence of events:

07/27 APA met with Marsh & McLennan

08/06 Response of Marsh & McLennan with details
08/11 Bids come in
Aug/Sep APA chooses bidder
10/02 APA board meets & approves concept of APCOP
10/06 Change order issued
11/09 Press release regarding APCOP
11/23 and 12/02--sign memorandum of agreement

Vassar said this was not standard procedure. He was not familiar with the timeline. He said the decision to use the program was entered after the bid. He said this constitutes a change of circumstances. Vassar said the details came to the attention of the executive director after the bids were opened. There was discussion. Rep. Rogers asked if they were planning to review the sales agreement with Ketchikan and the interim financing agreement. Vassar said yes.

Number 190

Commissioner Ernst Mueller, vice chairman of the Board of Directors of Alaska Power Authority, said APA is a business in competition with private facilities. He feels it is his responsibility to investigate cost-cutting avenues. He said the only way to keep a cap on costs is to hire experts. Risk Management is one of their agencies used. He said decisions are rightfully in the hands of the Board. Mueller said that, at the meeting, there was sufficient justification to approve this approach. He said information to date has not changed his mind. He said the disadvantages of wrap-up insurance to general contractors are the same in the entire field of wrap-up programs, public and private. He said any decisions made about wrap-up programs should cover public and private contracts. Mueller said information to date indicates it is a good program.

Number 242

Rep. Rogers said, looking over the partial transcript of an APA board meeting, that Commissioner Webber had asked questions about board action and legislative approval, and that others had asked questions about liability, safety incentive, higher policy cost, and workers compensation; but that the Board had taken no action on these questions. Mueller said the Board could have delved more deeply into legal ramifications, and that there was no doubt

that this was an unusual procedure. He said it should have gone to bid differently, but the Attorney General did not seem to think it illegal. There was discussion.

Number 288

Rep. Rogers asked, regarding interim financing, if Mueller had ever seen the same situation (of the legislature being in a position to allow APA to default on interim financing, or approving funds to cover the financing). Mueller said he had not seen the same form. He said those building projects can't wait for a favorable bond market to do work. He said the Department of Revenue gives them money out of the general fund. He said one would have to speak to the APA Bond Council as to the processes involved. There was discussion of bonding. Rep. Rogers pointed out that there has been no legislative oversight of this project. Mueller agreed.

Number 358

Rep. Rogers asked if there were any inconsistencies in the Ketchikan power sales agreement in the ceiling versus statewide wholesale power cost rate. Mueller said they had asked Vassar to look at that to see if it conflicts with law.

Number 374

Rep. Bylsma said that, in the transcript of the 10/2 meeting, Slagle and Webber were talking about insurance when the Commissioner asked if the legislation was there. Slagle said he could not answer, "but we do it". Bylsma asked Mueller if he had questioned that. Mueller said they relied on the attorneys. There was discussion.

Number 400

Rep. Martin asked who was attending the 10/2 board meeting. Yould said he could provide a list of those attending.

Number 417

Rep. Martin noted, regarding a $9-million contract to a Japanese firm, that $570,000 was in advance. He asked if these monies had been authorized yet. Yould responded that they received bids to put in the submarine cable portion of Tyee. The Japanese firm was the lowest bidder. Insurance premiums have been provided for this portion of the program. Martin said this goes against the advertisement about keeping money in Alaska. He questioned

APA's procedure of insuring leased equipment but not insuring owned equipment, which would ensure that APA would get outside contractors because Alaskan contractors would own their equipment. Yould said this was to ensure that leased equipment would be insured. He said owned vehicled are already insured by the owner. Haywood said it was to insure items the owner has the greatest interest in. He said that owned equipment, vehicles, and aircraft are the contractor's responsibility. Martin said that was true, unless the contractor leases it. Haywood said to look at Tyee; they were concerned about someone grabbing a private plane or boat, crashing, and having no insurance. He said this could come back to the owner. Rep. Rogers said then it would make sense to rent or lease equipment, and that this would have an impact on future bids. He said there would be no reason to use one's own equipment, because the bid would be higher because of insurance on the equipment. Mueller disagreed, saying it would depend on the individual situation. Haywood said Tyee was not handled like a normal project. He said there was perhaps a valid concern regarding the conflict with competitive bid contracts. He referred to a companion program in place for contractors to use if they wished; the attorneys were not sure if insurance would affect low bids, so they elected to include subcontractors. He said they are not including aviation and watercraft coverage on future projects. There was discussion.

Number 597

Rep. Martin asked if the Japanese firm owned its equipment for cable laying. Haywood said it was leased on a time charter. Rep. Martin asked if the insurance covered them to and from the job. Haywood said it would cover marine exposure while bringing the cable to the jobsite.

Number 619

Rep. Bylsma questioned the length of the insurance contract. Haywood said there was no date because they were not sure when the exposure would end. Rep. Bylsma asked asked if they were insuring for the length of the program. Haywood said yes, that it was the same situation as when asking for a fixed price bid. He said change orders could increase or decrease the costs.

Number 654	Rep. Rogers said, regarding bids on various projects, that the difference between leased or owned equipment could make a difference in lowest bidder.
Number 678	Rep. Martin asked Mueller and Yould to clarify what legislation is needed to clarify this situation and make it legal. He said committee staff would prepare the opposite point of view. Yould said nothing precludes entering this type of program in Alaska. Vassar said the authority is broad enough under present law. Rep. Martin requested citation of specific authority. Vassar said nothing in the law expressly authorizes it; that it is general authority. There was discussion. Mueller said they asked many questions, wanting to clarify in their minds and ascertain if they had authority. There was more discussion.
Side B, Number 008	Rep. Martin had announced that the hearing would be continued on Friday, April 2, and as there were no further witnesses wishing to testify, the meeting was adjourned at 3:35 p.m.

Tape # 49 & 50

Absent: Randolph

3/31/82 H. Labor & Commerce

mtg w/ Alaska Power Authority, AGC, etc.

Sutcliffe Grussendorf
Cotton Haugen

1: 07

000 Call to order / purpose of mtg - policies on sole contract of insurance

015 ~~Rod~~ Dick Pettinger, AK Ch, AGC - 675 const-related firms - Chapter opposes APA wrap up ins pgm known as APCOP. Nationally, have been opp'd to this for yrs. went over past stands taken.

040 Asked what reg or statute that permits wrap-up ins pgm. Why did APA institute pgm? All bids on Tyee included ins. Why did APA not notify pub of intent before imposing pgm on the project. They says its to save money to rate payer.

054 One of contractors tools is removed by this. Explained how safety factors affect cost. Co w/ better safety factor wd normally submit lower bid. APCOP penalizes safety-conscious contractor. APA assuming ins ~~or~~ means contractor wd not be held responsible for claims. Questions ability of APA to ensure proper safety procedure. Questions savings as a result.

081 Promised to provide written testimony tomorrow.

084 Major disadvantages:

- owner controlled pgms disliked by most contractors
- admin is disadvantage due to length of project & turnover of personnel.

— ins. co agents interests may be diverse; hence conflict of interest serving all parties; claims control probs also. legal difficulties

— better to write w/one policy (auto liability + _____); separate policies lend themselves to abuse.

4 true cost of ins often not determined for 5–7 yrs after project.

116 — owner becomes involved in many ins disputes that normally take place bet gen contr & subcontr.

123 Best incentive for risk control lies w/ self insurance pgms. APCOP will result in opposite. Object to govt intervention into private sector. Requested immediate elimination of APCOP

135 Martin asked when first came to his attn; - early in Nov (Pettinger) contract let in August

Rogers - clarification; asked if state provided ins on any other project. Pettinger said no.

Martin asked if this makes st resp for WC claims, bondag, etc. Pettinger said st assumes liability of prime contractor

15

165 Eric Gould & John Haywood — Gould Chronology of events.
Dir, APA Dir, Risk Mgmt

APA had 2 options
1) bidding under normal proc — const provide own ins
2) bidding net of insurance (wrap up pgm)

Div Risk Mgmt provided info that indicated benefits to APA to keep cost of ins premiums down if they provided own ins. Their intent to proceed w/ owner-insured pgm. Div RM used state's present ins brokers to provide coverage.

AGC then objected to pgm.

216 At last board mtg (3/21), ~~the~~ had issue rwd — Div RM came before bd & indicated advs to state to ~~s~~ take part in pgm; AGC opposed; Barry posed qstns. Many qstns raised shd be addressed by RM; they assisted in ans'g qstns.

238 Next project is Tenor Lake; bid opening 4/26. Will request 2 bids fm each contr — 1 net ins, 1 owner ins. Bd will then decide to which type ins to case.

250 Rogers asked when bid opening for Tyce

Y – ~~Aug~~ Sep 25 ; bd mtg 10/2 ; ~~Bd Awd~~'d

Rogers – net of ins or ins ins?

Y – ins ins; subly requested winning cntr to remove ins fm bid.

R – others had no oppty to respond as modified?

Y – correct

R – that might have created diff lowest resp & bidder

Y – had litigation against award for other reason; as one circ sued.
10/2 went fwd w/ bid, but didn't sign agmt until 12/2.
Clarification of dates.

Haywood – pgm was in place at time bidder was asked to back out ins. ~~Had to~~ Cntr voluntarily agreed to back out ins costs. after that, since RM's recomdn, felt it wd make sense to draft memo of agmt, but pgm ~~was~~ was in effect.

319 R – state is ~~Mng~~ managing cntr's risks.

H – talking abt situ where st has joint interest in wks comp, gen liab, & bldrs risk. WC Statute has proven that st entities are liable in event of claim w/o adequate ins. Since WW II, most major pub const auth pgms have been handled by wrap up pgm.

Rogers indicated statute saying cntr must s/mit proof of W/C ins at time of bid.

360 Martin said Harrison Western was 4th lowest bid, + did not comply w/ law in submitting proof of ins.

H- wasn't involved in opening of bids; understood they were 2nd lowest. At time ins certificates came in, decision had been made to go w/ APCOP pgm. Yoneo understood they did have ins at time of bid.

390 R- Do you require notice of current coverag of WC prior to awarding bids; Yoneo wasn't certain.

402 R- 2 concerned on. couple issues where APA is ~~stating~~ circumventing or violating law

Interim financing- has it been arranged for both Swan Lake & Tyee?

- Yes. R- what wd happen if rev. bonds cd not be sold & legis did not make appn?

Yoneo- fine advisors & underwriters advised long term bonds cd be issued ~~to~~ if necessary.

R- what is ob'n of state if bonds went up to 20%?

Y- APA ~~State~~ is liable, but state wd not let its credit be impaired.

R- concerned dot agency if state making obligns on behalf of legis. Will there be capital reserve acct? Y- yes, w/ bond proceeds.

R- Swan Lake- recd complete legis auth'n? Y- yes.

R- same interim fin'g issue? Y- straight bank loan.

R- the Auth says it won't incur ~~any~~ debt svc that wd make pwr more expensive than diesel. How can you ensure this?

Y- ~~APA~~ legis can chng pgm.

480 R- current law says uniform pwr rate; if rate goes above ceiling, how can both law + contractual ob'n be met?
Y- not intent of legis to increase cost of pwr
R- legis said 10% of capital costs annually unless $5B in.
Y- cost will still be lower than cost of diesel. Analyzed - don't foresee situ where cap will come into play. People will always have to remain in system to pay their share of debt svc.
R- then you say yes there's a ceiling - Y- at least their portion of debt svc.
R- ~~Same~~ requested clar'n. Y responded - in event bond ~~to be~~ ~~are can't be had~~ market goes up, gotable whether revenue bonds cd be sold to cover pgm.
554 R- APA has atty? Y- Vassar. Doesn't rw all contracts; have other attys. Contract was rwd by dept law under xptn sec, but primarily rwd by private counsel.
R- uniform rate w/ cap tied to diesel rate in their area for all projects? Y- yes.
575 Martin asked if consulted w/ Div Ins H. - yes. Owners wrap up common way of handling major const projects all over country for last 25 yrs. Alyeska was owner wrap up. Met w/ Div Ins several times before going into pgm. ~~Asked~~
Qstn if special reg wd need to be adopted; decided no.
Set cutoff at $50M projects for wrap up pgm.

614 M - did Comm Hudson give permission

H - Risks of st of ak top majority of world wide marketplace capacity. Contract on basis of profit secs, kept in effect 3-5 yrs. This was done early 1981. Marsh + McClennon & Caroon + Black were selected.

654 M - why shd they get pd for ins pgm when memo of agmt was dated 3 months after ins coverage went into effect.

H - insurance was there by 10/15

M - that's when you decided Harrison Western did not have coverage.

H - their lack of ins was not an issue; didn't meet other specifics.

M - at what time did Comm. sign sole source contract?

H - contract was put together for Tyee Lake ins. This is contract of utmost good faith. Compared to car or homeowners ins ordered by phone. Said same setup - put coverage into place as of 10/1, contracts followed. Standard practice.

>311 M - understood Contr can't get ins because they were high risk. also, not a $50M contract.

Side B H - $90-100M contract when done.

005 Terror Lake w/one prime contr for a $175M project better example than Tyee, which is bid in 3 phases.

R - so Caroon & Black can get ins contract on Tyee, Terror, Susitna?

H - they don't have a contract like that.

R - you can extend contract to all projects?

H - part of selection process.

027 H- we need 4-5 mo lead time to give brokr time to put together pgm needed. Now have 2 projects on line - Terra Lake & Tyee. This is a risk mgmt svc, not separate.

042 R- since cntr bears no cost of ins, what is incentive for good safety pgm?

H- statistics show they run safer jobs. Build safety specs into project, centralize safety coord's & facilities on job, & still report losses to rate safety council so ins modn factor continues to run. By cntrs have self-ins or captive ins cos that are basically pure self-ins.

068 Discussion of incentive for good safety pgm.

076 H- state can't forcing safety on cntr. Stats show these jobs are run safety. Missing humanistic. So many hidden costs on injury, no well mgd cntr will risk that.

R- & but poorly mgd cntr will.

091 M asked who pays safety audit

R- comes out of ins premium; ~~factoring does not affect~~ bc/ breaking svcs ins co wd normally provide into component parts & subcontracting them.

105

~~105~~ ~~H- letter doc~~ Discussion of contracts.

111 M – you said private & public industries do wrap ups – What public ones do? & it seems private are moving away fm it.

H - going as strong now as ever; cut back in fed'l funds slowing down major wrap up pgms.

Passed out partial list of owner-controlled pgms & documented savings.

130 M - did Hudson sign doc to auth this?

H - went th contract rev in Dept Admin.

139 M – we're doing this ins after the fact; by your rego, this co was not qualified as it had no ins included in the bid.

H - Ins was in bid.

148 Byloma – in contract w/ins co, they provide APA & prime contrs w/ safety incentive formula prior to conception; now co they of contracted before ins. was in force?

H - ~~Had~~ an intention agmt is that language for policy be in contract. Designed for project where lang is included in bid specification.

B - what is safety incentive formula?

H – ~~determined~~ APA got a return of $100,000 to use on other projects, & $200,000 to use as incentive pgms w/contrs on basis of good performance.

B- contr & APA split that?

H- incentive based on losses

195 B – on 10/2 ~~at [illegible]~~ premium return was mentioned; led to blw it wd come back to State, not cntrs.

208 Martin said mtg wd be cont'd Friday.

215 Darrell Cody, pres, Darrell A Cody Co, business consulting firm (201 Danner, Anc): One specialty is assisting cntrs in acqn of surety bonds & const ins. Listed his qualifns.

250 Two pgms were attempted to be instituted in 1960s that they were able to stop because what they suggested as savings was over anything they cd justify. Also involved in many major hydro projects in West & Ore, almost none had public wrap up pgm. Said he's been injured by actions of APA since they took ins out of ones of his clients' hands. Also co-chmn of Ins Taping & Bonding Comm of AGC, also holds natl offs in AGC. Washington st. in

280 Favors free enterprise system. Opp'd to anything unnecessary. ~~Also~~ First reason for opp'g APCOP. Takes normal ins buying process away fm cntr. Cost of ins major consideration in putting bids together.

297 Opp'd to govt involved in business where no need or purpose served, as in this case. State & APA in private sector, where they aren't wanted or needed.

In pub relations pgm, said they'd save money. Sees no way they can save money over the way gov cntrs buy their ins.

Commented on wrap-up doc handed out by H (Y?). Said they went back 25 yrs to find 25 projects. Referred to one project showing 38% savings - a great deal of that pgm was marine work. At that time, marine const had surcharge of 56% on W/C rates. At same time, had marine cntrs wkg on same type work; they pd 100%, not 156%. These savings have no credibility. Have to start at same base to determine savings. Doesn't feel statistics are good are credible. Don't save money. Believes it will cost more.

360 Also say dollars will stay in Ak. B They hired 2 of the best brokers in the world; all the effort has been centered around Seattle offs of those firms.

All ~~they did~~ firms cd be considered outside firms.

specific
objections

1) doesn't save costs

2) interfere w/ cnties normal ins buying processes

3) grey areas bet parties re contl liabilities, section become confused because of the grey areas created by net of ins. State exposing itself beyond profits of insurance, which is add'l cost.

409 Sutcliff — by st providing ins/wrap-up, state has liability?

Cody — they assumed risk greater than they are insuring.

Discussion.

R — bldrs risk may be larger than w/ be insured for?

C — anything if for any reason coverage is denied by carrier, state is liable. State acting as ins. intermediary.

B — wd that be diff if gen cntr had private ins?

C — yes; contract specifies cntr is liable.

470 Cody — has enclosed exhibits w/ prepared testimony.

He described exhibits

500 Rogers tried to clarify order of events.

Cody — tone of mtg to cntr re change order (after court battle) was — here's contract; we'll sign it if you sign chng order.

550 Byfoma – mentioned Wash passed law re wrap-up – what was it?
Cody – comm has on file cy of that; prohibits agency of st or local govt in directing purchase of surety bonds on st or local project; was done in 1967 or 68.

574 B – client was connected w/Tyee Lake? C – yes B – you cost insurance w/cnts? C – Cost consulting svc on contract.

584 Sutcliffe – if st of Wash had built + owned projects as AK will, if there was wrap up + if state can't totally find proj, there wd be no implication the cos wd pay out so much it wd reflect back on st?
Cody can't think of situation where, overall feasibility of projects ca be affected. Bkr brokers + RM people capable of handling risk + RM. Discuss their right + involvement of st govt in private bus, + right of cnts to protect himself as he wishes to be protected.

605 ~~Cody~~ M – you mentioned fact PR firm was hired – who paid for this? Any relationship bet APA bd + Co?
C – assumes APA pd for it; as of 10 days ago, they were still wkg on project.

642 M announced hearings be cont'd Fri, where bill or resolution may be drafted.

645 Don Koch, Market Surveillance, Dv of Ins & Moore, Dir, Dv of Ins

Moore - ~~was~~ formal hrgs held 1971 re pipeline - then dies Bill Fritz issued order. Went th; then 2 yrs ago when pipeline out + running, approached by private enterprise at + having wrap ups. As of 8/76, published

Tape 2 guidelines (worksheet).

003 Koch - contacted other States to find out their attitude toward wrap up; very little response; many didn't know what it was. Commenced at last summer because of pot'l wrap up on gas pipeline & other projects.

M - understood there was wrap up on marine ferries

K - only one he was aware of was on Alyeska pipeline - private.

030 M - what advice did you give on this pgm?

K - recalled there were discrs of

1) self-ins — didn't see how cd be done legally

2) wrap-up - dish dealt w/ criteria they had at that point.

Discussion was fairly genl; no advice given.

044 M - concern at wcb or solely resp for paying WC claims. Do you foresee that?

K - no opinion; not sure. Bus shd be considered

058 M - any div of Ins coverages responsible, or is risk mgmt independt?

~~Ko~~ Moore - do resp at all

Koch - ~~Atty~~ regular provider coverage

071 M - have you evaluated pgm?

K - no; if they were directed to look at it, wd be reg's to say whether or not it covers wks. Don't have expertise to say if it's appropriate pgm for those circumstances. Not one of division's roles.

093 B - % of wash carries own WC; wdn't ~~Not tend to b~~ elimination of wrap up have effect on WC?

Moore - could have.

K - whether comp was prime consideration when legisn enacted ~~shd be consid~~ wd be factor.

110 M asked if they cd evaluate policy - % of risk & true value to state

K - don't have expertise; wd have to contract it out.

125 Ken Vasser, ~~Dept of Law~~ atty for APA fm Dept of Law -

R asked if he'd rec'd pur sale agmt? no
interim financing agmt? no
V- APA has outside counsel; b/c they rec'd these.
R - rec'd any env issues discussed? Yes
R Timeline - 7/27 APA met w/ Marsh + McC
8/6 respons M+M w/ details
8/11 bids come in
Aug - Sep APA chooses bidder
10/2 APA bd meets + approves concept APCOP
10/6 change orders re
11/9 press release APCOP
11/23 + 12/3 sign memo of agmt -
after that - policy.
V- not standard procedure. Wasn't familiar w/ timeline.
Decision to use pgm was entered after bid; constitutes
chang of circumstances; details came to attn of
Exec Dir after bids opened.
R - clarified timeline. V - unfamiliar
R - planning to rec sales agmt w/ Ken + ent fcmt agmt?
V - yes.

186 R asked if APA bd members present.

190 Comm Ernie Mueller, V. Chm, Bd Dir, APA —

re his feelings abt APCOP — APA is a business in competition w/private facilities. He feels its his resp to investigate cost cutting avenues. Only way to keep cap on costs is to hire experts. RM is one of their agencies used. Decisions rightfully in hands of bd. At mtg, there was sufficient justification to approve this approach. Info to date hasn't changed his mind. Disadvantages to gas cntrs are to entire field of wrap up pgms, not just public ones. If there are disado's, any decisions should cover public & private contracts. Info to date indicates it's a good pgm.

242 R — looking over xcript — Comm Webber asked qstns abt bd action, legis appl; Schrer re liability; Wheadon re safety incentive; Chm Conway re hughes policy; qstns abt WC; but no action by bd on this.

Mueller — ~~staff bad~~ asked same kinds of qstns as AGC. Bd cd have delved more deeply into legal ramifications, no doubt unusual procedure. Bd have gone to bid diff'ly but AG doesn't seem to think illegal.

280 R. — qstns.

Mul - most bi' members change over summer.

288 R - interim fin'g - any pblm w/ putting legis in posn of allowing APA to default on int pmts or appl's fnds - ever ~~seen~~ ~~or~~ same situ before?

Mu - not same form. Those bldg projects can't wait for favorable bond market to do work. Dept Revenue gives money out of gen fund. ~~If bond market [illegible]~~ Have to speak to APA bond council as to processes involved.

325 R - gen obl'n bonds are voted on, rev bonds are for project.

Mu - responded. People fin'g looking to state's moral obligh, but no legal obligh.

R - want legislative appl'n on bonds because of past bad experience. There has been no legislative oversight of this project.

Mu agreed.

358 R - Kth pwr sales agmt - ceiling vs. statewide wholesale pwr cost rate - inconsistencies?

Mu - we asked Ken to look at that to see if it conflicts w/ law

374 B - in xcript of 10/3 mtg - Slagle, ~~Mu~~ & Webber talking abt mtg, Comm asked if legis'n was there; Slagle said he can't answer, "but we do it." Didn't you get that?

Mu - rely on a Hyp.

397 Discussion.

400 M – 10/2 first mtg as bd member?

Mm – thought so

M – anyone else there besides bd of APA & RM?

Mm – yes. Upuld said cd provide list of people.

M – requested cys of ads.

417 M – re another contract – $9M to Japanese firm, $50,000 in adv – monies auth'd yet?

Upuld – rcvd bids to put in submarine cable portion of Tyee; Japanese firm lowest bidder; ins premiums have been provided for this portion of pgm.

M – goes against ad act keeping money in AK; also, you insure lease eqmt but not owner eqpt, which ensures you'll get outside carrs because AK carrs have eqpt.

Y – was to ensure that leased eqpt wd be insured; owned vehicles already ins'd by owner.

H – to insure items owner has greatest interest in. Owned eqpt, vehicles & a/c are carrs resp.

M – unless he leases it.

H – look at Tyee; concerned abt someone grabbing private plane or boat, crash, no ins. Cd come back to owners. ~~Don't want~~

R – Wd main reason to rent or lease, then will chng impact of future bids. No reason to use one's own eqpt, because bid will be higher because of ins.

Mueller dis agreed. Depends on cnd's situ.

H – Type not handled like normal project. Perhaps valid concern re conflict w/ competitive bid contracts.

~~Wanted~~ Had companion pgm in place for cntrs to use if they wished. Attys weren't sure if cns wd affect low bids; then elected to include subcontractors.

Not including av & watercraft coverage on future projects.

Discussion.

597 M – assuming Jay firm for cable laying – vessels, everything. Do they own eqpt?

H – leased on time charters.

M – cover them to & fm job?

H – cover marine exposure while bringing cable.

619 B – ~~ca~~ what is otak paying for?

H – no date because not sure when exposure will end.

B – cns for length of pgm?

H – yes; same situ when asking for fixed price bid; change orders cd increase or decrease costs.

654 R – re bids on various projects – diff bet leased or owned eqpt cd make diff in lowest bidder.

678 M asked Mueller & Yonld to clarify what legsn is needed to clarify this & make legal; said staff wd prepare opposite pt of view.
Yonld – nothing precludes entering this type pgm in Alc.
Vasser – ~~authority~~ statt is broad enough under present law.
M requested specific authority.
V – nothing in law expressly authorizes it; general authority.
Discussion.

740 Mu – we asked many qstns – wanted to clarify in our minds & ascertain if we had authority.
Discussion.

Side B

008 adjourned. 3:35

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
D. ROULEAU.	Juneau	A.S.D.C.L.	no	586-3167
KURT DZINICH	"	Senate Advisory Council	NO	465-3130
ERNIE Mueller	Powell, Juneau	ADEC	"	465-2600
*Eric P. Yould	~~334~~ 334 W 5th Anchorage, AK 99501	AK Power Assn	yes	277-7641
Jean Kline	134 Grandkin	A.H.C.	NO	6-1740
Dick Pettengill	Box 4-2500 Anch.	A.H.C.	Yes *	276-5354
Daryl Cody		Daryl Cody Co	Yes	
DEV KOSKI		ADMIN - RM		465-2180
Susan Burke	319 Seward Juneau	APCOP	No	586.2777
Kenneth Moore	SOB	Div of Ins	No	465-2515
DON KOCH	POUCH D JUNEAU	DIV OF INSURANCE	NO	465-2577
Paul R. Troch	5921 Sunset, Jno	Self	Possibly	586-6856
*[illegible] Hollywood	JUNEAU	Pac Lut.	YES *	465-2280
Karl D. Carlson	14116-60th Ave W. - Edmonds, WA.	MMG&L & McLennan	NO	(206) 223-1240
Thomas J. Shale	Juneau	Risk Mgmt	NO	465-2180
[illegible] McCall	Seattle, Wa.	Ogden & Black	NO	5832300
ALLEN SHATTUCK	JUNEAU	SHATTUCK & GRUMMETT	No	586-2414
Ken Moore →				
Don Koch.				
Ken Vasser..				

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

"Alaska Power Authority"

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Richard Smith	Pouch C	Administration		2200
Jim Johnson	214 Franklin	IUOE Local 302		
Glenn Lundell	Box 1149, Juneau 99811	Dept of Labor		2700
B.L. Lohr	327 Eagle St. Anch 99501	Rur Al CAP	No	279-2511
Jack Kreinheder	Pouch V, Juneau	House Research	No	3911
George Mc	Budget & Mgmt		No	2213
Susan Lee	Dept of Admin	→	NO	3500
Kathy Henderson	Dept of Admin			
E Flory	3911 Peterkin Ave	Alc. Fav. Lobby	NO	586-2345
Lois Cook	Pouch D	Comm & Econ Dev	No	465-2505
Ed Elbock	Pouch D	Comm & Econ Dev.	No	465-2501
Rep Ed Hanson	Pouch V	House Finance	no	
Morgan W Warren	508 Cooper Seal	LB+A	No	3818

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 3-31-82

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 3/31/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:03	
Rep. D. Randolph		✓		
Rep. B. Rogers	✓		1:03	
Rep. T. Gardiner	✓		1:31	
Rep. T. Martin, Chair	✓		1:00	

Subject Matter:

House Bill No. _____ _____ _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

Cotton
Sutcliffe
Grussendorf
Haugen

ALASKA POWER AUTHORITY

Partial Transcript of Board Minutes
of
October 2, 1981

Mr. Yould: The final action under Tyee has to do with Insurance. Normally, - one shouldn't say normally, but what we have anticipated with the Tyee Project, - what has been normally done within the State on large projects such as this is to require that the contractor provide his own insurance for, to protect against various contingincies that would come up during construction. However, Terry McGuire has been working with the state's Risk Management section which has indicated that the Power Authority might find it desirable to enter into a wrap-up insurance program whereby the Power Authority would request that the civil contractor, Southeast-Harrison Western, allow us to secure the necessary insurance on his behalf. The advantage being that that insurance alone is going to cost somewhere in the neighborhood of, we're just guessing, $3 million for the various programs and policies that he is going to have to be taking out. But based on a proration of what we anticipate the insurance claims will actually be should this be a normal project we can anticipate a premium return of somewhere in the neighborhood of 30 to 50%. This is something that can come back to the state and be offset against the project rather than relinquishing the contractor. That's why in dealing with Risk Management we feel that it's a very desirable thing to do. If you would like to I think all we want to do is make you aware of this technique and this procedure and let you ask questions which you might have. But we do have a gentleman from Risk Management, and Mr. McGuire has been working on this particular technique.

Comm. Webber: I'd sure like to hear that one.

(voices interacting are inaudible for this space)

Mr. McGuire It was not until late July, early August (inaudible) some bills were passed or signed into law or passed into law that we knew that we had the insurance requirements associated with certain contracts during construction and we did not come to a decision based upon discussions with Risk Management that it would be advantageous to establish wrap-up policy until early in August. At that time we had considered sending out an adendum to that major civil contract, but it was getting so close to the bid date of August 11th that we felt it would confuse the bidding process and we decided we could actually, if we

instituted this type program after evaluation, we could go to the contractor early on, say don't put your insurance in force. You don't have to have to worry about losses above your experienced level, which would impact your rates in the future, or we will provide the insurance, we can probably provide a greater degree of course possibly for a lower rate since it's a wrap-up policy and we would issue a change order to your existing contract to effect this and reduce the contract amount by the value that he had anticipated paying for insurance. What you have, what I just handed out is a letter from John Haywood the Director of Risk Management. That's the initial letter, and then there's a brief statement, brief, some articles covering wrap-up policies that gives you a little idea of where they stand in the industry. And then there's another copy of the August 6, 1981 letter which is also in your Board packet from Marshell McClennen. We have here with us today Mr. Tom Slagle, who is an assistant to John Haywood, both he and I will be able to answer any questions, I think, that you have. Some additional advantages of this program are: in a project where you are having eight to ten or eleven, even, major contracts, plus you'll have sub-contractors for those prime contractors, you're constantly having to establish for each individual contract insurance limits and they must meld with each other and we have to get certification of that coverage for all contractors and sub-contractors and it comes somewhat of an administrative burden in some respects. And, as Mr. Yould stated, should the losses associated with the program or the claims associated with, that could be filed during the construction phase of the project associated with professional liability, general liability, workmen's compensation, and so on, the loss activity is low, well actually the contractors are going to obtain the premiums that, you know, a rebate on premiums in some respects, whereas the Power Authority and the state can achieve that rebate on premiums. If the experience factor is high the advantage to the contractors is their loss would have been high, well then it is not impacting their ability to get future contracts because their individual firm's insurance premiums. So that there are some advantages to both contractors and to the state. We feel there will be a cost savings by instituting this wrap-up program. Another advantage is that when you have each contractor buying their own individual insurance you're going to have many parties involved and if there are claims sometimes they'll be many people involved in a suit. There can be claims against both. Contractors can make claims both the owner, design engineers, and so on, construction management firm. It becomes extremely complicated. And with a wrap-up program with all parties having the same coverage with the same policy the resolution of the claims is handled by that one broker.

You're not having insurance companies having high expense trying to recover losses associated with their insurance programs with each other. You're dealing mainly with one broker who basically is covering insurance areas and coverage for that individual project. Another advantage is that this can be expanded and it will be accomplished initially just on this Lake Tyee project. We anticipate trying to expand it to our overall program, our overall construction program. The reasons we are looking at Marsh and McLennan right now is that the Division of Risk Management in the past year had sent out RFP's to all the major national brokerage firms and had selected Marsh and McLennan to provide coverage in this area for the state and Corroon/Black and Dawson had been selected to buy coverage in that area of property insurance, and other areas too. They felt due to the time constraints the desire to get this wrap-up policy, possibly in place, for this one project, we should not go out with a RFP which could take three months, possibly, to evaluate. It could be a very complex RFP to prepare, could be a complex RFP to evaluate and we would not be able to institute the program and save the state possibly some money unless we went to Marsh and McLennon for this coverage initially on the Lake Tyee project. Sometime in the next few months we are going to be sending out a RFP that will outline what our insurance requirements will be on a program basis, not just on the Lake Tyee project, but on a program basis, and we'll be working closely with Risk Management in the development of that RFP and in an ultimate evaluation and we may end up having oral presentations before the Board at some future Board meeting by the top, what we consider, on the written submissions, the top firms to make oral presentations to the Board at some future meeting. That's where we stand, it was both Risk Management and ourselves, wanted the Board to have the opportunity to ask some questions, to understand what we are approaching here, what this program is. We desire to institute it, I don't know if it requires any formal blessing of the Board or not. We don't know definitely that we'll be able to even instituted for the Lake Tyee project, because if we can't get the contractor to accept a change order to reduce basically his contract by the value of what he would have been paying for insurance, well then we would have to look at the option of just doing it for the Transmission line and substation contracts yet to be awarded and treat that somewhat as a separate project for insurance purposes if the brokers would accept that.

Chrm Conway: Questions from the Board members?

Mr. McGuire: Tom Slagle is right there.

Dr. Lehr: Would you use part of yourself insurance pool to cover

this, to make a saving that are potential or would it be 100%, no deductible?

Mr. Slagle: Yeah, we've used part of it, especially in the excess part. Ten million on up. We have an umbrella with the state program on any cash loss type claims. We invisioned this program as being probably the first ten million and again, going into the state's program, on any excess insurance.

Dr. Lehr: Is there any potential that the state could all of sudden find themselves in a horrible lawsuit that our coverage wouldn't cover? I mean, would the dam, I don't know, the thing could break or something like that, is there a chance we could all of a sudden find ourselves in a billion dollar lawsuit?

Mr. Slagle: I think the potential is there. I think our coverages are probably as broad as you're going to get in the insurance industry. The potential is always there for that type of lawsuit, yes.

Mr. McGuire: To expand on that, we have discussed with John Haywood the fact that this program that we're talking about here is insurance during construction and we also want to investigate what transpires nationally relative to coverage of projects in operation. The problem is that very few of them are privately owned. Many of them are owned by local governments, state governments, and federal government predominately. But we are going to investigate that in an area of property insurance, loss of operations insurance and so on for individual projects and a system as soon as we can.

Dr. Weeden: I guess I tend to be too simple minded about these things, but it seems to be right now when the contractor carries the insurance he benefits from a low number of claims. If the state carries the insurance the contractor does not benefit from a low number of claims.

Mr. McGuire: That's correct.

Dr. Weeden: So, does that mean we'll kill more people on the operations?

Mr. McGuire: No, I don't believe it will because basically the contractor, the insurance firms and the Power Authority, and the contractors are still going to be interested in keeping any safety, insuring that construction takes place in a safe manner.

Dr. Weeden: Well, those safety nets, I guess to use a Reagan phrase, are there in accordance with law in any case, aren't they? Insurance or no insurance. In other words, if

certain OSHA and other agencies require certain fundamental, you know, features, when you back up a heavy piece of equipment it's. I guess can see that in a generalized sense the contractor, the person doing the work on the ground, handling the shovels and mixing the cement and so on, has a kind of a generalized incentive, even if the state carries the insurance, to reduce accidents. But that incentive is not as sharply focused as when the contractor, himself, could get, let's say could look forward to a substantial rebate on premiums.

Mr. McGuire: If an accident occurs, on a job site, the individual or whatever, which id going to be making a claim, is going to make his claim and if it exceeds the limits of insurance, that does not preclude any possible plaintiff from still trying to recover more than the limits of insurance coverage from parties involved. The contractor themselves, construction managers, Power Authority.

? (mostly inaudible conversation, intermixed between about three people)

Chmn. Conway: All you're saying is that you're going to wind up with a policy that's much larger because it's going to be placed through the state's own Risk Management systems and therefore tends to give you greater protection, but I'm a little bit with Dr. Weeden and I circled two points on here. One of them, Marsh and McLennan and you've answered that question as to why it's going this particular route. If you're comfortable with that original RFP and I assume are, I don't have any more questions on that point. The other one I circled was on the Workmen's comp portion of it, which is really where the incentive is. To run a job properly, is the state, for example, going to have people there? I'm not talking about the safety inspectors now, I'm talking about the insurance people. Are we going to have someone there? Who is really going to be out after the interests of that, the policy holder.

? (inaudible)

Chmn. Conway: Well (inaudible) and, it's the workmen's comp thing that I'm ..... the rest of it I can understand, there's great savings to be accrued here but the comp thing I just don't (inaudible)

Mr. Slagle I think you (inaudible), I pondered that question myself. I think you could have some incentive in the programs for the contractors (inaudible). One of the things that we're looking for on this project from their Risk Management point of view is using this as a model for loss control programs. We're going to have state people from our loss control section there, we're going to have

people from Marsh McLennan. We're hopeful that we can get some real points on this and have a continuity of loss control for other projects that come up and we

Chmn. Conway: You raised a very good point. And that would be some incentive, that would in fact accrue back to the contractor or contractors in this case, otherwise you've got two problems. One that we've been addressing is, how are you going to run the job and the other problem is, now you've raised that, is you're going to have the myriad of inspectors floating around that job. Frankly, if I was the contractor and had no incentive, I wouldn't be very hospitable to all these inspectors, they drive you nuts, but, if I'm going to get something from the benefit of their being there, I'm running a very safe job, then I'll accept the inspectors.

Dr. Weeden: You wouldn't run 'em all through the cement mixer?

? Then they'd sue you.

Chmn. Conway: Five thousand guys would come out of the woodworks and come and drink your coffee and eat your grub at lunch, and in this case you've got to take care of them because they're the inspectors. That happens all the time, but, is there a method that can be cranked back in that would return some of this which would from your scenario would be accruing back to the state and that's good. But, a portion for a good record and account therein.

Mr. McGuire: Mr. Chairman, I think that's entirely possible and I think that that's going to be something that will develop as a result of our discussions with the main civil contractor who has already been awarded the contract outside of the wrap-up policy and since he realizes that there are benefits to him by not exposing his work on this project to impact his overall loss record. But he also is possibly losing the potential benefits. And I think that we could develop some arrangement whereby the contractor receives a percentage of potential premium return based upon loss experience. I can only say that I think it is extremely possible, worth looking at anyway.

Com: Webber: One question. Did I understand that somehow the Power Authority's liability is limited by the state? Did I understand that? I don't know just how it came through but I think I heard that basically there would be a cap on the liability of the Power Authority if they utilize this insurance?

Mr. Slagle: Well, there's a cap on the insurance policy. I think we'd be extending. What we get to the contractor any claims that arose out of the activities of this project

would come under the state program on large catostrophic claims.

Com. Webber: That's what I wanted to get to. How is that funded?

Mr. Slagle: That is basically funded through the different state departments, the cost of risks are allocated back to the departments and they in turn

(inaudible interaction)

Mr. Slagle: .....Insurance Company. We send a premium notice to different departments based on their, the number of buildings they have and their loss history

Com. Webber: And in that scenario you can pick up this type of an agency and treat it as a department or any insured.

Mr. Slagle: Right.

Com. Webber: And is the legislation there to do that?

Mr. Slagel: That I can't answer but we do it.

Mr. McGuire: Basically, Commissioner, I think that for purposes of the state's basic programs it would be beneficial that the Power Authority be separated for the allocation of the insurance premiums, the variable rates from the rest of the Department of Commerce.

Com. Webber: That's I know what you're saying

Dr. Lehr: Would that adversely affect Commerce rates?

Dr. Lehr: They are semi-accruarial of how they charge their rates. Because we have a self insurance pot and then we have a, the other one's we go our for premiums on, then every year they adjust a little bit. The trouble is those won't adjust after you cut your budget numbers, but you pay some of that in your Risk Management charges. Then your department wouldn't pay much because you have a low loss whereas Fish and Game and DOT pay a whole lot

TRANSCRIBED DECEMBER 29, 1981.

Alaska Independent
Insurance Agents & Brokers, Inc.

SEND REPLY TO:
Dianne M. Leighton
Box 164A Eagle River Rd.
Eagle River, Alaska 99577

March 12, 1982

Mr. Kenneth Moore, Director
Division of Insurance
Dept. of Commerce & Economic Devleopment
State of Alaska
Pouch D
Juneau, Alaska 99811

RE: Alaska Power Authority Hydro-electric Insurance
"Wrap-Up" Program

Dear Mr. Moore,

The Alaska Independent Insurance Agents & Brokers Board of Directors held their semi-annual board meeting in February. John Heywood, Risk Manager for the State of Alaska was kind enough to briefly address our group.

Mr. Heywood gave us some background information on the insurance wrap-up program for the hydro-electric projects under the direction of the Alaska Power Authority. A question and answer period followed his comments.

The board has several areas of concern dealing with the State becoming involved with private enterprise. There were no public hearings held and there were no requests for competitive bids from the insurance community for this program. The board strongly objects to these procedures and as a result of our concern we resolve the following:

WE OBJECT TO THE HYDROELECTRIC INSURANCE WRAP UP PROGRAM AS PRESENTED BY RISK MANAGER JOHN HEYWOOD ON THE BASIS OF IT BEING A POSSIBLE VIOLATION OF STATE STATUES INVOLVING RESTRAINT OF TRADE; WE FURTHER OBJECT ON THE GROUNDS THAT THE STATE IS BECOMING INVOLVED IN PRIVATE ENTERPRISE IN DIRECT COMPETITION WITH THE INSURANCE INDUSTRY TO THE DETRIMENT OF THE ALASKAN INSURANCE BUYER.

We urge your office to conduct a complete investigation into this matter and should you find that the State has wrongly involved itself in this project, issue an order prohibiting further involvement by the State on this and future projects.

In advance, we thank you for your assistance and look forward to a reply at your earliest convenience.

Sincerely,

Dianne M. Leighton

Dianne M. Leighton
Executive Vice-President AIIAB

Copies to:

Mike Pate, Pres. AIIAB
Pate Ins. Agency
P.O. Box 257
Homer, Alaska 99603

Ken Murray
Ken Murray Ins. Agency
Box 1007
Fairbanks, AK 99707

Mr. Joe McLean
Ely, Guess & Rudd
Suite A Mendenhall Bldg.
Juneau, AK. 99801

Hon. Jay Hammond
Governor, State of Alaska
Pouch A
Juneau, AK. 99811

Hon. Terry Miller
Lt. Governor, State of Alaska
Pouch AA
Juneau, Alaska 99811

Mr. Charles R. Weber, Commissioner
Dept. Commerce & Economic Development
Pouch D
Juneau, Alaska 99811

Mr. Robert W. Ward, Commissioner
Dept. Transportation & Public Facilities
Pouch Z
Juneau, AK. 99811

Mr. Wilson L. Condon, Attorney General
Pouch K
Juneau, AK. 99811

Mr. John Heywood, Director
Division of Risk Management
Pouch C
Juneau, AK. 99811

Mr. Jeff Berry, Special Assistant
House Labor & Commerce Committee
Pouch B
Juneau, AK. 99811

Mr. Terry Martin, Chairman
House Labor & Commerce Committee
Pouch B
Juneau, AK. 99811

Mr. Jalmar Kerttula, Senate President
Pouch B
Juneau, Alaska 99811

Mr. Joe Hayes, House Speaker
Pouch B
Juneau, AK. 99811

Mr. Gary Jenkins
NFIB
P.O. Box 194
Auke Bay, AK. 99821

Mr. Richard M. Pittenger
Associated General Contractors
Box 4-2500
Anchorage, AK. 99509

Mr. Tom Sewwney, Pres-Elect AIIAB
Sweeney Ins. Inc.
P.O. Box 1395
Kodiak, AK. 99615

EXHIBIT III

PUBLIC AGENCY

OWNER-CONTROLLED COORDINATED INSURANCE PROGRAMS

Owner	Location	Project
Bay Area Rapid Transit District	San Francisco, CA	Rapid Transit System
Metropolitan Atlanta Rapid Transit Authority	Atlanta, GA	Rapid Transit System
Baltimore Rapid Transit System	Baltimore, MD	Rapid Transit System
Niagara Frontier Transportation Authority	Buffalo, NY	Rapid Transit System
Dade County Metro	Miami, FL	Rapid Transit System
Washington Metropolitan Area Transit Authority	Washington, DC	Rapid Transit System
Tri-County Metropolitan Transportation District	Portland, OR	Rapid Transit System
New York Housing Authority	New York, NY	Housing Construction
New York Port Authority	New York, NY	Verrazano Narrows Bridge
New York Port Authority	New York, NY	World Trade Center
New York Port Authority	New York, NY	3rd Tube Holland Tunnel
New York Port Authority	Buffalo, NY	Niagara Power Project
New York Port Authority	Buffalo, NY	St. Lawrence Seaway Project
Metropolitan Transit Authority	New York, NY	Subway Construction
Metropolitan Wastewater Management Commission	Eugene, OR	Wastewater Treatment Plant
New Jersey Sports Complex	Hackensack, NJ	Construction of Stadium
Federal Reserve Bank of San Francisco	San Francisco, CA	Construction of Building
New York University	New York, NY	Various Construction Projects
University of California	Berkeley, CA	Various Construction Projects
Province of Quebec	Montreal, Quebec	Olympic Stadium & Subway
United Nations	New York, NY	United Nations Building
Omaha Public Power District	Nebraska City, NB	Power Generating Project
South Carolina Public Services Authority	South Carolina	Coal Burning Power Project
City of New York	New York, NY	New York Power Project
Sacramento Municipal Utility District	Sacramento, CA	Nuclear Power Plant
Societe d'Energie de la Raie James	Montreal, Quebec	Hydro Electric Project
City of New York	New York, NY	Lincoln Center

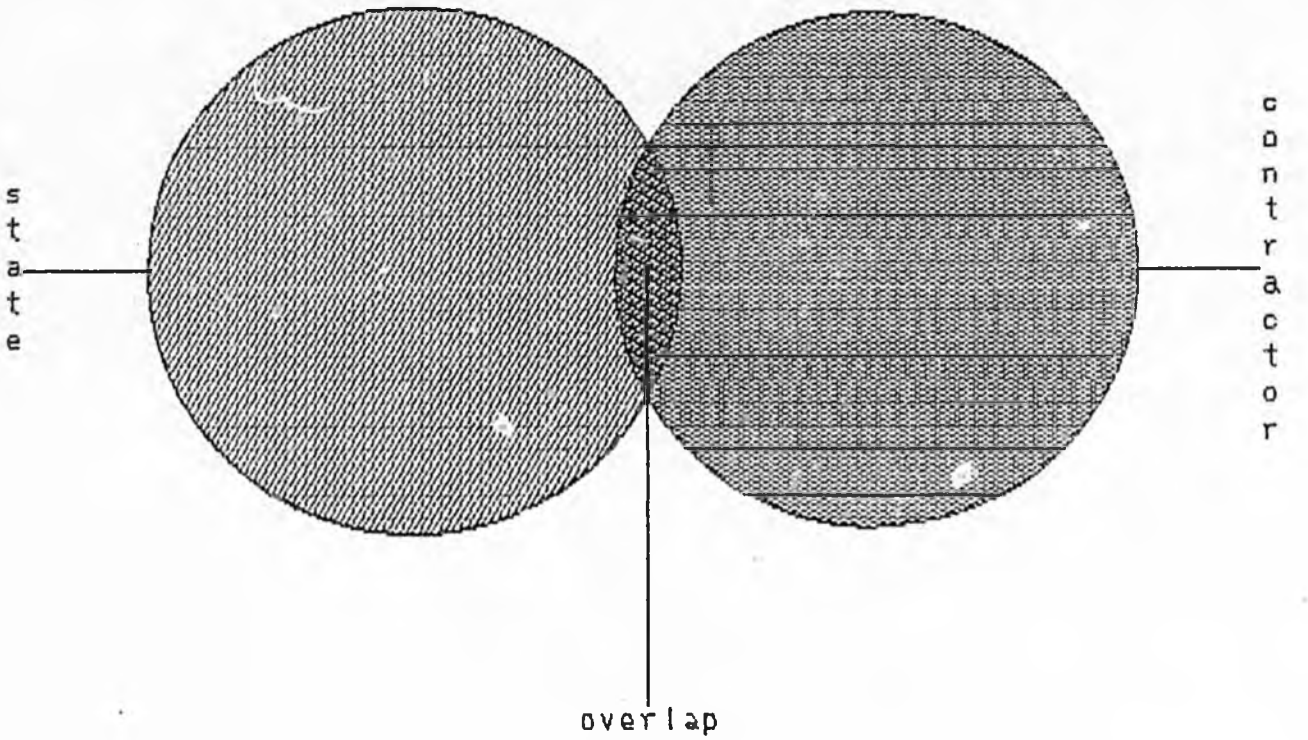
COORDINATED INSURANCE PROGRAMS

ACTUAL COST SAVINGS

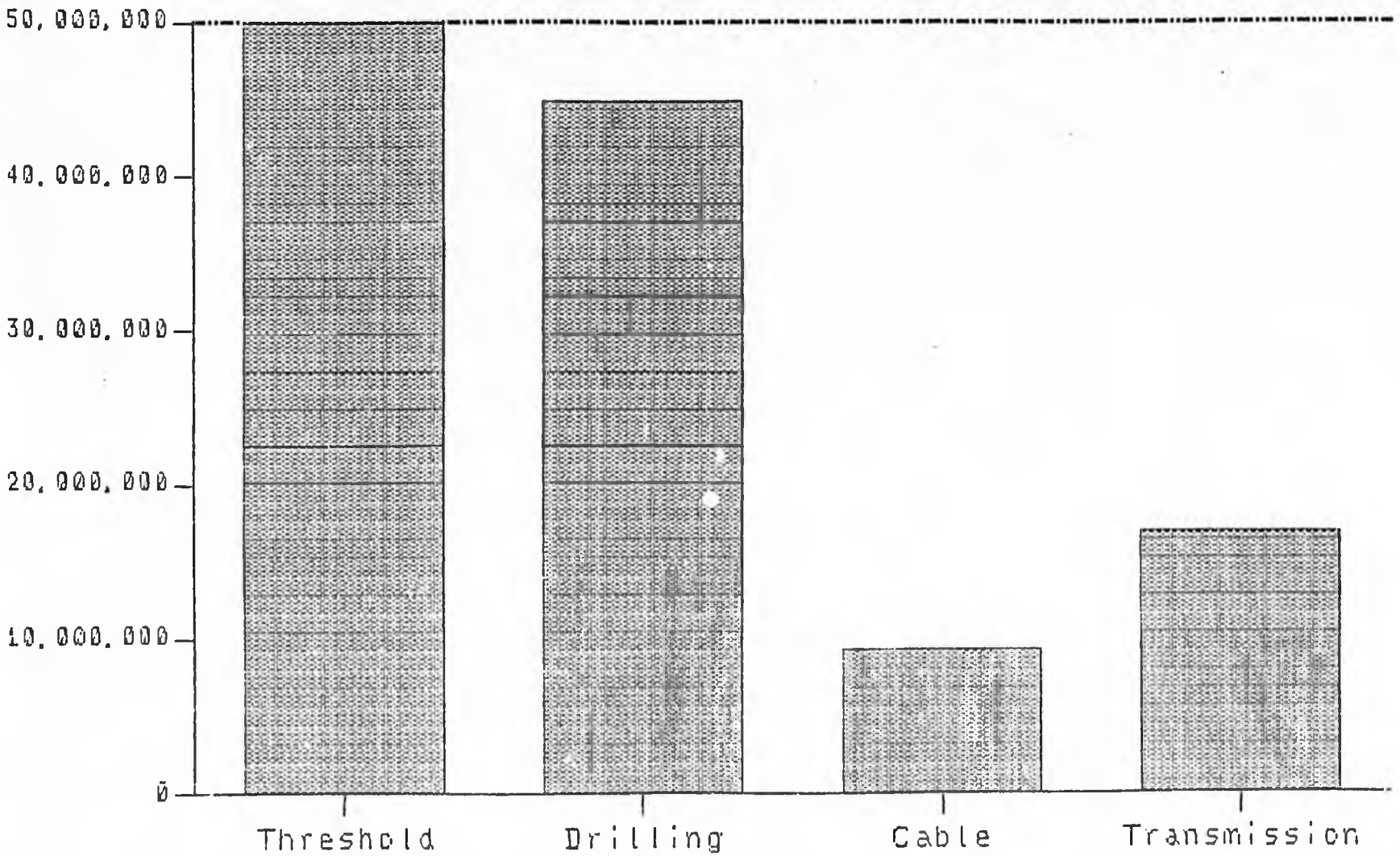
	Savings	
BART - San Francisco, California	35.7% ($16.3 Million)	1
WMATA - Washington, D. C.	36.8% ($36.2 Million)	1
MARTA - Atlanta, Georgia	34.9% ($21.4 Million)	1
MTA - Baltimore, Maryland	40.3% ($18.6 Million)	1
NFTA - Buffalo, New York	30.4% ($ 8.4 Million)	2
Gulf States Utilities	$ 7.8 Million	3
Arizona Public Service Co.	39.2% ($ 6.2 Million)	4
Palo Verde Power - Arizona	50.0%	4
Tri-Met - Oregon	30% - 40%	5
Southern California Edison	25% - 30%	5
Societe d'Energie de la Baie James - Montreal, Canada	$22.0 Million	5

1 U.S. Department of Transportation Insurance Study
2 Warren, McVeigh & Griffin Inc. 3/2/82
3 Business Insurance 9/7/81
4 The Wyatt Company 3/15/82
5 Warren, McVeigh & Griffin 3/15/82

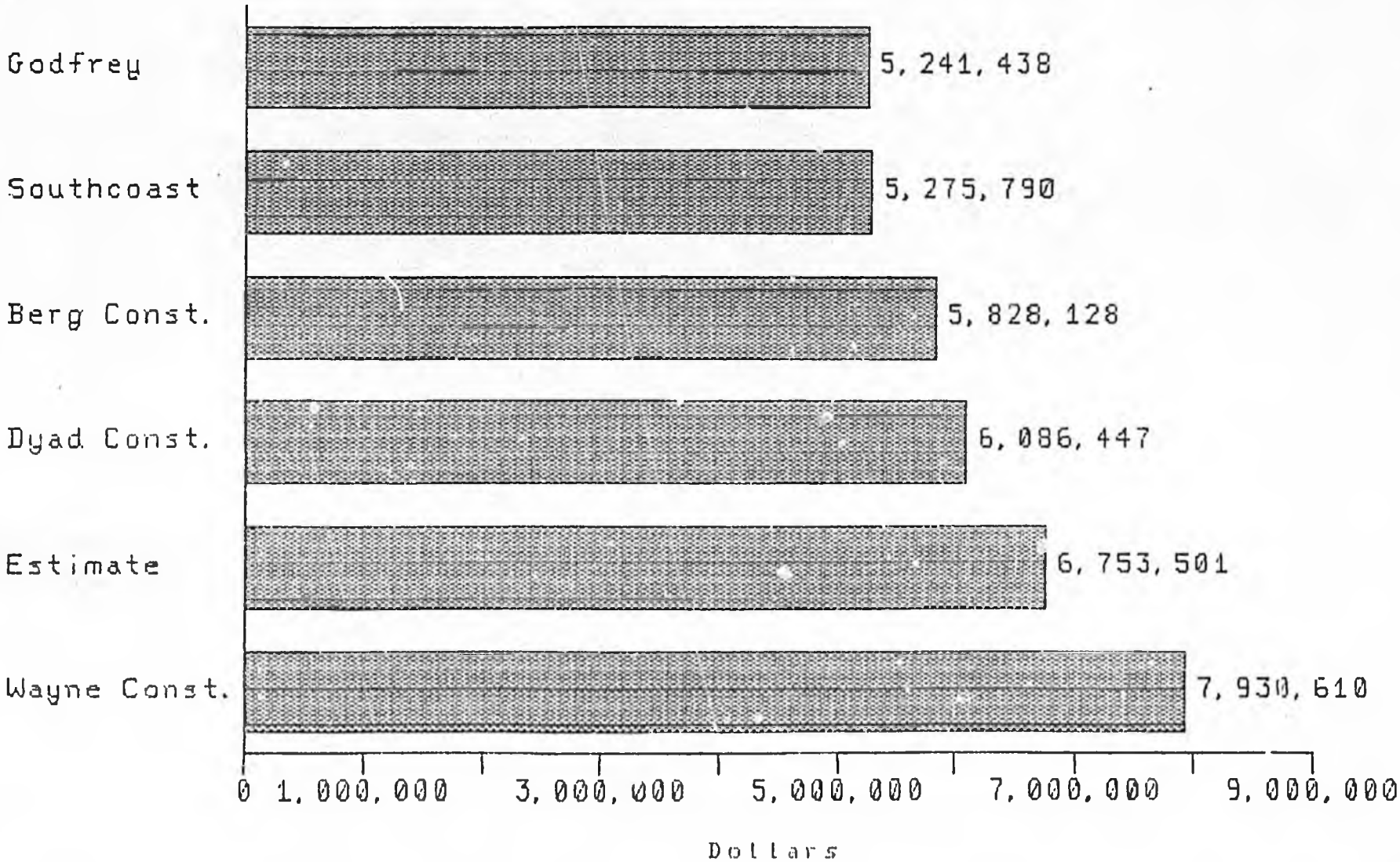
liability relationship



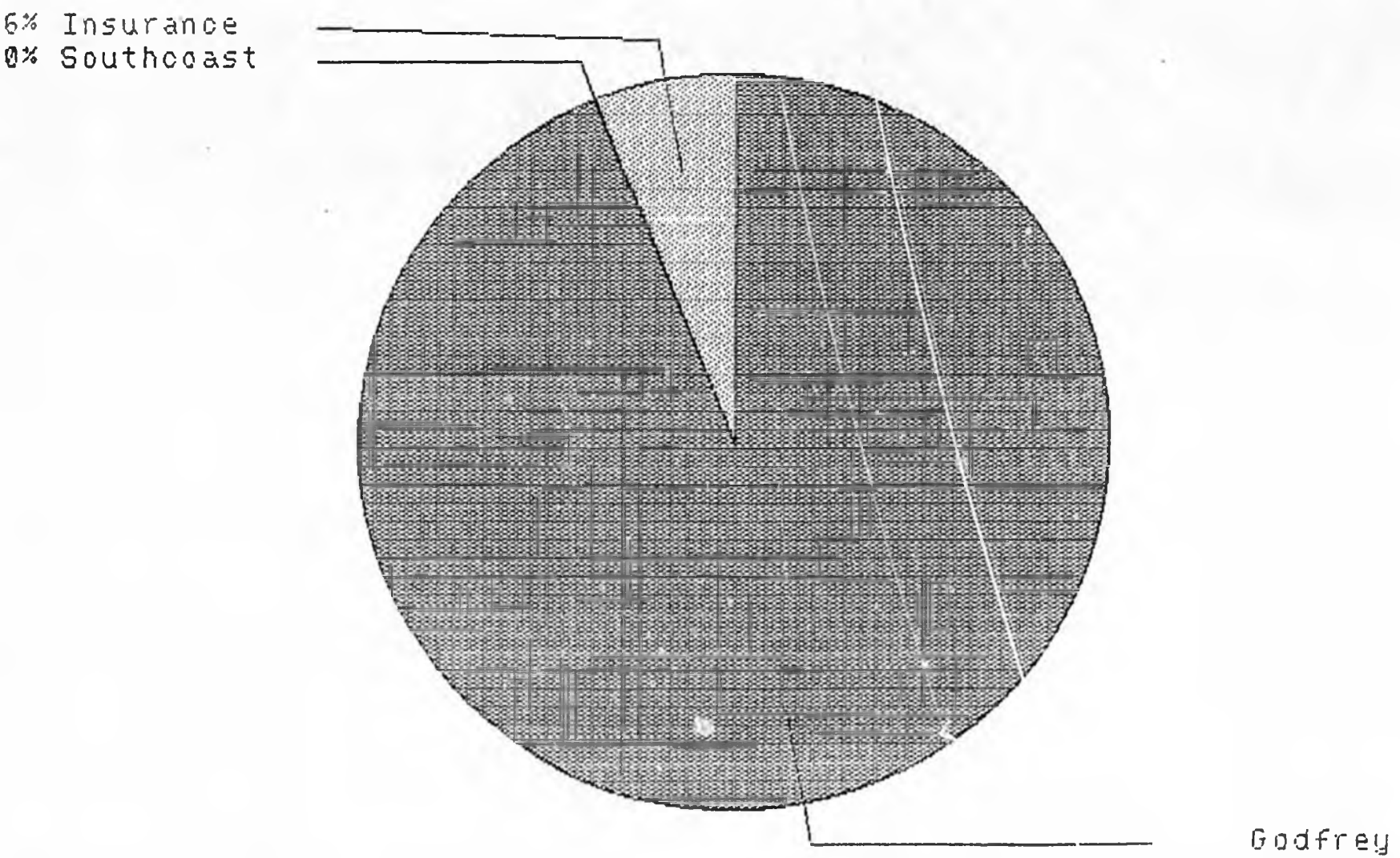
A P A Project Chart



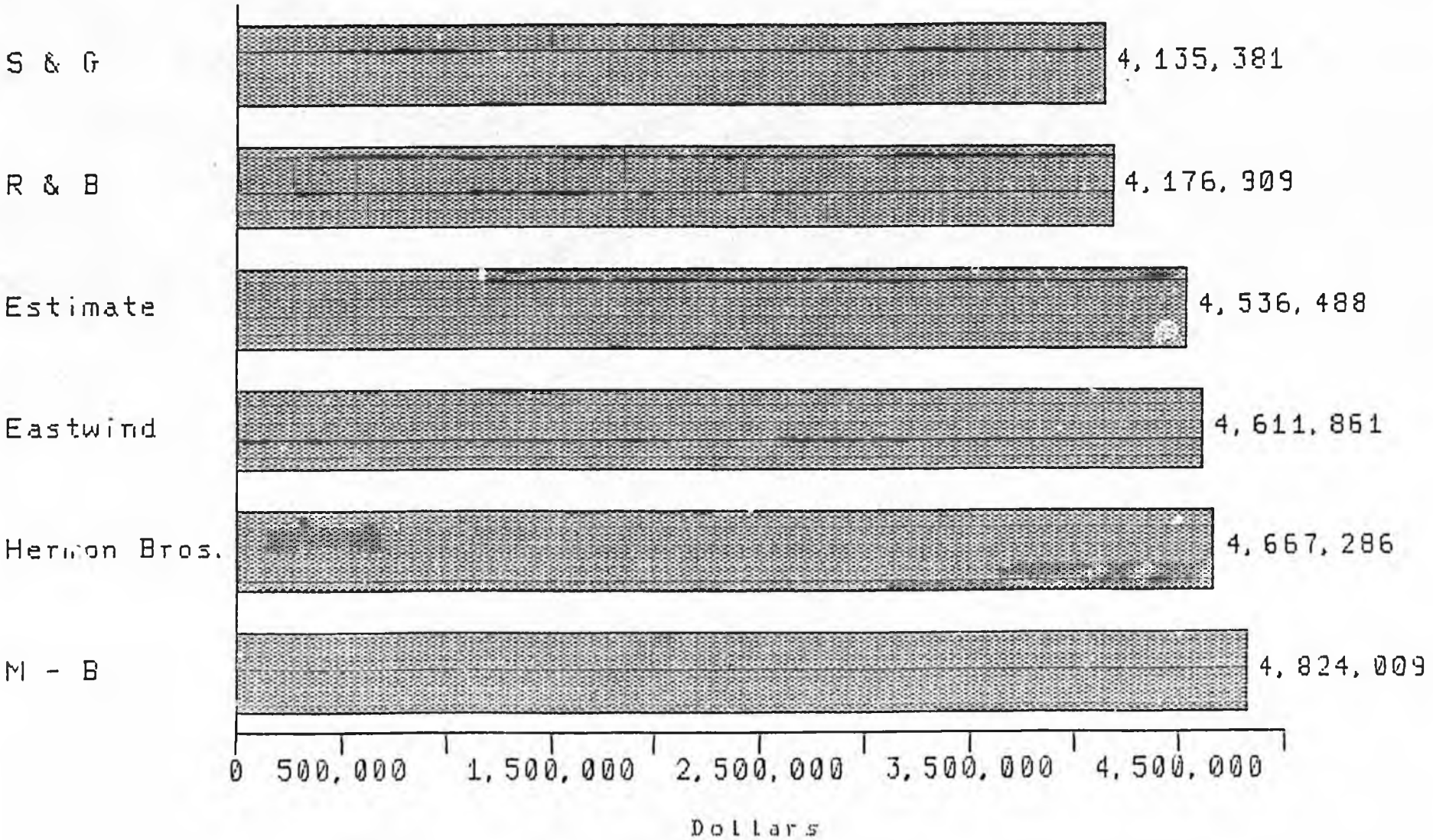
South Wrangell Roads
IFB R10-81-54



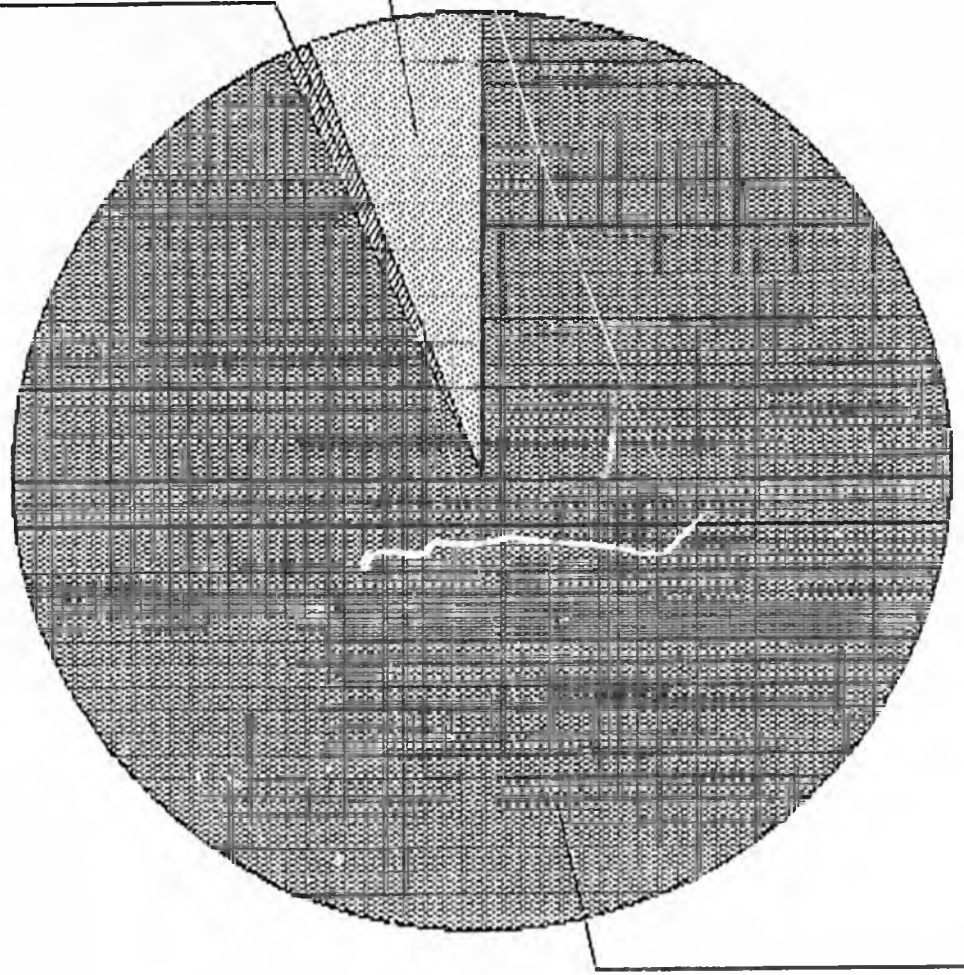
South Wrangell Roads
IFB R10-81-54



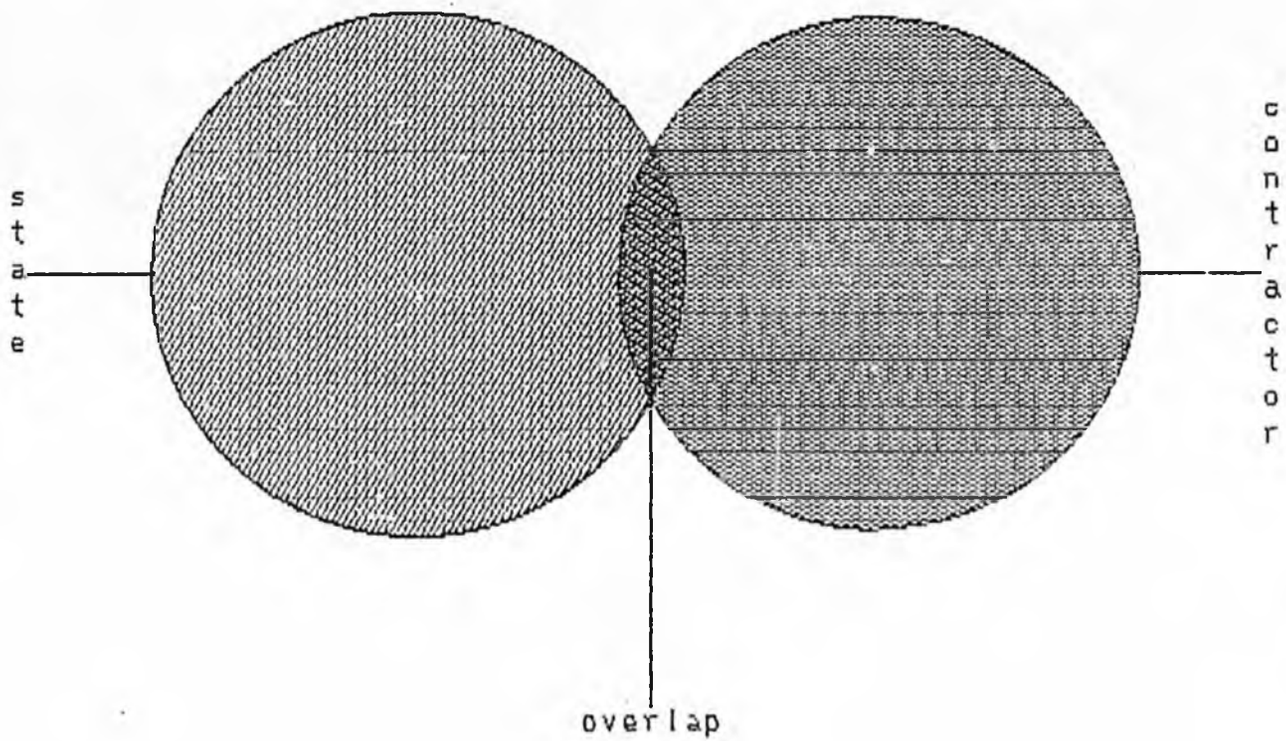
North Birchwood Interchange
F-042-1(77)



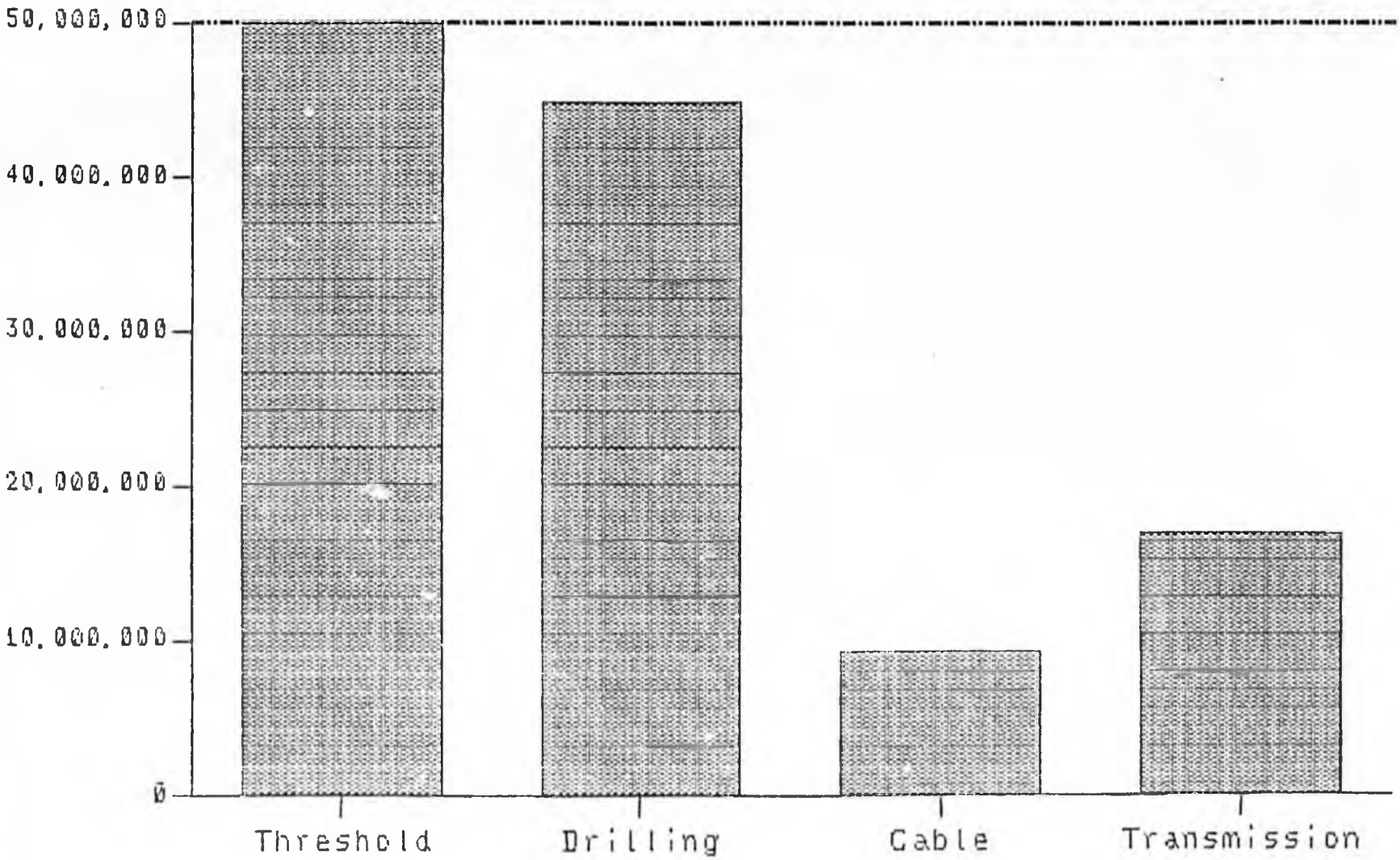
North Birchwood Interchange
F-042-1(77)



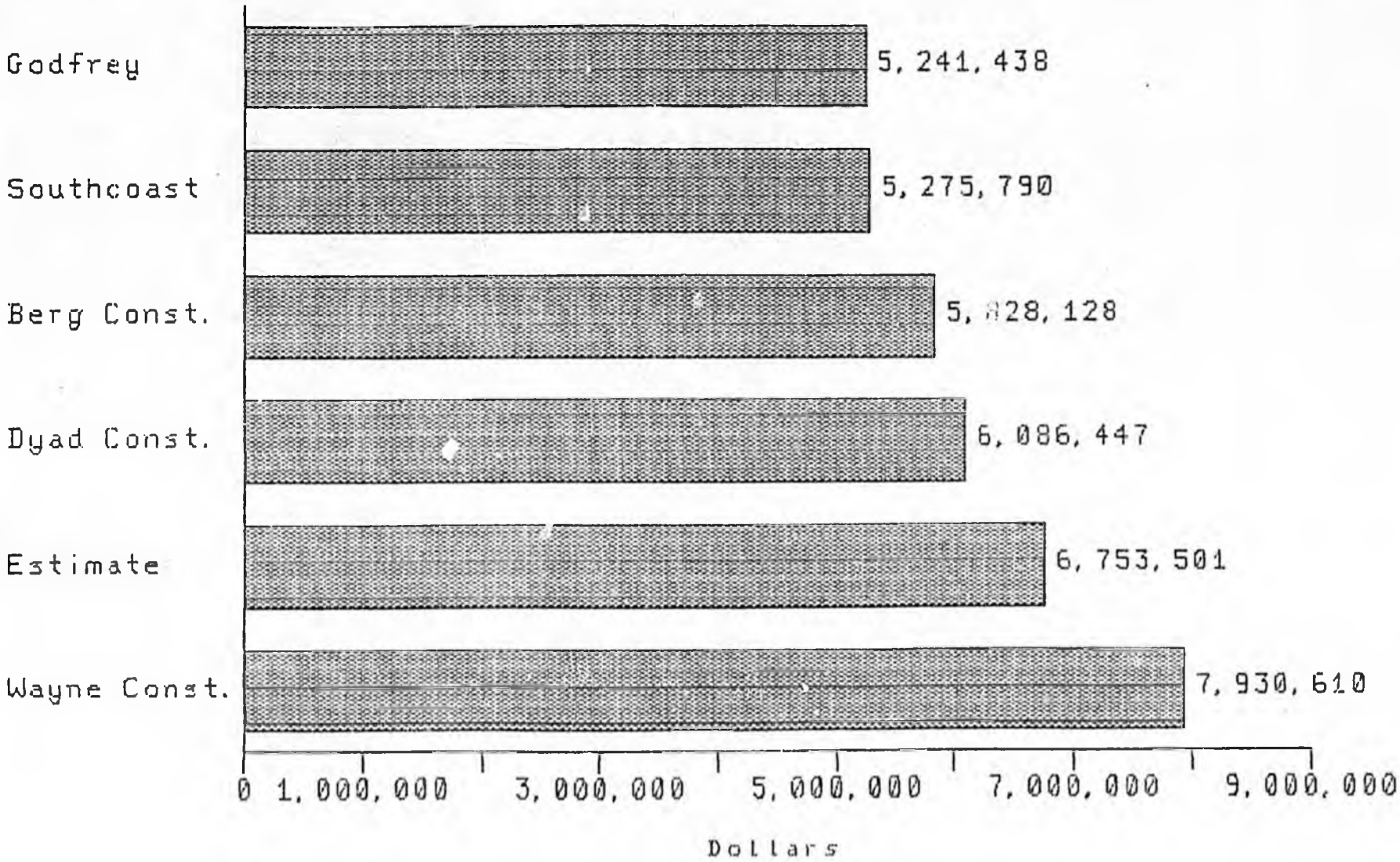
liability relationship



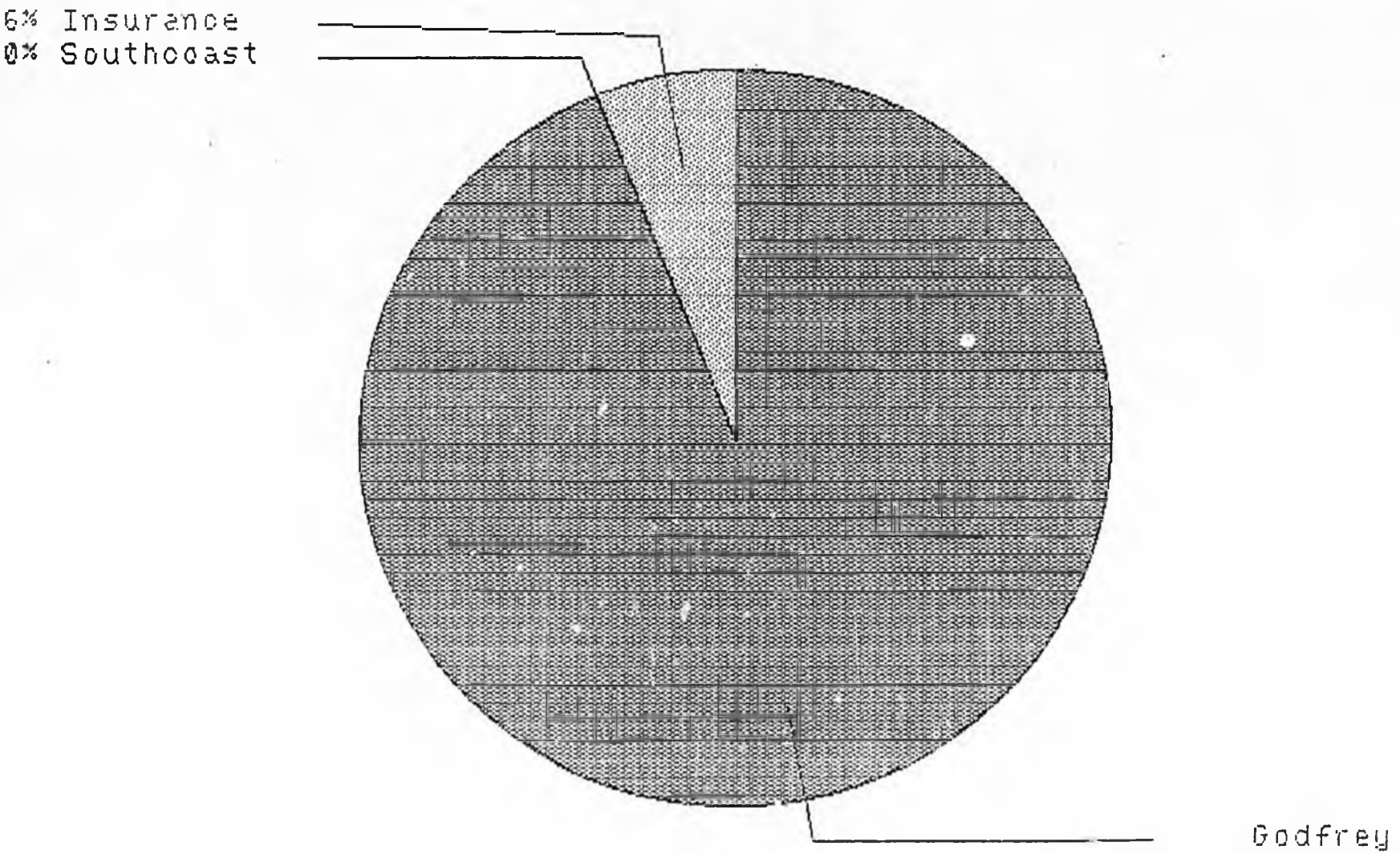
A P A Project Chart



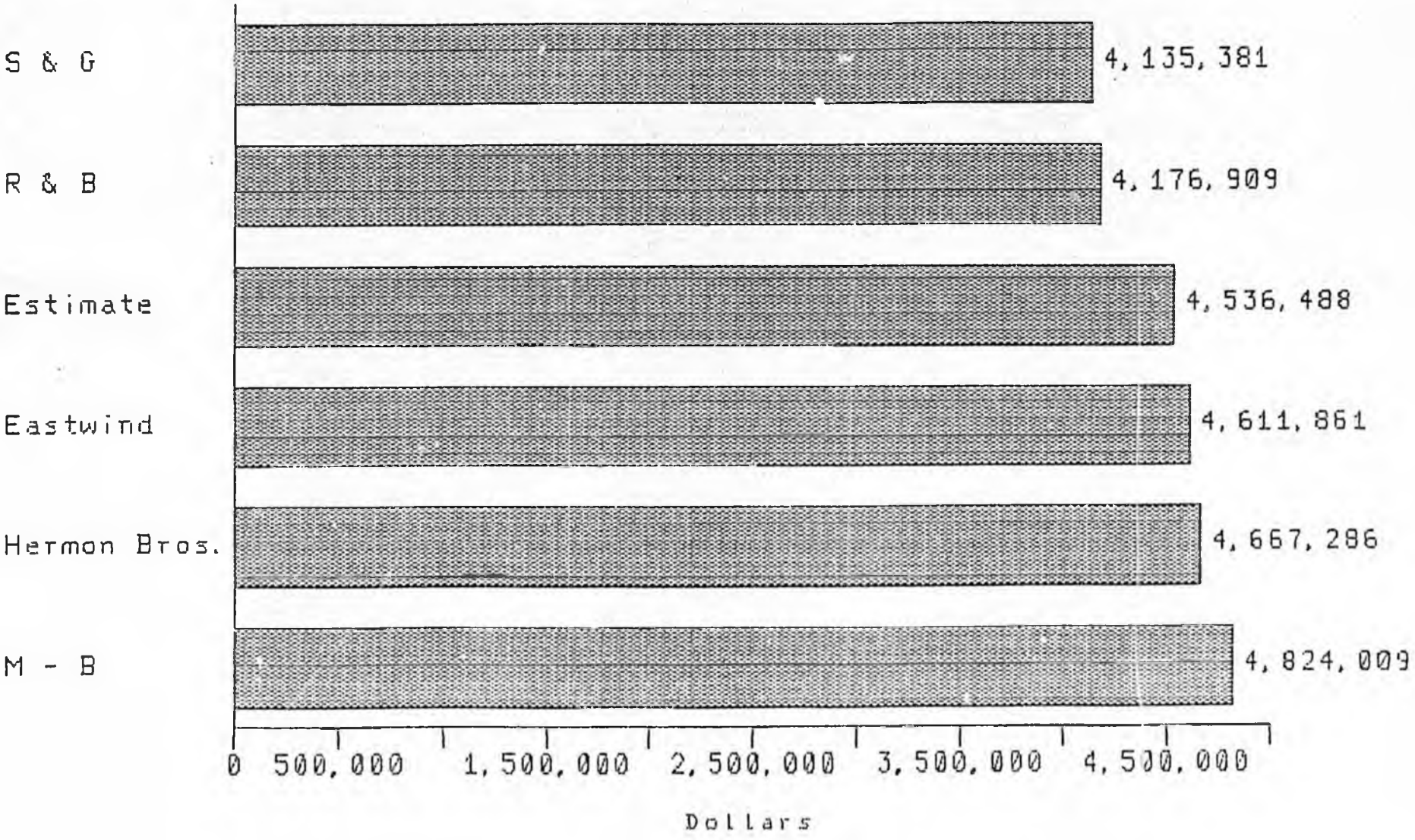
South Wrangell Roads
IFB R10-81-54



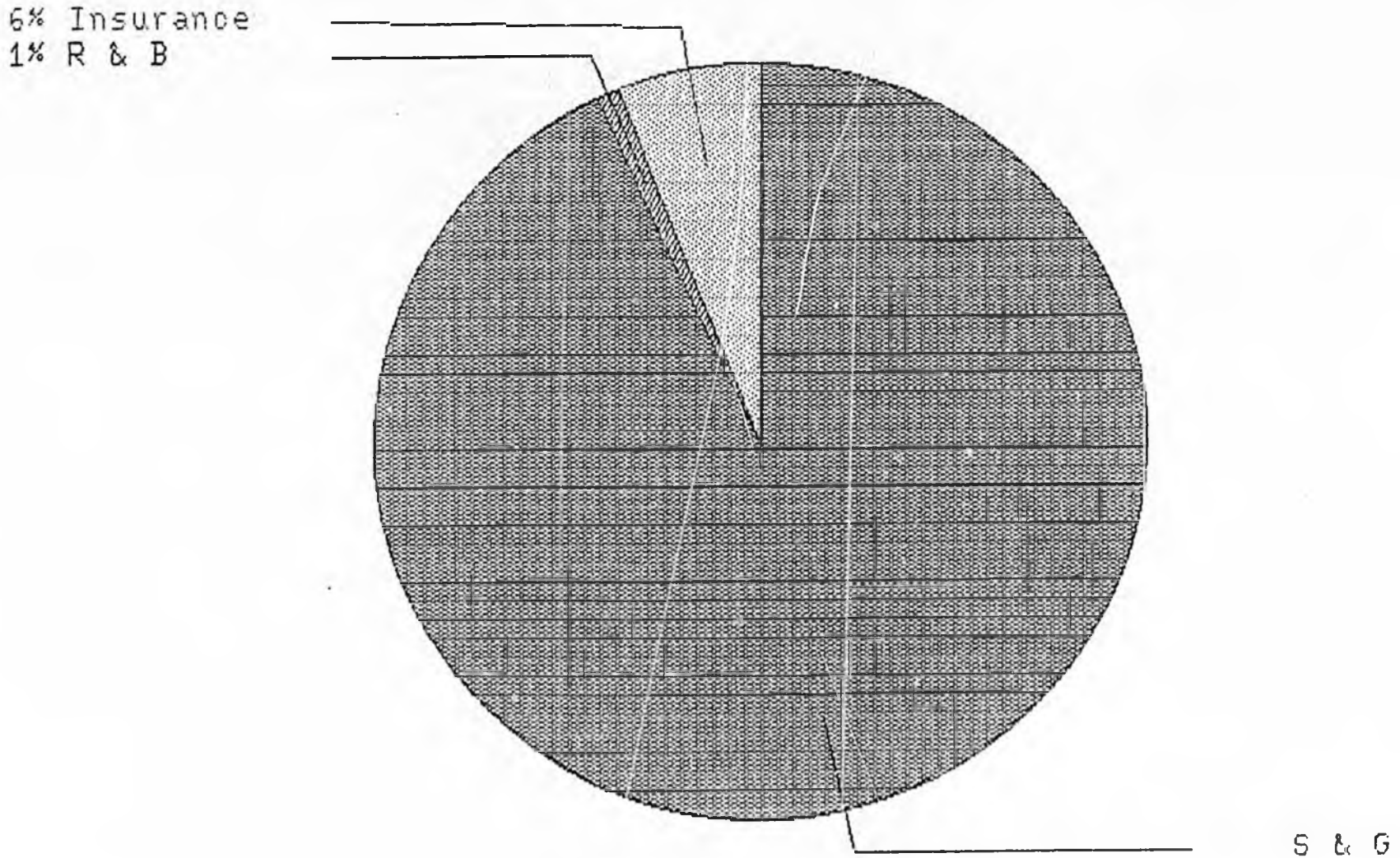
South Wrangell Roads
IFB R10-81-54



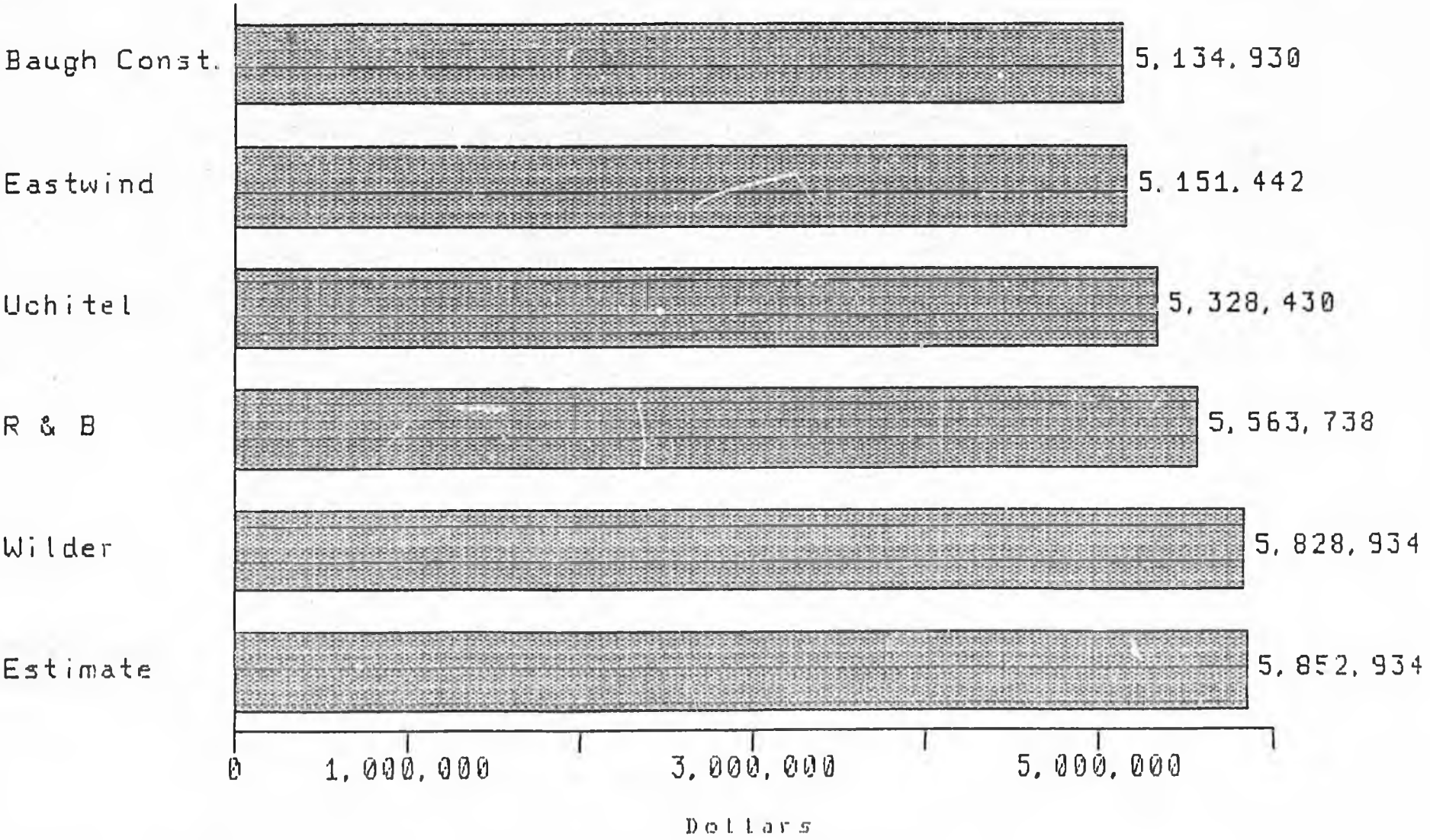
North Birchwood Interchange
F-042-1(77)



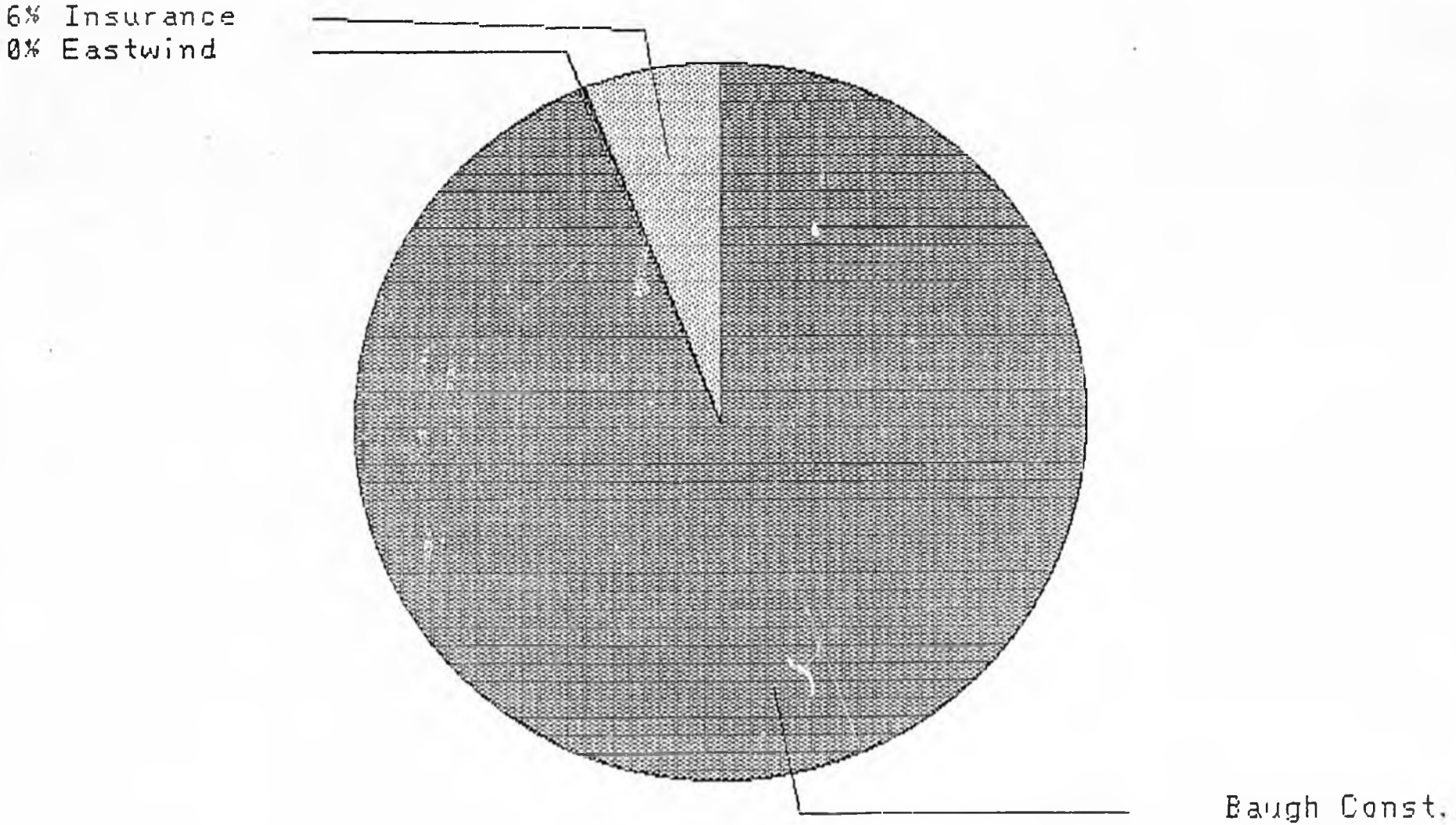
North Birchwood Interchange
F-042-1(77)



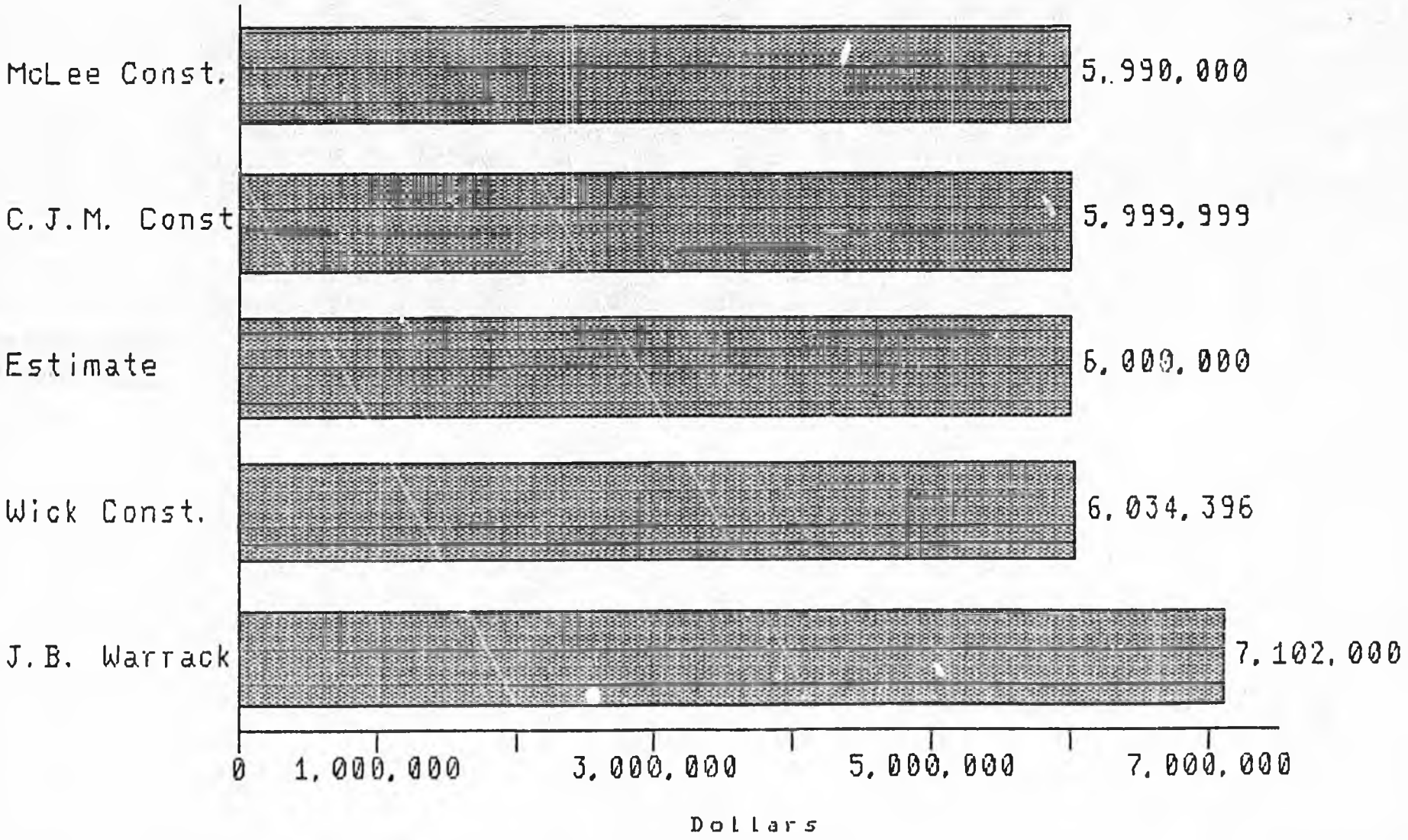
Northern Lights Blvd.
X-14604



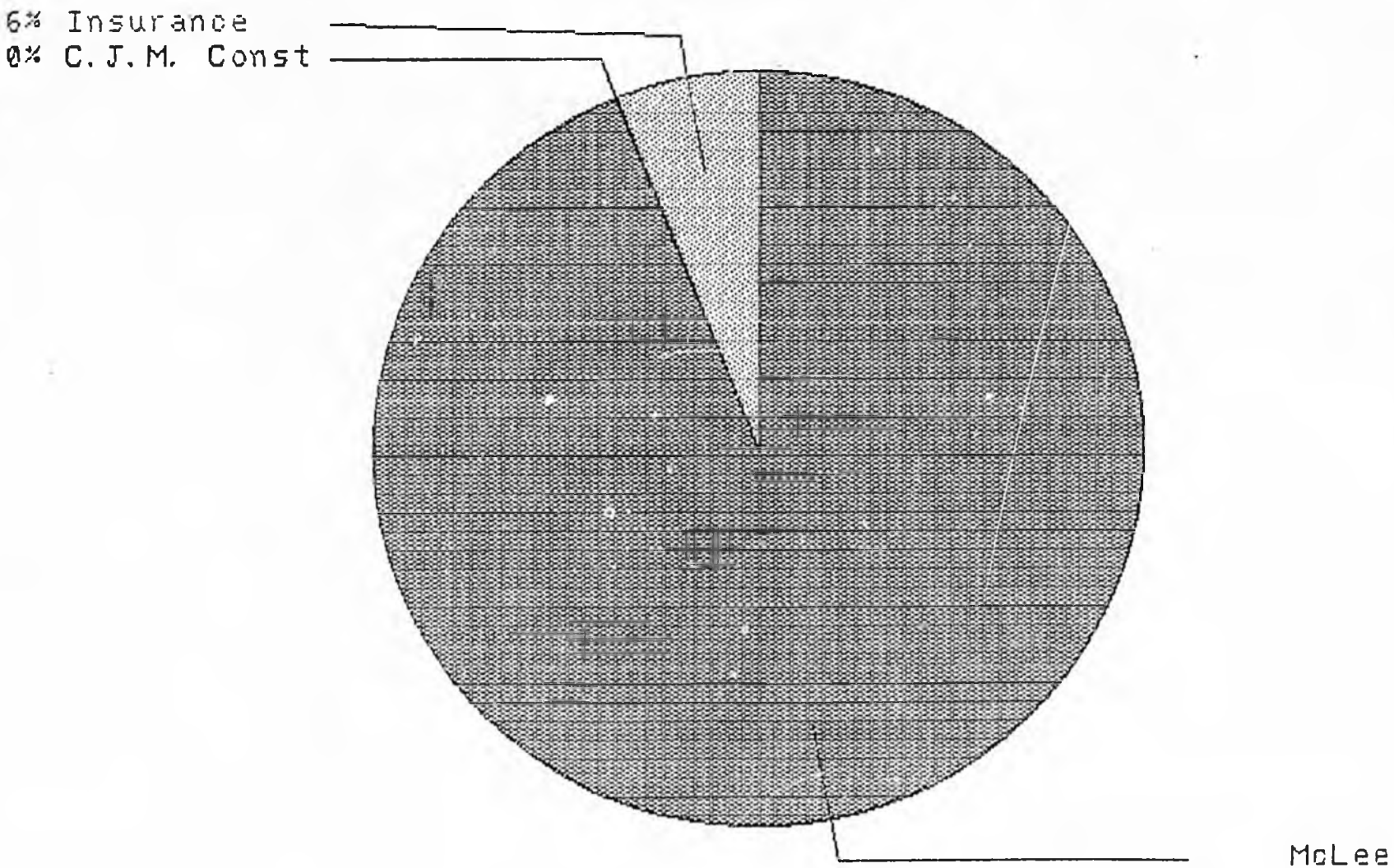
Northern Lights Blvd.
X-14604



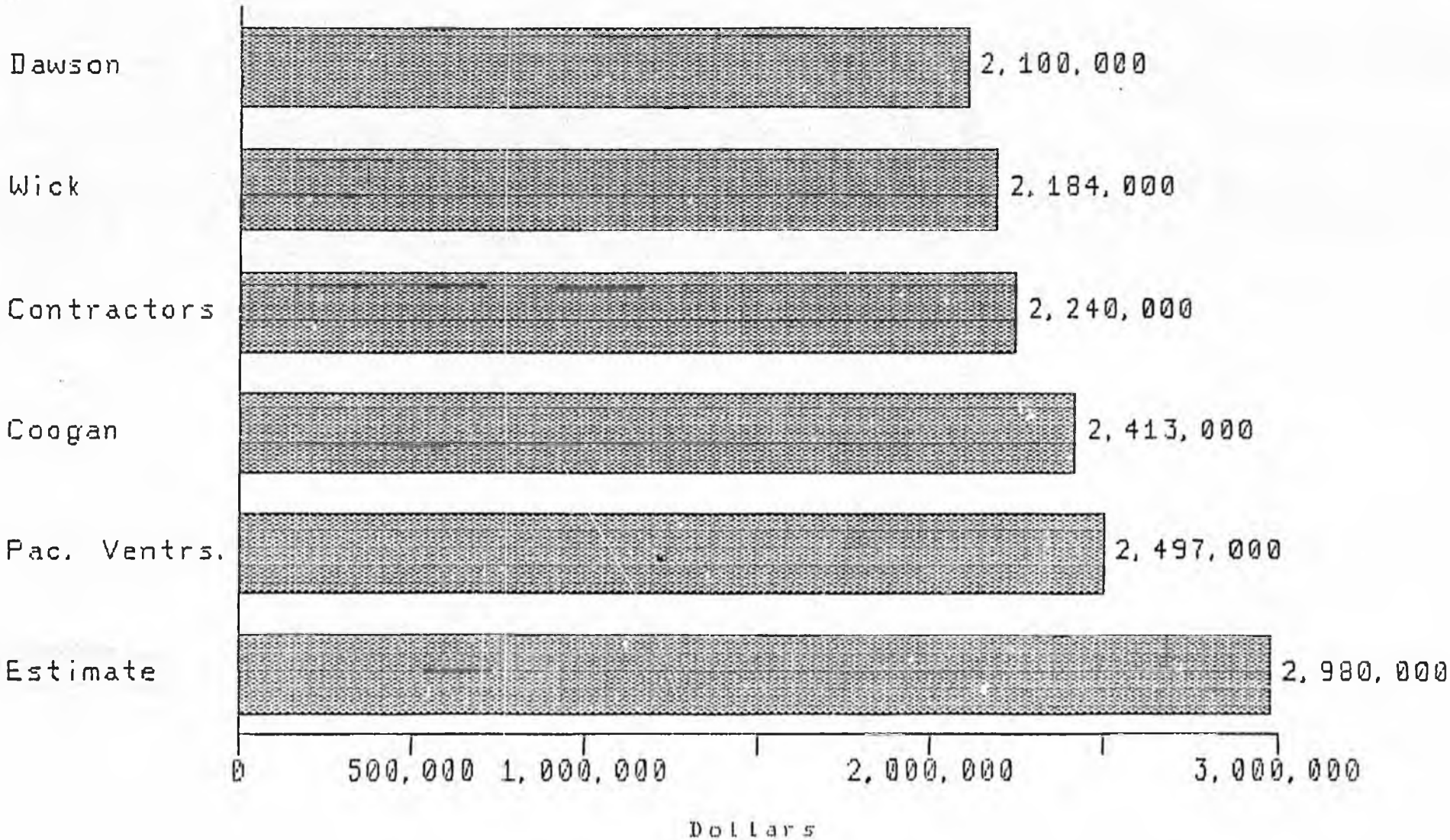
Valdez Community Auditorium



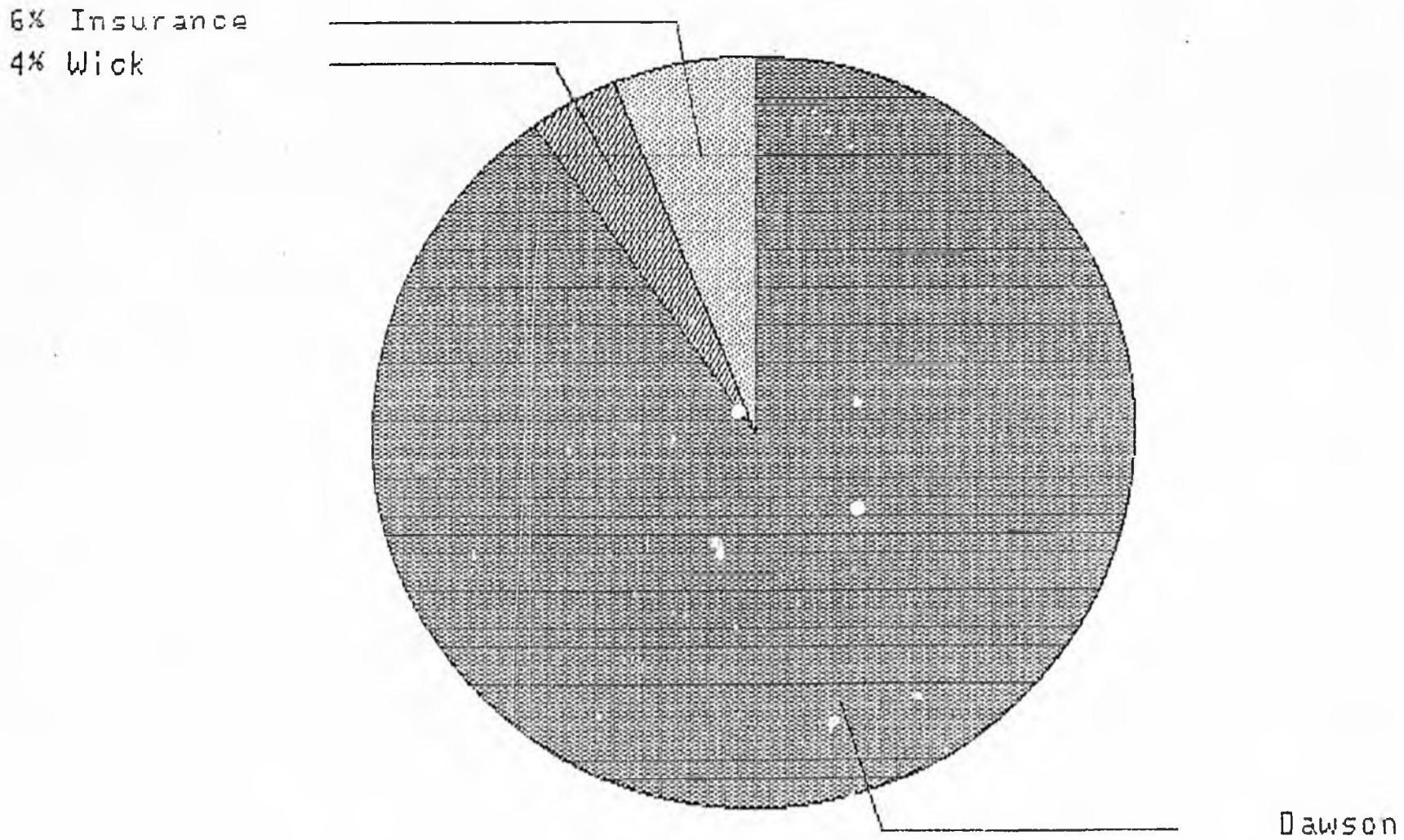
Valdez Community Auditorium



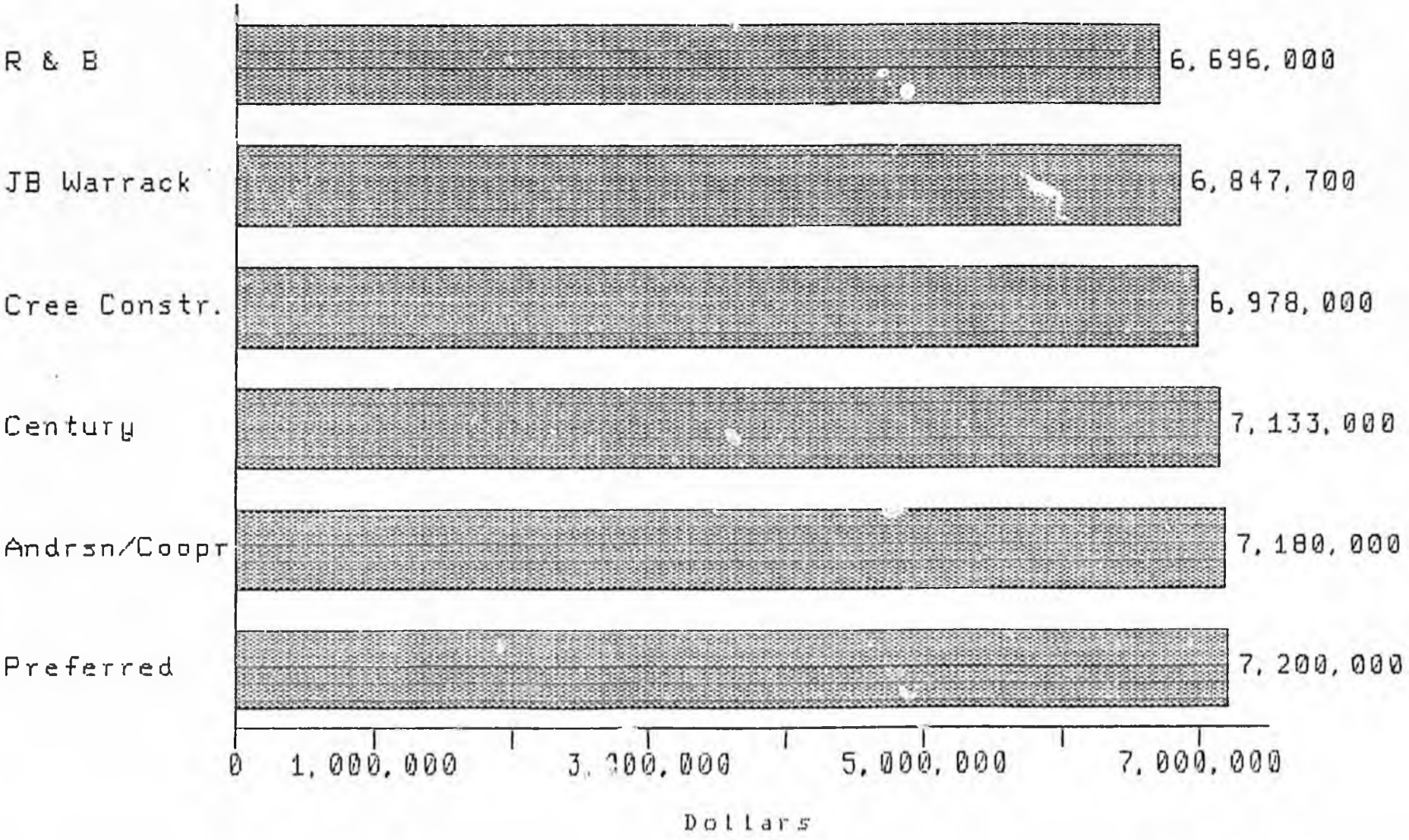
Harborview Elementary School



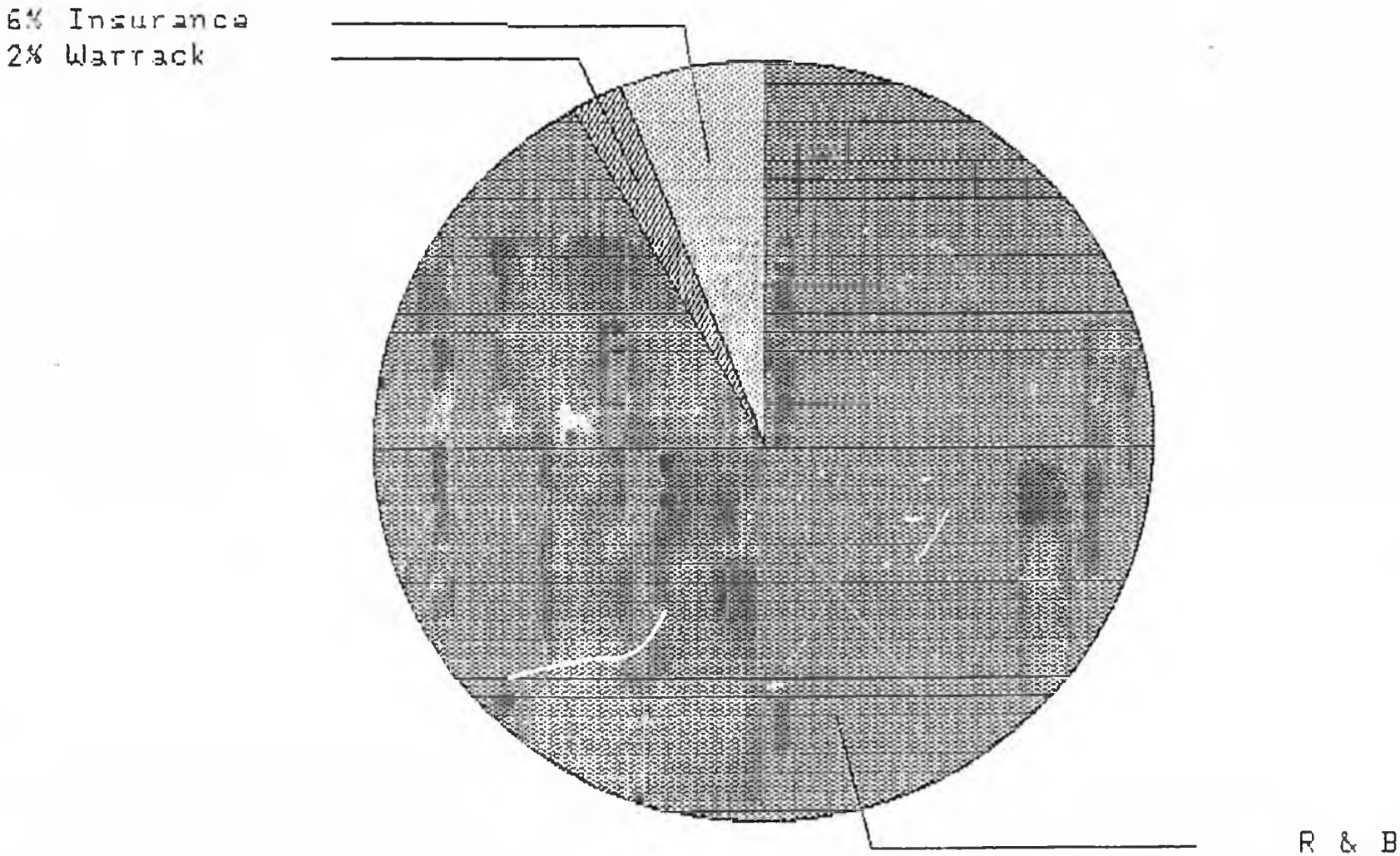
Harborview Elementary School



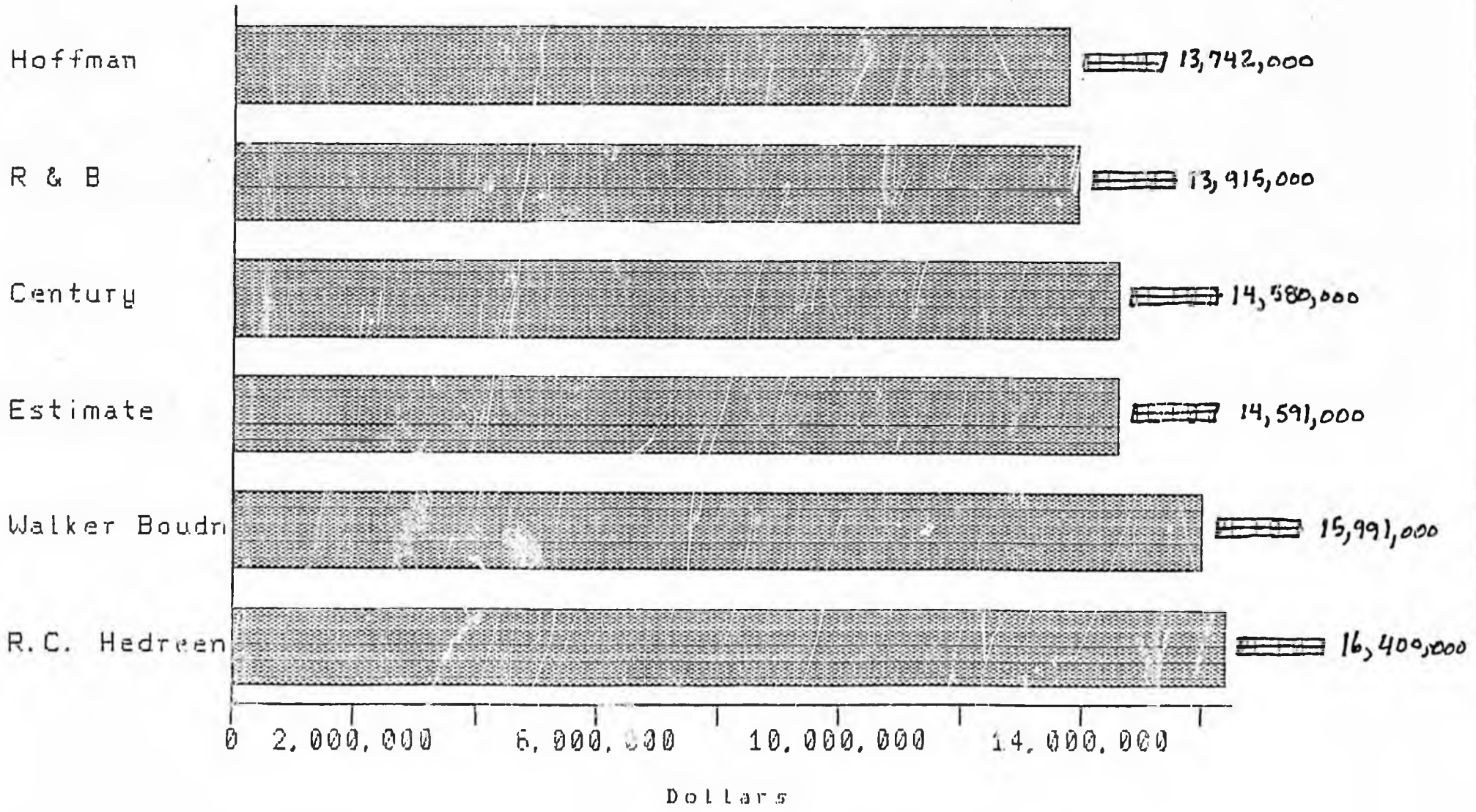
Soldatna Sports Center



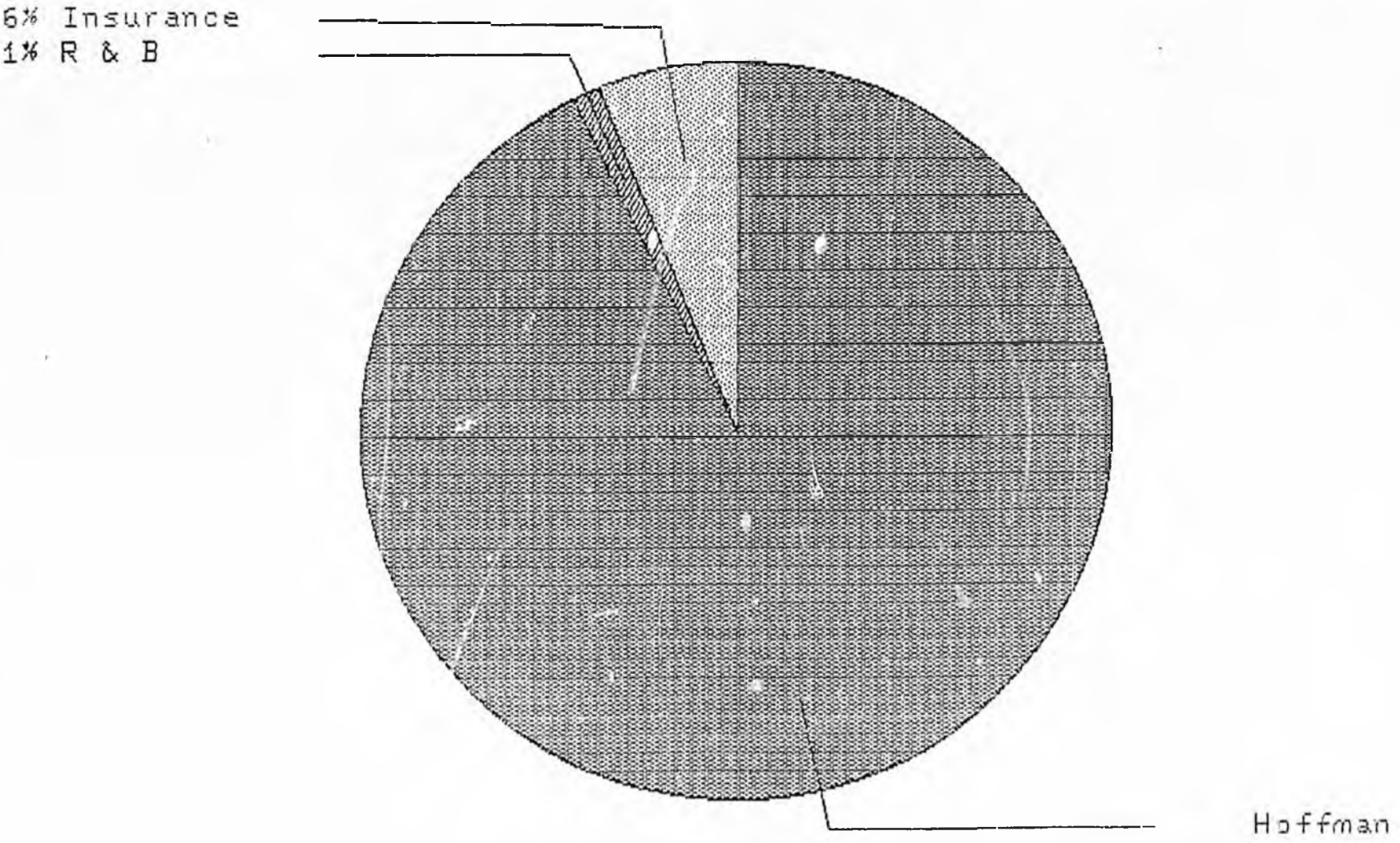
Soldatna
Sports Center



Eagle River
Chugiak Jr. High



Eagle River
Chugiak Jr. High



4-1-82

HB 722

HB 757

HB 806

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
April 1, 1982
1:11 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

HB 722 — An Act relating to landlord remedies.

HB 757 — An Act relating to unemployment insurance; and providing for an effective date.

HB 806 — An Act relating to hazardous or toxic substances.

WITNESS REGISTER

Representative Metcalfe
prime sponsor of HB 722
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-4947
Position Statement: Supported passage of CSHB 722; reviewed intent of bill.

Judy Knight
Department of Labor
Box 1149
Juneau, Alaska 99811
465-2700
Position Statement: Concurred with draft committee substitute for HB 806, and presented Department's position regarding HB 757.

Glenn Akins, Deputy Commissioner
Department of Environmental Conservation
Pouch O
Juneau, Alaska 99811
465-2600
Position Statement: Department fully endorsed CSHB 806 (L&C).

Art Zillig
Department of Labor
Box 3-7000

Juneau, Alaska 99811
465-2712
Position Statement: Assisted in presenting testimony and answering questions about HB 757.

Garth Patterson
Department of Health & Social Services
423 Third Street
Juneau, Alaska 99811
465-3360
Position Statement: Requested changes to HB 757.

Gary Jenkins
National Federation of Independent Business
Box 194
Auke Bay, Alaska
586-4100
Position Statement: Felt HB 757 would add to costs of small businessmen.

PREVIOUS ACTION

HB 722

See minutes of 3/1/82.

Statutory Reference: AS 34.03

Action Taken: Committee substitute adopted. Bill reported out of committee.

HB 757

See minutes of 3/16/82 and 3/24/82.

Statutory Reference: AS 23.20

Action Taken: Bill was amended and committee substitute adopted. Rep. Rogers requested that bill come back before committee, with amendments, before reporting out of committee.

HB 806

See minutes of 3/17/82.

Statutory Reference: AS 18.60

Action Taken: Bill was amended; committee substitute was adopted; bill was reported out of committee.

ACTION NARRATIVE

Tape #51
Recording
Number 000

The meeting was called to order by Chairman

Martin at 1:11 p.m. Members present were: Representatives Bylsma, Martin, Randolph, and Rogers. Rep. Gardiner was absent. The first bill considered by the committee was HB 722.

Number 005

Rep. Metcalfe, prime sponsor of HB 722, reviewed the Labor & Commerce committee substitute. He said it was an excellent job of redrafting, and that the bill was watered down sufficiently to get past the House. As explanation of the intent of the bill, he said that if a tenant becomes rowdy or noisy or begins vandalizing property, or creates other circumstances which place an unreasonable burden on a landlord, under current law this can continue for an unreasonable amount of time. He illustrated a situation and explained how it could affect a landlord. Rep. Metcalfe said the bill solves this problem, and does not infringe on the landlord/tenant act. He said it applies only to an unreasonable tenant. He said the tenant has the ability to seek remedy, but the bill changes the burden of who is required to go to court to seek remedy.

Number 051

Rep. Rogers asked what the existing law is for a tenant who refuses to pay rent. Rep. Metcalfe says a landlord can give ten-day notice; then can go to small claims court; and can then seek eviction of the tenant. He said the total process takes upward of a month.

Number 068

Rep. Rogers described the process for resolving a willful damages dispute. He wondered how damages are ascertained. There was discussion of the process.

Number 095

Rep. Bylsma moved to adopt CSHB 722 (L&C). There being no objection, the motion passed.

Number 098

Rep. Bylsma moved to report CSHB 722 (L&C) out of committee. Rep. Rogers objected. On the question: for--Martin, Bylsma. Opposed--Rogers. Motion passed.

Number 106

HB 806 was brought before the committee. Jeff Barry, committee aide, presented an overview of HB 806 and the proposed committee substitute. He said that, in the previous hearing, valid points were raised

by industry, the Department of Labor, and the Department of Health & Social Services. He said the committee substitute addresses those concerns. Barry went over each change to the original bill.

Number 195 — Rep. Rogers moved two amendments to the bill, the first to section 1, exempting certain products; the second making the effective date 1/1/83, to give the department time to prepare for implementation, and to reduce the fiscal note. The first amendment passed without objection. Rep. Rogers moved the second amendment, which also passed without objection.

Number 235 — Judy Knight, Department of Labor, said she reviewed the draft committee substitute, and concurred with the changes. She said the fiscal note would need to be revised to reflect the changes. She said the amendments should cut the cost in half. Knight said it puts the burden on the department to identify substances and stay current. She felt the delayed effective date was good, as the department would need to recruit an industrial hygienist.

Number 266 — Rep. Rogers commented on the fiscal note. He said that the Municipality of Anchorage Health Commission had endorsed the bill.

Number 275 — Glenn Akins, Deputy Commissioner of the Department of Environmental Conservation, said that Commissioner Mueller had reservations about the interpretation of toxic and hazardous substances, but the the committee substitute addressed this concern. He said the Department fully endorses the bill.

Number 286 — Rep. Rogers moved to report CSHB 806 (L&C) out of committee, as amended. There being no objection, the motion passed.

Number 293 — The committee then took up HB 757.

Number 310 — Judy Knight and Art Zillig, from the Department of Labor, came before the committee to testify. Knight said they had drafted language to address their concerns. She said it would be significantly more expensive than anticipated. She said that

if the recommendation was implemented, she would recommend that Section 353 on the last page of the draft be incorporated into the bill, and then another bill should be drafted making an appropriation. She said approximately 1,047 claimants would be affected by the bill. She passed out a sheet showing characteristics of claimants: percentage and location by area, sex, age, and industry breakdown (1981).

Number 359

Rep. Rogers asked the additional cost to the state of raising the top end of the schedule on pages 5-7 from $150 to $156. Zillig said it would cost about $3.4-million (trust funds). Rep. Rogers pointed out that the percentages are higher in the bush than in the cities. He said a large percent of claimants are low income. By adding $3.4-million at the high end of the scale, and saving $1.1-million by cutting off people at the low end, he said we are wiping out the low income bush worker for the benefit of the high income worker, and large percentage of whom are from out of state. He asked the department to find a cutoff figure on the top end which would enable the low end to stay in place without affecting general fund money. ..

Number 415

Zillig said they follow the principle that it is an insurance program based on length of time worked and earnings. He said deviating from this becomes a welfare program, not insurance. He said the question is what direction does the legislature want to go--insurance or social welfare. Rep. Rogers said social welfare has nothing to do with this. He said the federal law has nothing to do with actuarial or social effects of the program. He was concerned with the status quo. He said if the federal government had not made changes, then the federal government and the state government would each pick up half the cost of extended benefits. He said that, as the federal government will no longer do this, these people are cut out. He said the state determines the high end of the scale. Rep. Rogers said it is his opinion that adoption of supplemental state benefits would allow the bush low income people collecting $34-60 a week to remain whole. He felt, so as not to impact the general fund, that the top end

should be lowered.

Number 491

Knight said they could pay half the cost of benefits from the trust fund. She said the section eliminating those funds is a conformity issue, and that the state could not pay from the trust fund and stay in conformity with federal law. She was concerned that the federal government would declare the state out of conformity, which would penalize employees.

Number 525

Rep. Rogers asked which was more likely to cause problems with the federal government: the bill dying, or the bill passing with the new section. Zillig said he asked the federal government's opinion on trust funds. He said there was a possibility, if these are identified as supplemental benefits, that they could be paid out of trust funds. He said if the bill is not passed, they will be out of conformity. Rep. Martin asked when the bill is needed. Zillig said by September 26. Rep. Rogers pointed out that the bill needs to be in Rules Committee by Monday to pass this year. There was discussion of how to change the bill.

Number 682

Garth Patterson, Department of Health & Social Services, said, regarding Section 1, paragraphs (f) and (g), that the Department is facing a $1.2-million sanction due to the high error rate for a six month period. He said further sanctions could be avoided with the U.S. Department of Agriculture plan. He said two-thirds of the errors are due to clients' failure to report or to report correctly. He said clients have been signing a release of information since April of 1980 to food stamps and the Child Support Enforcement Agency. He requested changes to the bill. Rep. Rogers asked the outcome if this were not passed. Rep. Martin had questions. There was discussion.

Side B, Number 015

Gary Jenkins, National Federation of Independent Business, said the changes in the bill will be borne by the employers. He said a Department of Labor analysis anticipates a 4-5% increase to the employers. He said the wage base also went up, for another 5-6% increase. He said small businesses are struggling, and the bill will add to their cost factors.

Number 039

Rep. Rogers felt unemployment insurance was not a high cost to any business. He thought raising the top end caused most of the additional costs. Knight interjected that most of the costs came from adding weeks. Rep. Rogers said that, in the past, the longer unemployment is held down, the larger the jump is when it is increased. Jenkins said he basically agreed, but objected to another cost to small businesses. Knight spoke about costs to employers. There was discussions.

Number 100

Rep. Rogers moved, page 1, line 18, after the word "wage", to insert "and employer". Motion passed without objection.

Number 105

Rep. Rogers moved, page 4, lines 11-12, to delete "and other interested parties...of the department", and to insert "and all of the claimant's employers." There was discussion. He changed the motion to delete the underlined language on lines 11-13. Rep. Bylsma objected. There was discussion. Rep. Rogers changed the motion to: delete the underlined language on lines 11 and 12, and to insert, on line 13, after the word "parties", the language, "as defined by regulation of the Department". Motion passed without objection.

Number 230

There was discussion of the proposed changes beginning on page 4, to sections 7 and 8, and the reasons for those changes. Zillig presented figures and explained them. There was discussion of the benefits schedule. Rep. Rogers asked which was a higher priority to the Unemployment Insurance Committee (composed of labor and management representatives): more weeks or a higher scale. Zillig said that no preference was expressed that he recalled. He thought probably the change to 18 weeks rather than 16 weeks was more important. There was discussion of alternate ways to address unemployment insurance claims.

Number 435

Rep. Rogers moved, page 7, to delete lines 5-9, and on line 4, to delete the figure, "16,200". Motion passed without objection. (This motion made $16,000 the top end of the scale being amended.)

Number 442

Rep. Martin moved to delete Section 8; Rep.

Rogers objected. There was discussion of earnings ratio. On the question: for--Bylsma, Martin; opposed--Rogers. Motion passed.

Number 565 — Rep. Rogers moved to put Section 8 back, change the number of weeks, and add a new earnings ratio of 3.5 at 26 weeks. Rep. Martin objected. On the question: for--Roger; opposed--Bylsma, Martin. Motion failed.

Number 620 — Rep. Rogers moved to add a new Section 8, which was the amendment proposed by the Department of Labor entitled "Sec. 353. SUPPLEMENTAL STATE BENEFITS.", and to delete subsection (c) of that amendment. There was discussion. Motion passed without objection.

Number 714 — Rep. Rogers moved to delete Section 14 on page 10. There was discussion. Rep. Rogers withdrew the motion.

Tape 52, Number 043 — Rep. Rogers moved to delete SEction 17. There was objection. Motion failed.

Number 047 — Rep. Martin moved, on page 13, line 8, to change subsection (j) to subsection (l). (This was a housekeeping change suggested by the Department of Labor.) Motion passed without objection.

Rep. Martin moved to change, on line 12, page 13, the word "excluding" to "including". Rep. Rogers objected. On the question: for--Bylsma, Martin; opposed--Rogers. Motion passed.

Number 070 — Rep. Rogers moved, page 16, line 27, to insert between the words "work," and "self employment", the word "or"; and to delete the comma after "self-employment", and to delete the words "[illegible] labor or public service". Motion p[illegible] unanimously.

Number 084 — Rep. Rogers moved, page 17, line 26, to delete the letter "s" on the word "Sections"; to delete "and 8"; and to change the word "apply" to "applies"; and on line 28, to delete the reference to Section 8; and on page 18, to insert "8, and" so that reference would read, "Sections 8, and 17 -- 25". Motion passed without objection.

Number 114	Rep. Rogers requested that a draft committee substitute be prepared and submitted to the committee.
Number 122	There being no further business to come before the committee, the meeting was adjourned at 2:52 p.m.

Absent: Gardiner Randolph

4/1/82 H. Labor & Commerce Tape # 51

HB 722
HB 757
HB 806

1:11

000 Call to order

HB 722

005 Metcalfe, prime sponsor — rwd CS; excellent job of redrafting. Watered it down sufficiently to get it past House. In event tenant becomes rowdy or noisy or began vandalizing property, or other circum of unreasonable burden on landlord, under current law can continue for unreasonable amt of time. Illustrated with ~~a~~ how it affects landlord. Bill solves problem & doesn't infringe on landlord/tenant act. Applies only to unreasonable tenant. Tenant has ability to seek remedy; bill just changes burden of who is req'd to go to ct to seek remedy.

051 Rogers asked existing law if tenant ~~refused~~ refuses to pay rent. Metcalfe says can give 10-day notice; can then go to small claims ct; then can seek eviction. Total process takes upward of a month.

Rogers clarified.

068 Rogers ~~asked~~ described process for wilful damage -- ~~give 4 the eviction notice~~. ~~If tenant refuses~~ Wondered how damages are ascertained. Discussion of process.

095 Bylsma moved to adopt CS HB 722. No obj; so passed.

098 " " report bill; Rogers objected. Roll call: for-Martin, Bylsma, Opp'd-Rogers. Passed.

HB 306

106 Jeff Berry - overview of HB 806 & CS.

~~In~~ previous hrg, valid pts raised by industry, D. Labor, & D.H.S.S. CS addresses those concerns.

1st part allows dept to adopt regs defining hazardous & toxic substances & exempting substances that don't pose health risk.

P. 2, ~~l. 12~~ l. 17 - changed wording to "wholesaler"

P. 3, n. re info to employees - will be provided to new empes & on request to other empes, rather than providing info yrly.

P. 4 - new sec (d) under reports to be filed w/ department.

- other chng gives dept auth to adopt regs defining hazardous & toxic substances.

195 Rogers ~~moved he has~~ moved two amdmts; first to sec 1, exempting certain products (fm Calif. law)

2d amdmt ED 1/1/83 to give dept time to prepare for implementn & cut FN in half.

224 1st amdmt passed w/o obj.

224 Rogers moved 2d amdmt - passed w/o obj.

HB 806

235 Judy Knight – rwd draft CS, concurs w/ chngs. ~~Friend~~ Need to revise FN to reflect chngs; will cut cost approx in half. Puts burden on dept to identify substances & to stay current. Delayed ED is good, as they'll need to recruit industrial hygienist.

266 Rogers commented on FN. Noted that MOA Health Comm. endorsed bill.

275 Glenn ~~Eakins~~ Akins, Dep. Comm., DEC – Mueller had reservation abt interpretn of toxic & hazard substances; CS addresses this. Dept fully endorses bill.

286 Rogers moved to report out ~~&~~ CSHB 806 L&C as amended. No obj, so passed.

HB 757

293 Brought HB 757 before Comm.

310 Judy Knight & Art Zilly came before comm.
Knight – drafted lang to address concerns. Significantly more expensive than anticipated. If remdn cmp'd, recond Sec 353 on last pg of draft be incld into bill; then ~~add~~ draft another bill making appropn.

332 Approx 1,047 claimants wd be affected by bill. Passed out sheet showing characteristics of clmts - % & loc'n by area (1981); sex, age & industry breakdown.

359 Rogers asked, new sched, p.5-7, asked addl cost to state of raising top end fm 150 to 156.

Zillig said by raising amt, wd increase by 4.1%; abt $3.4M trust funds.

Rogers said ~~sect~~ % ages higher in bush than in cities & ~~[illegible]~~ (making benefit period lower). Large % of claimants there are low income. ~~Taking~~ Putting $3.4M at high end, & saving $1.1M by cutting off people at low end. Wiping out low income bush workers for benefit of high income wkrs, lge % of which are fm out of state. Asked dept to fund cutoff on top end to enable low end to stay in w/o affecting gen fnd money.

415 Zillig said they follow principle that it's an insurance pgm based on length of time worked & earnings. Deviating fm this becomes welfare pgm, not insurance. ~~Asked~~ Asks us what direction do you want to go - ins or social welfare.

440 R - has nothing to do with this. Fed law has nothing to do w/ actuarial or social effects of pgm.

He's concerned w/ status quo. If fed chng p.13, l 7-14 were not there, for extended benefits, st wd pick up ½, feds wd pick up half. Feds won't do this now, so these people are cut out. State determines high end.

His opinion that adoption of suppl st benefits, w/ sec 18, allows (brush) low income people collecting $34-60 wk ~~to cont~~ keeps them whole. To not impact general fund, shd lower top end.

491 Knight said they cd pay ½ cost of benefs fm trust fnd; act eliminating those is a conformity issue. Can't pay fm trust fnd & stay in conformity. Concerned feds wd declare st out of conformity, which wd penalize emples.

525 ~~Ken~~ Rogers asked which was more likely to cause fed'l probs – bill dying or bill passing w/ new sec.

Billig said he asked feds opn on trust fnds; possibility if these are identified as suppl bennies, cd be pd out of trust (unofficial opinion). If bill won't passed, they will be out of conformity.

Martin asked when bill is needed; Billig said 7/26.

568 Rogers – bill needs to be in Rules by Mon to pass this yr.

Discussion of how to chng bill.

600 Rogers had ~~sec 6 p. 4 l. 15~~; asked who wd be notified p. 4, l. 8; clarified this w/ Knight.

" p. 11, l. 20 – child support enforcmt – asked if this was conformity. Knight said it was; this was important to fed govt.

650 Rogers — p. 13, l. 12 — wanted clarification

Discussion

682 Garth Patterson, DH+SS — Sec 1, TP f + g — Dept facing $1.2M sanction due to high error rate for 6 mo. period. Can avoid further sanctions w/ USDAg plan. 2/3 of errors due to clients' failure to report, & to report correctly. Clients have been signing release of info since 4/80 to food stamps & CSEA. Requested changs.

Side B Rogers asked outcome if not passed. Martin had gotns.

Discussion.

015 Gary Jenkins, Nat'l Fed of Independent Business — chngs in bill are borne by empprs. DOL analysis anticipates 4-6% increase to empprs. Also, wage base went up from 13.3 to 14.6, so another 5-6% increase. Small businesses struggling; bill will add to their cost factors.

039 Rogers felt unemp ins not a high cost to any business. Thought raising top end caused most of addl costs. Knight interjected that most come from adding weeks. Rogers said, in past, longer unemp is held down, esp the jump is when it is increased. Jenkins basically agreed; just object to another cost to small businesses.

069 Knight said in 1980, said cost to empr wd vary yr to yr.
1981, av cost 3.3% per empe
1982 % has dropped, but comes out to be same amt of $ per empe.

083 M – p.16, l. 28 – asked clarification of "public svc".

094 R – feel saying "insured work or non-insured work or self-empmt" wd cover all.

100 R – p. 1, l. 18, after "wage" insert "& empr".
Passed w/o obj.

105 R-p. 4, l. 11-12, delete "& other cvt'd ... dept" insert, "+ all of the claimants' empers." Discussion.
Chngd mo to delete underlined lang, lines 11, 12, & 13.
Byisma objected. Discussion.
~~Chngd w/ [illegible] amdmt~~
Chngd l. 13 – after "parties"; l. 13, insert "as ~~determined~~ defined by regulation of the Dept."
Motion passed w/o obj.

changes beginning

230 Discussed, p. 4, Sec. 7 & 8 & reasons for chngs. Billig presented figures & explained them.
Discussion of benefits schedule. Rogers asked which was higher priority to, UI labor mgmt comm — more weeks or higher scale. Billig said no pref expressed that he recalled. Thought probly chng to 18 wks rather than 16 was more important. Discussion of alternate ways to address UI claims

435 R moved p. 7 l 5-9 & l. 4 16,200 — delete.
mo passed w/o obj.

442 M moved to delete Sec. 8. ~~Mo~~ Rogers objected. Discussion of earnings ratio.
For - Byrom, Martin Oppd Rogers — passed

+ add sec 8 back in;

565 Rogers moved, chng # weeks; add new section for 3.5 at 26.
Martin objected; Astn M, B oppd, R-for. Failed.

Sec 353. provid by DOL

620 Rogers moved new sec. 8, suppl state benefits; delete (c). Discussion.
Motion passed w/o obj.

714 R moved to delete Sec. 14, p. 10.
Discussion.
Tape 2
Rogers w/drew mo.

043 Re moved to delete Sec 17. Objection – mo failed.

047 M – sec. 18 chng (j) to (1) l. 8 p. 13 mo passed moved to chng "excluding" to "including" l. 12; Rogers objected. Mo passed (for – B, M oppd R)

070 R – p. 16, l. 27 non-insured work, insert "or" & delete "casual labor or pub svc"; mo passed unan.

084 R – Se.

mo. passed

114 Rogers requested draft CS to come back to comm.

2:52

122 adj.

Introduced: 2/11/82
Referred: Labor & Commerce and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 757

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

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

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

* Section 1. AS 23.20.110 is amended by adding new subsections to read:

(f) On request of the United States Department of Agriculture or an agency of this or another state which administers the food stamp program established by 7 U.S.C. secs. 2011 -- 2026, and if that agency has agreed that information provided by the department will be used only to determine an individual's eligibility for food stamp benefits or the amount of the benefits, the department shall provide, for each individual named by the requesting agency, any of the following information contained in the records of the department:

(1) wage and employer information;

(2) the information specified in (c) of this section; and

(3) the amount of unemployment compensation, if any, to be received.

(g) The requirements of this section concerning the confidentiality of information obtained in the course of administering this chapter apply to officers and employees of a state or federal agency to whom the department provides information as authorized by this section.

* Sec. 2. AS 23.20.115 is amended to read:

Sec. 23.20.115. UNAUTHORIZED DISCLOSURE OF INFORMATION. A member of the department, an employee of the department, [OR] an agent of the department, or an officer or employee of a state or federal agency which

has been provided with information by the department who, in violation of AS 23.20.110, makes a disclosure of information obtained from an employing unit or from an individual in the administration of AS 23.-20.005 -- 23.20.535, or a person who has obtained a list of applicants for work or of claimants or recipients of benefits under this chapter and who uses or permits the use of the list for a purpose not authorized by AS 23.20.110 is guilty of a class B misdemeanor.

* Sec. 3. AS 23.20.165(e) is amended to read:

(e) An employer shall maintain a record of the amount deducted from the wages of each employee and shall furnish a statement of the deductions to each employee at the times and in the manner the department prescribes by regulation. No deduction may be made from those wages paid to an employee during a calendar year which are in excess of the wages subject to contributions under AS 23.20.175. If an employee in the employ of two or more employers earns wages in one calendar year totaling more than the wages subject to contributions or if an employer through error makes a deduction and erroneously pays contributions [OR INTEREST] on wages of an employee in excess of the wages subject to contributions during a calendar year, the amount of deductions in excess of those required by AS 23.20.005 -- 23.20.535 [MAY BE REQUESTED BY THE EMPLOYEE. EMPLOYEE DEDUCTIONS IN EXCESS OF THE WAGES SUBJECT TO CONTRIBUTIONS] shall be refunded to the employee by the department upon application for them in accordance with regulations adopted by the department. Application must be made during the calendar year after the calendar year in which the deductions are made.

* Sec. 4. AS 23.20.290(c) is amended to read:

(c) Beginning January 1, 1981, the rate of contributions for each employer is 82 percent of the average benefit cost rate multiplied by the employer's experience factor set out in column C of the table in

this subsection opposite his applicable rate class set out in column A plus the fund solvency contribution required under (f) of this section. However, the rate of contributions for an employer may not be less than one percent or more than six and one-half percent. The rate of contributions for an employer must be rounded to the nearest one-hundredth of one percent.

COLUMN A	COLUMN B		COLUMN C
Rate Class	Cumulative Ratable Payroll		Experience Factor
	at least (percent)	but less than (percent)	
1		5	.40
2	5	10	.45
3	10	15	.50
4	15	20	.55
5	20	25	.60
6	25	30	.65
7	30	35	.70
8	35	40	.80
9	40	45	.90
10	45	50	1.00
11	50	55	1.00
12	55	60	1.10
13	60	65	1.20
14	65	70	1.30
15	70	75	1.35
16	75	80	1.40
17	80	85	1.45
18	85	90	1.50

19	90	95	1.55
20	95	[100]	1.60

* Sec. 5. AS 23.20.340(d) is amended to read:

(d) Unless the claimant is determined to be disqualified for benefits under AS 23.20.360, 23.20.362, 23.20.375, 23.20.378 -- 23.20.387, or 23.20.505, benefits shall be promptly paid in accordance with the initial determination or subsequent redetermination.

* Sec. 6. AS 23.20.340(f) is amended to read:

(f) If a determination of disqualification under AS 23.20.360, 23.20.362, 23.20.375, 23.20.378 -- 23.20.387, or 23.20.505 is made, the claimant ~~and other interested parties, as defined by regulations of the department,~~ shall be promptly notified of the determination and the reasons for it. The claimant and other interested parties, as defined by regulation of the Department, may appeal the determination in the same manner prescribed in AS 23.20.005 -- 23.20.535 for appeals of initial determinations and redeterminations. Benefits may not be paid while a determination is being appealed for any week for which the determination of disqualification was made. However, if a decision on the appeal allows benefits to the claimant, those benefits must be paid promptly.

* Sec. 7. AS 23.20.350(d) is repealed and reenacted to read:

(d) An individual who is eligible under (a) of this section is entitled to receive the weekly benefit amount set out in column (B) of the table in this subsection which is opposite the amount set out in column (A) of the individual's base period wages determined under (c) of this section:

(A)		(B)
Base Period Wages		Weekly Benefit Amount
At least:	But less than	
0	1,000	$ 0

1,000	1,250	34
1,250	1,500	36
1,500	1,750	38
1,750	2,000	40
2,000	2,250	42
2,250	2,500	44
2,500	2,750	46
2,750	3,000	48
3,000	3,250	50
3,250	3,500	52
3,500	3,750	54
3,750	4,000	56
4,000	4,250	58
4,250	4,500	60
4,500	4,750	62
4,750	5,000	64
5,000	5,250	66
5,250	5,500	68
5,500	5,750	70
5,750	6,000	72
6,000	6,250	74
6,250	6,500	76
6,500	6,750	78
6,750	7,000	80
7,000	7,250	82
7,250	7,500	84
7,500	7,750	86
7,750	8,000	88
8,000	8,250	90

8,250	8,500	92
8,500	8,750	94
8,750	9,000	96
9,000	9,250	98
9,250	9,500	100
9,500	9,750	102
9,750	10,000	104
10,000	10,250	106
10,250	10,500	108
10,500	10,750	110
10,750	11,000	112
11,000	11,250	114
11,250	11,500	116
11,500	11,750	118
11,750	12,000	120
12,000	12,250	122
12,250	12,500	124
12,500	12,750	126
12,750	13,000	128
13,000	13,250	130
13,250	13,500	132
13,500	13,750	134
13,750	14,000	136
14,000	14,250	138
14,250	14,500	140
14,500	14,750	142
14,750	15,000	144
15,000	15,200	146
15,200	15,400	148

15,400	15,600	150
15,600	15,800	152
15,800	16,000	154
16,000	~~16,200~~	156
~~16,200~~	~~16,400~~	~~158~~
16,400	16,600	160
16,600	16,800	162
16,800	17,000	164
~~17,000~~		~~166~~

* ~~Sec. 8. AS 23.20.350(e) is repealed and reenacted to read:~~ —see attachment new sec. 8

(e) An individual who is eligible under (d) of this section is entitled to receive a weekly benefit under AS 23.20.005 -- 23.20.535 for the number of weeks set out in column (B) of the table in this subsection opposite the applicable earnings ratio of the individual set out in column (A):

(A) Earnings Ratio		(B) Number of Weeks
At least	But less than	
	1.50	~~18~~ 17
1.50	2.00	~~20~~ 19
2.00	2.50	~~22~~ 21
2.50	3.00	~~24~~ 23
3.00	3.5	~~26~~ 25
~~3.5~~		26

* Sec. 9. AS 23.20.360 is repealed and reenacted to read:

Sec. 23.20.360. EARNINGS DEDUCTED FROM WEEKLY BENEFIT AMOUNT. The amount of benefits, excluding the allowance for dependents, payable to an insured worker for a week of his unemployment shall be reduced by 75 percent of the wages payable to him for that week which are in excess of $50. However, the amount of benefits may not be reduced below zero. If

the benefit is not a multiple of $1, it is computed to the next higher multiple of $1. If the benefit is zero, no allowance for dependents is payable.

* Sec. 10. AS 23.20.375(a) is amended to read:

(a) An insured worker is entitled to receive waiting-week credit or benefits for a week of unemployment for which he has not been disqualified under AS 23.20.360, 23.20.362, 23.20.378 -- 23.20.387, or 23.20.505 if, in accordance with regulations adopted by the department, he has

(1) made an initial claim for benefits; and

(2) for that week, certified for waiting-week credit or made a claim for benefits.

* Sec. 11. AS 23.20.378(a) is amended to read:

(a) An insured worker is entitled to receive waiting-week credit or benefits for a week of his unemployment if for that week he is able to work and available for suitable work. An insured worker is not considered available for work unless he is registered for work in accordance with regulations adopted by the department. An insured worker may not be disqualified for failure to comply with this subsection if

(1) he is not available for work because

(A) he is ill or disabled;

(B) [(2) HE IS NOT AVAILABLE FOR WORK BECAUSE] he is traveling to obtain medical services which are not available in the area in which he resides, or if a physician determines it is necessary, he is accompanying [NOT AVAILABLE FOR WORK BECAUSE HE MUST ACCOMPANY] a spouse or dependent who is traveling to obtain medical services;

(C) [(3)] he resides in the state and is noncommercially [NOT AVAILABLE FOR WORK BECAUSE OF HIS NONCOMMERCIAL] hunting or fishing [NECESSARY] for his survival or the survival of his de-

pendents; or

(D) [(4) HE IS NOT AVAILABLE FOR WORK BECAUSE] he is serving as a prospective or impaneled juror in a court; and [OR]

(2) [(5)] a condition described in (1)(A) -- (C) [, (2), OR (3)] of this subsection occurs during an uninterrupted period of unemployment immediately following a week for which he has filed a compensable claim, and work has not been offered to him which would have been suitable for him before the illness, disability, hunting, fishing or medical travel.

* Sec. 12. AS 23.20.381 is amended by adding a new subsection to read:

(g) An individual may not receive benefits under this chapter in two successive benefit years unless

(1) he has performed services, whether or not in "employment" as defined in AS 23.20.525, after the beginning of the first benefit year; and

(2) he has earned wages for those services equal to at least eight times his weekly benefit amount, excluding an allowance for dependents.

* Sec. 13. AS 23.20.382 is amended to read:

Sec. 23.20.382. BENEFITS WHILE ATTENDING APPROVED VOCATIONAL TRAINING COURSE. (a) Benefits or waiting-week credit for any week shall not be denied an otherwise eligible individual because he is attending a vocational training or retraining course with the approval of the director of the employment security division or because, while attending the course, he is not available for work or refuses an offer of work.

(b) An otherwise eligible individual shall not be denied benefits or waiting-week credit for any week because

(1) he is in training approved under Section 236(a)(1) of

the Trade Act of 1974;

(2) he left work which was not suitable employment to enter the training; or

(3) while attending the training, he is not available for work, fails to seek work, or refuses work.

(c) For purposes of (b)(2) of this section, "suitable employment" means work which

(1) pays at least 80 percent of the individual's average weekly wage, as determined for the purposes of the Trade Act of 1974; and

(2) is at least equal in skill level to the individual's past adversely affected employment, as defined for purposes of the Trade Act of 1974.

* Sec. 14. AS 23.20.383(b) is amended to read:

(b) This section does not apply if the department finds that

(1) the [AN] insured worker was not participating in or directly interested in the labor dispute which caused his unemployment, and [;(2)] he did not belong to a grade or class of workers which, immediately before the commencement of the dispute, had members employed at the premises at which the labor dispute occurred who were participating in or directly interested in the labor dispute; or [AND]

(2) [(3)] the labor dispute is caused by the failure or refusal of the employer to comply with an agreement or contract between the employer and the insured worker, or a state or federal law pertaining to hours, wages or other conditions of work.

* Sec. 15. AS 23.20.390(e) is amended to read:

(e) An appeal from the determination of liability under this section may be made in the same manner and to the same extent as provided by AS 23.20.340 and 23.20.410 -- 23.20.470 for an appeal relating

to a determination in respect to a claim for benefits. If no appeal is taken to the appeal tribunal by the individual within 15 [10] days of the delivery of the notice of determination of liability, or within 15 [10] days of the mailing of the notice of determination, whichever is earlier, the determination of liability is final and the court shall, upon application of the department, enter a judgment in the amount provided by the notice of determination. The judgment has the same effect as a judgment entered in a civil action.

* Sec. 16. AS 23.20 is amended by adding a new section to read:

Sec. 23.20.392. DEDUCTIONS FROM BACK PAY AWARDS. An employer who makes a deduction from a back pay award to an insured worker because of the insured worker's receipt of benefits under AS 23.20.005 -- 23.20.535 for which he is ineligible by reason of the back pay award, shall pay into the unemployment trust fund an amount equal to the amount of the deduction. If an employer making a payment under this section has already reimbursed the department for the benefits under AS 23.20.276 -- 23.20.277, his account shall be properly credited. The insured worker's liability under AS 23.20.390 shall be reduced by the amount paid by his employer under this section.

* Sec. 17. AS 23.20 is amended by adding a new section to read:

Sec. 23.20.401. CHILD SUPPORT INTERCEPTION. (a) Notwithstanding any other provision of AS 23.20.005 -- 23.20.535, an individual filing a new claim for unemployment compensation must disclose whether he owes child support obligations as defined in (g) of this section. If the individual discloses that he owes child support obligations and is determined to be eligible for unemployment compensation, the department shall notify the child support enforcement agency of the Alaska Department of Revenue that the individual has been determined to be eligible for unemployment compensation.

(b) The department shall deduct and withhold from unemployment compensation payable to an individual who owes child support obligations as defined in (g) of this section

(1) the amount specified by the individual to the department to be deducted and withheld under this subsection, if neither (2) nor (3) of this subsection is applicable;

(2) the amount specified in an agreement submitted to the department under section 454(20)(B)(i) of the Social Security Act (42 U.S.C. sec. 654(20)(B)(i)) by the child support enforcement agency of the Alaska Department of Revenue, unless (3) of this subsection is applicable; or

(3) any amount required to be deducted and withheld through legal process, as defined in section 462(e) of the Social Security Act (42 U.S.C. sec. 662(e)), properly served upon the department.

(c) The department shall pay an amount deducted and withheld under (b) of this section to the child support enforcement agency of the Alaska Department of Revenue.

(d) An amount deducted and withheld under (b) of this section shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by that individual to the child support enforcement agency of the Alaska Department of Revenue in satisfaction of the individual's child support obligations.

(e) In (a) -- (d) of this section, "unemployment compensation" means compensation payable under AS 23.20.005 -- 23.20.535, including amounts payable under an agreement under a federal law providing for compensation, assistance, or allowances with respect to unemployment.

(f) This section applies only if appropriate arrangements have been made for reimbursement by the child support enforcement agency of the Alaska Department of Revenue for the administrative costs incurred

by the department under this section.

(g) In this section, "child support obligations" includes only obligations which are being enforced under a plan, described in section 454 of the Social Security Act, (42 U.S.C. sec. 654) which has been approved by the United States Secretary of Health and Human Services under Part D of Title IV of the Social Security Act.

* Sec. 18. AS 23.20.406 is amended by adding a new subsection to read:

(~~j~~ l.) Notwithstanding (a) and (b) of this section, an individual is not eligible for extended benefits unless, in the base period determined with respect to his applicable benefit year, the individual has been paid, for employment covered by AS 23.20.005 -- 23.20.535, total wages which equal or exceed 40 times the weekly benefit amount, ~~excluding~~ including any allowance for dependents, which is payable to him during his applicable benefit year.

* Sec. 19. AS 23.20.407 is amended by adding a new subsection to read:

(c) Notwithstanding any other provision of AS 23.20.005 -- 23.20.535, if the benefit year of an individual ends within an extended benefit period, the remaining balance of extended benefits which the individual would, but for this section, be entitled to receive in the extended benefit period, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced by the number of weeks for which the individual received an amount as a trade readjustment allowance within the benefit year multiplied by the individual's weekly benefit amount for extended benefits. However, the extended benefits may not be reduced below zero.

* Sec. 20. AS 23.20.408(a) is amended to read:

(a) When an extended benefit period is to become effective in this state as a result of a state [OR NATIONAL] "on" indicator, or an extended benefit period is to be terminated in this state as a result of

[EITHER] a state "off" indicator [OR A NATIONAL "OFF" INDICATOR], the department shall make an appropriate public announcement.

* Sec. 21. AS 23.20.408(f) is amended to read:

(f) There is a state "on" indicator for a week if the rate of insured unemployment under AS 23.20.005 -- 23.20.535 for the period consisting of that week and the immediately preceding 12 weeks either:

(1) equaled or exceeded 120 percent of the average rate of insured unemployment for the corresponding 13-week period in each of the preceding two calendar years and equaled or exceeded <u>five</u> [FOUR] percent; or

(2) equaled or exceeded <u>six</u> [FIVE] percent.

* Sec. 22. AS 23.20.408(g) is amended to read:

(g) There is a state "off" indicator for a week if, for that week and the immediately preceding 12 weeks, the rate of insured unemployment was either: (1) less than <u>five</u> [FOUR] percent; or (2) less than <u>six</u> [FIVE] percent and was less than 120 percent of the average of the rates of insured unemployment for the corresponding 13-week period in each of the preceding two calendar years.

* Sec. 23. AS 23.20.408(h) is amended to read:

(h) In (f) and (g) of this section, "rate of insured unemployment" means the percentage derived by dividing (1) the average weekly number of individuals filing claims <u>for regular compensation</u> in this state for weeks of unemployment with respect to the most recent 13 consecutive week period, as determined by the department on the basis of its reports to the United States Secretary of Labor, by (2) the average monthly employment covered under AS 23.20.005 -- 23.20.535 for the first four of the most recent six completed calendar quarters ending before the close of that 13-week period. Computations required by this subsection shall be made by the department in accordance with regulations prescribed by the United States Secretary of Labor.

* Sec. 24. AS 23.20.409(1) is amended to read:

(1) "extended benefit period" means a period which

(A) begins with the third week after [WHICHEVER OF THE FOLLOWING WEEKS OCCURS FIRST:

(i) A WEEK FOR WHICH THERE IS A NATIONAL "ON" INDICATOR, OR

(ii)] a week for which there is a state "on" indicator; and

(B) ends with either of the following weeks, whichever occurs later:

(i) the third week after the first week for which there is [BOTH A NATIONAL "OFF" INDICATOR AND] a state "off" indicator; or

(ii) the 13th consecutive week of that period;

* Sec. 25. AS 23.20.409 is amended by adding a new paragraph to read:

(6) "applicable benefit year" means, with respect to an individual, the current benefit year if, at the time an initial claim for extended benefits is filed, the individual has an unexpired benefit year on[1], in the state against which the claim is filed, or, in any other case, the individual's most recent benefit year; the most recent benefit year, for an individual who has unexpired benefit years in more than one state when the initial claim for extended benefits is filed, is the benefit year with the latest ending date or, if the benefit years have the same ending date, the benefit year in which the latest continued claim for regular compensation was filed; no extended benefits are payable under this section unless the "applicable benefit year" was a benefit year established under AS 23.20.005 -- 23.20.535.

* Sec. 26. AS 23.20.505(a) is amended to read:

(a) An individual is considered "unemployed" in a week during

which he performs no services and for which no wages are [REMUNERATION IS] payable to him, or in a week of less than full-time work if the wages [REMUNERATION] payable to him for the week are less [IS NOT MORE] than one and one-third times his weekly benefit amount, excluding the allowance for dependents, plus $50.

* Sec. 27. AS 23.20.520(26) is amended to read:

(26) "vocational training or retraining course" means a course of vocational or technical training or retraining in schools or classes, including but not limited to, field or laboratory work and related remedial or academic instruction, which is conducted as a program designed to prepare individuals for [ENTRY LEVEL] employment in trades, skills or crafts; the term "vocational training or retraining course" does not include a program of instruction for an individual, including a transfer credit program of instruction given at a community college, which is intended as credit for a degree from an institution of higher education;

* Sec. 28. AS 23.20.520(24)(B) is amended to read:

(B) is legally authorized in the [THIS] state in which it is located to provide a program of education beyond high school; and

* Sec. 29. AS 23.20.526(a) is amended by adding a new paragraph to read:

(21) service performed as a prospective or impaneled juror in a court.

* Sec. 30. AS 23.20.530(a) is amended to read:

(a) In this chapter, [UNLESS THE CONTEXT OTHERWISE REQUIRES,] "wages" means all remuneration for service from whatever source, including, but not limited to, insured work, noninsured work, or self-employment ~~casual labor or public service~~; commissions, [AND] bonuses, back pay and the cash value of all remuneration in a medium other than cash shall be

treated as wages; gratuities customarily received by an individual in the course of his service from persons other than his employing unit may be treated as wages received from [FOR] his employing unit only to the extent the individual reports the gratuities to his employing unit [; BACK PAY AWARDED UNDER A STATUTE OF THIS STATE OR THE UNITED STATES SHALL BE TREATED AS WAGES]. The reasonable cash value of remuneration in a medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with regulations prescribed by the department; notwithstanding AS 23.20.350(a), [FOR THE PURPOSE OF AN INITIAL DETERMINATION ONLY,] back-pay awards shall be allocated to the weeks or quarters with respect to which the pay was earned. If the remuneration of an individual is not based upon a fixed period [OF DURATION] of time or if his wages are paid in irregular intervals or in a manner which does not extend regularly over the period of employment, [FOR THE PURPOSE OF AN INITIAL DETERMINATION ONLY,] the wages shall be allocated to weeks or quarters [QUARTER] in accordance with regulations prescribed by the department. The regulations shall, so far as possible, produce results reasonably similar to those which would prevail if the individual were paid his wages at regular intervals.

* Sec. 31. AS 23.20.530(b) is amended by adding a new paragraph to read:

(13) compensation received for inactive service performed by a member of the Alaska National Guard or Naval Militia.

* Sec. 32. AS 23.20.350(b), 23.20.408(d), 23.20.408(e), 23.20.505(b), 23.20.505(c), 23.20.530(b)(11), and 23.20.530(b)(12) are repealed.

* Sec. 33. Section[s] 7[~~and 8~~] of this Act apply to insured workers who establish benefit years after December 31, 1982.

* Sec. 34. Sections 1, 2, 7,[~~8,~~] and 33 of this Act take effect January 1, 1983.

* Sec. 35. Sections 8, and 17 -- 25 of this Act take effect September 26, 1982.

* Sec. 36. Sections 3 -- 6, 9 -- 16, and 26 -- 32 of this Act take effect immediately in accordance with AS 01.10.070(c).

DRAFT

New Sec. 8

Sec. 353. SUPPLEMENTAL STATE BENEFITS. (a) An individual is eligible to receive supplemental state benefits for a week in which

(1) he is an "exhaustee" as defined in AS 23.20.409(5);

(2) he has otherwise satisfied the requirements of AS 23.20.005--23.20.535 for the receipt of regular benefits; and

(3) he is ineligible for extended benefits solely because of the provisions of AS 23.20.406(1).

(b) Supplemental state benefits are paid in the same amounts, for the same periods, and under the same conditions as extended benefits under AS 23.20.406(a)--(k) and AS 23.20.407--23.20.409.

~~(c) Supplemental state benefits are payable to the extent that money is appropriated from the general fund for that purpose.~~

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 4/1/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:07	
Rep. D. Randolph				
Rep. B. Rogers	✓		1:07	
Rep. T. Gardiner		✓		
Rep. T. Martin, Chair	✓		1:05	

Subject Matter:

House Bill No. 722 757 806 _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

HB 757

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
GARTH PATTERSON	423 THIRD ST Juneau	Dept of Health & Social Services	Yes	465-3360
Judy Knitt	Box 1149 Juneau	Dept of Labor	yes	465-2700
Elvera Mullin	Box 1149 Juneau	" "	No	465-4519
Bert Lucas	Box 3-7000 JEAUNO	" "	YES	465-2712
HARRY STURROCK	Box 3-7000 Juneau	Dept. LABOR	No	465-2712
Ron Torgerson	Box 3-7000 Juneau	" "	NO	465-4531
GARY L. JENKINS	BX 194 Auke Bay	NFIB	YES	586-4100

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

SIGN-IN SHEET HB 806

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
GLENN AKINS	HB 806	Dept. Env. Cons	Yes	465-2600

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

SIGN-IN SHEET HB 806

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Judy Knight	Box 1149 Juneau	Dept of Labor	Yes	
Ruth Ward	134 N Franklin	Arco	No	
Ed Kalhean	AOB 513	DHoSS	NO	3090
E. F. Hagen	3911 Peterkin Ave, Anchorage	AK Environmental Lobby	NO	

HOUSE LABOR & COMMERCE COMMITTEE HEARING DATE: _____

CSHB 806

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Richard Drab	Box 1149, Juneau	Dept. of Labor	No	465-4855
Wade Shelley	310 2nd St Juneau	Self.	no	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

Draft CS for HB 806 (L&C)

Sectional Analysis

HB 806 was drafted to conform with model "right-to-know" legislation from other states. The basis for the legislation is that Alaskan workers have the right to know about hazardous or toxic substances with which they work and that it is an employer's responsibility to supply that information.

18.60.051 requires an in-state manufacturer of a hazardous or toxic substance to make available certain information including the name of the substance, its hazards, proper handling procedures, and health risks.

18.60.052 requires a seller of a hazardous or toxic substance to provide the same information.

18.60.071 requires an employer to post in the workplace where a hazardous or toxic substance is present the same information, and to provide training at his own expense about the potential hazards and proper handling of the substances.

18.60.072 requires manufacturers, sellers, and employers to file annual reports with the Department of Labor. Trade secrets are protected.

18.60.073 allows past, present, and future employees access to reports filed with the department and to exposure measurements. The department may require employees to furnish health and exposure records pertinent to an investigation. Regulations shall be adopted to ensure that an employee has ready access to all relevant information about hazards and exposure.

18.60.074 allows for the department to disclose to the public information about hazardous and toxic substances and the circumstances under which the public might be affected.

Section 2 provides definitions.

4-2-82

SB831

(LAC)

(RE APOC)

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
April 2, 1982
12:58 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

SB 831 — An Act relating to insurance; and providing for an effective date.

PREVIOUS ACTION

SB 831

Senate Action: First reading 3/4/82. Reported from Labor & Commerce 3/18/82. Reported from Rules 3/22/82; taken up immediately. Passed second reading 3/22/82; advanced to third reading by unanimous consent. Passed Senate 3/22/82.

House Action: First reading 3/22/82. Referred to Labor & Commerce.

Statutory Reference: AS 21.09.260. After adoption of committee substitute by House Labor & Commerce, statutory reference also includes AS 36.94.010.

Action Taken: Committee substitute adopted; bill reported out.

ACTION NARRATIVE

Tape #53
Recording
Number 000

The meeting was called to order by Chairman Martin at 12:58 p.m. Members present were: Representatives Martin, Bylsma, Randolph, and Rogers. Rep. Gardiner was absent.

Rep. Martin brought SB 831 before the committee, and presented HCS SB 832 (L&C) to the committee. He then read the following statement of the committee's position regarding wrap-up insurance

policies:

"It is the committee's feeling at this time that the current policy of Alaska Power Authority pertaining to the sole contracting of wrap-up insurance coverage for hydroelectric projects is not in the best interests of the state. We feel that the intent of many regulations and the normal procedures have been circumvented to establish the sole contract wrap-up insurance program as it is known today. We wish that Alaska Power Authority and the Division of Insurance do more in-depth studies before entering into sole contracts, and bring their documented information to the legislative body before entering into any more such contracts. We therefore ask Alaska Power Authority and the Risk Management Insurance Division to make null and void its current contract and to reestablish its previous policy for construction bids. I have asked the committee to look at SB 831, in which we have two new sections which prohibit such contracts."

Number 027 — Rep. Rogers then moved that the committee adopt HCS SB 831 (L&C) and report the bill out of committee. There was discussion. There being no objection, the motion passed.

Number 038 — As there was no further business to come before the committee, the meeting was adjourned at 1:02 p.m.

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 31, 1982
1:07 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Gardiner

Members Absent: Rep. Randolph

COMMITTEE CALENDAR

General meeting with Alaska Power Authority and Division of Risk Management regarding insurance practices.

WITNESS REGISTER

Dick Pettinger
Alaska Chapter, Associated General Contractors
Box 4-2500
Anchorage, Alaska
276-5354
Position Statement: Opposed APA wrap-up insurance program (APCOP).

Eric Yould, Director
Alaska Power Authority
334 West Fifth
Anchorage, Alaska 99501
277-7641
Position Statement: Explained why APA opted to use net of insurance.

John Haywood, Director
Division of Risk Management
Department of Administration
Pouch C
Juneau, Alaska 99811
465-2180
Position Statement: Explained why Division of Risk Management supported use of net of insurance by APA.

Daryl A. Cody
Daryl A. Cody Company
201 Danner Street
Anchorage, Alaska 99502
Position Statement: Opposed to APA's use of net of insurance.

Representative Sutcliffe
Alaska State Legislature

Pouch V
Juneau, Alaska 99811
465-3715
Position Statement: Asked questions of witnesses.

Don Koch, Director
Market Surveillance Section
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2577
Position Statement: Explained his division's involvement in APA's selection of method of insuring.

Kenneth Moore, Director
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2515
Position Statement: Testified with Koch regarding division's involvement in APA's selection of method of insuring.

Ken Vassar
Department of Law
Pouch K
Juneau, Alaska 99811
465-3600
Position Statement: Explained his role in providing legal advice to APA.

Commissioner Ernst W. Mueller
Department of Environmental Conservation
and
Vice Chairman, Board of Directors
Alaska Power Authority
Pouch O
Juneau, Alaska 99811
465-2600
Position Statement: Defended Board's decision to use net of insurance.

PREVIOUS ACTION

There were no bills before the committee. This was an informational meeting.

ACTION NARRATIVE

Tape #49
Recording
Number 000 The meeting was called to order by Chairman

Martin at 1:07 p.m. Members present were: Representatives Martin, Bylsma, Gardiner, and Rogers. Rep. Randolph was absent. Representatives Cotten, Sutcliffe, Grussendorf, and Haugen also attended the meeting. Rep. Martin explained the purpose of the meeting, which was to explore policy decisions regarding sole contract of insurance by the Alaska Power Authority.

Number 015

Dick Pettinger, Alaska Chapter, Associated General Contractors, said his association represented 675 construction-related firms. He said the Chapter opposes the Alaska Power Authority wrap-up insurance program known as APCOP. Pettinger said that, nationally, the association has been opposed to this type of insurance program for years. He described stands taken by the AGC in the past.

Number 040

Pettinger asked why regulation or statute permitted a wrap-up insurance program. He asked why APA instituted the program. He said that all bids on the Tyee project included insurance costs, and asked why APA did not notify the public of their intent before imposing the program on the project. He said APA said this program would be cost saving to the rate payer.

Number 054

Pettinger said one of the contractor's tools is removed by this type of insurance program. He explained how safety factors affect the cost of insurance. He said a company with a better safety factor would normally submit a lower bid. Pettinger said APCOP penalizes the safety-conscious contractor. He said that APA assuming insurance means the contractor would not be held responsible for claims. He questioned the ability of APA to ensure proper safety procedures. He questioned the savings as a result. (Pettinger promised to provide the committee with a copy of his written testimony.)

Number 084

Pettinger said major disadvantages are that owner controlled programs are disliked by most contractors. He said administration is a disadvantage due to the length of the project and turnover of personnel. He felt insurance company agents' interests may be diverse, hence there could be a conflict of interest with one company serving all

parties. He felt this could lead to claims control problems and legal difficulties, as well. He spoke about consolidating policies. Pettinger said the true cost of insurance is often not determined for 5-7 years after completion of a project. Pettinger felt with wrap-up insurance, the owner often becomes involved in many insurance disputes that normally take place between the general contractor and the subcontractor.

Number 123 — Pettinger said the best incentive for risk control lies with self insurance programs. He felt APCOP would result in the opposite. He objected to government intervention into the private sector. He requested immediate elimination of APCOP.

Number 135 — Rep. Martin asked when the situation first came to his attention; Pettinger responded that it was early in November, and added that the contract was let in August. There was discussion.

Number 165 — Eric Yould, Director of Alaska Power Authority, and John Haywood, Director of the Division of Risk Management, then came before the committee. Yould said that APA had two options with respect to insurance: 1) bidding under normal procedures, with the contractor providing his own insurance; or, 2) bidding net of insurance (also referred to as a wrap-up program). Yould said the Division of Risk Management provided information that indicated benefits to APA in keeping the cost of insurance premiums down if they provided their own insurance. He said it is their intent to proceed with an owner-insured program. He said the Division of Risk Management used the state's present insurance brokers to provide coverage; AGC then objected to the program.

Number 216 — Yould said at the last board meeting on March 21, the issue was reviewed. Division of Risk Management came before the board and indicated advantages to the state to take part in the program. The AGC opposed this, and Jeff Barry, Labor & Commerce committee aide, posed questions. He said many of the questions presented by Barry on behalf of the Committee should have been addressed to Risk Management, and said that Risk

Management had assisted in answering the questions.

Number 238

Yould said the next project is Terror Lake. He said bid opening is planned for April 26. He said APA would request two bids from each contractor--one reflecting costs with net of insurance, and one with the owner providing his own insurance. He said the board would then decide which type of insurance to use.

Number 250

Rep. Rogers asked when bid opening for Tyee Lake occurred; Yould responded it was September 25, and that the board met on October 2. Rep. Rogers asked if the bids were for net of insurance or if they included costs of insurance; Yould responded the bids included insurance, and that they subsequently requested the winning contractor to remove insurance costs from his bid. Rep. Rogers asked if the other bidders had an opportunity to respond to the bid as modified; Yould said they did not. Rep. Rogers suggested this might have created a different lowest responding bidder. Yould said there was litigation against the bid award for another reason, and that no one else litigated. He said the board went forward with the bid on October 2, but did not sign the agreement until December 2. There was discussion to clarify the dates. Haywood said the program was in place at the time the bidder was asked to back out his insurance costs. He said the contractor voluntarily agreed to back out insurance costs. After that, at Risk Management's recommendation, they felt it would make sense to draft a memorandum of agreement, but the program was in effect at that time.

Number 719

Rep. Rogers said that the state is managing the contractor's risks. Haywood said they were talking about a situation where the state has a joint interest in workers compensation, general liability, and builders risk. He said the workers compensation statute has proven that state entities are liable in the event of a claim without adequate insurance. He said that since World War II, most major public construction authority programs have been handled by wrap-up programs. Rep. Rogers referred to the statute which requires a

contractor to submit proof of workers compensation insurance at the time of bid.

Number 360

Rep. Martin said Harrison Western was the fourth lowest bidder, and that they did not comply with the law in submitting proof of insurance. Haywood said he wasn't involved in opening of the bids, but he understood that Harrison Western was the second lowest bidder. He said at the time the insurance certificates came in, the decision had been made to go with the APCOP program. Yould said he understood Harrison Western did have insurance at the time of the bid. Rep. Rogers asked if they required notice of current coverage of workers compensation prior to awarding bids. Yould wasn't certain.

Number 402

Rep. Rogers was concerned about a couple issues where APA appeared to be circumventing or violating law. He asked if interim financing had been arranged for both Swan Lake and Tyee. Yould said it was. Rep. Rogers asked what would happen if revenue bonds could not be sold and the legislature did not make an appropriation. Yould said advisors and underwriters advised that long term bonds could be issued if necessary. Rep. Rogers asked what the obligation of the state would be if bonds went to 70%. Yould said APA is liable, but that the state would not let its credit be impaired. Rep. Rogers was concerned about an agency of the state making obligations on behalf of the legislature. He asked if there would be a capital reserve account. Yould said there would be, with bond proceeds. Rep. Rogers asked if Swan Lake had received complete legislative authorization. Yould said it had. Rep. Rogers asked if it was the same interim financing issue. Yould said there was a straight bank loan. Rep. Rogers said the Authority said it wouldn't incur debt service that would make the power provided more expensive than diesel. He asked how the APA could ensure this. Yould said the legislature could change the program.

Number 480

Rep. Rogers said current law speaks to a uniform power rate. He asked, if the rate goes above the ceiling, how both the law and the contractual obligation could be met.

Yould said it was not the intent of the legislature to increase the cost of power. Rep. Rogers said the legislature required 10% of the capital costs annually unless there was $5-billion appropriated. Yould said the cost would still be lower than the cost of diesel. He said this was analyzed, and they do not foresee a situation where the cap will come into play. He said people will always have to remain in the system to pay their share of the debt service. Rep. Rogers asked if Yould was agreeing there is a ceiling. Yould said at least on their portion of the debt service. Rep. Rogers requested clarification. Yould responded that in the event the bond market goes, up, it is questionable whether revenue bonds could be sold to cover the program.

Number 554

Rep. Rogers asked if APA has an attorney. Yould responded that Ken Vassar, Department of Law, did legal work for them. He said Vassar doesn't review all the contracts, that they have other attorneys. He said the contract was reviewed by the Department of Law under the Transportation Section, but was primarily reviewed by private counsel.

Number 575

Rep. Martin asked if Division of Insurance had been consulted. Haywood said yes. He said owner wrap-up is a common way of handling major construction projects all over the country for the past 25 years. He said Alyeska was an owner wrap-up program. He said they met with the Division of Insurance several times before going into the program. Haywood said there had been a question of whether special regulations would need to be adopted, and that it had been decided they were not. He said they set the cutoff at $50-million projects for a wrap-up program.

Number 614

Rep. Martin asked if Commissioner Hudson had given permission for a wrap-up program. Haywood said the risks of the state of Alaska would tap a majority of the world-wide marketplace capacity. He said the contract was on the basis of professional services, and would be kept in effect for 3-5 years. He said this was done early in 1981, and that Marsh & McLennan and Coroon & Black/Dawson were selected.

Number 654

Rep. Martin asked why these companies should get paid for an insurance program when the memorandum of agreement was dated three months after the insurance coverage went into effect. Haywood said the insurance was there by October 15. Rep. Martin asked if that was when they decided Harrison Western did not have coverage. Haywood responded that their lack of insurance was not an issue, and that they did not meet other specifications. Rep. Martin asked at what time the Commissioner signed the sole source contract. Haywood said the contract was put together for Tyee Lake insurance. He said insurance is a contract of "utmost good faith". He compared it to car or homeowner's insurance that is ordered by telephone. He said this was the same situation--the coverage was put into place as of 10/1, contracts followed. He said this is standard practice.

Number 734

Rep. Martin said he understood the contractor could not get insurance because they were a high insurance risk. He pointed out, in addition, that it was not a $50-million contract. Haywood said it would be a $90- to $100-million contract when it was done. He said Terror Lake, with one prime contract for a $175-million project, was a better example than Tyee, which was bid in three phases.

Side B, Number 005

Rep. Rogers asked if Coroon & Black would then get the insurance contract on Tyee, Terror Lake, and Susitna. Haywood said they didn't have a contract like that. Rep Rogers asked if they could extend the contract to all projects. Haywood said it was part of the selection process.

Number 027

Haywood said they need four to five months lead time to give the broker time to put together the program needed. He said they now have two projects on-line: Terror Lake and Tyee. He said this is a Risk Management service, it is not separate.

Number 042

Rep. Rogers asked, since the contractor bears no cost of insurance, what is the incentive for a good safety program. Haywood says statistics show they run safer jobs. He said they build safety specs into the project, centralize safety coordinating

and facilities on the job, and report losses to the National Safety Council, so insurance modification factors continue to run. There was discussion of incentive for a good safety program.

Number 076

Haywood said the state isn't forcing safety on the contractor. He said statistics show these jobs are run safely. He said Rep. Rogers was missing the humanism. He said there are so many hidden costs related to an injury that no well-managed contractor would risk that. Rep. Rogers pointed out that a poorly-managed contractor might.

Number 111

Rep. Martin asked what public entities use wrap-up programs. He noted that it seems that private agencies are moving away from it. Haywood said wrap-ups are going as strong now as ever. He said the cutback in federal funds is slowing down major wrap-up programs. He passed out a partial list of owner-controlled programs and documented savings. (This list is available for inspection from the committee.)

Number 130

Rep. Martin asked if Commissioner Hudson signed a document to authorize this. Haywood said it went through contract review in the Department of Administration. Rep. Martin said the insurance was done after the fact. He said that, by regulation, the company selected was not qualified as it had no insurance included in the bid. Haywood said insurance was included in the bid.

Number 148

Rep. Bylsma said, in the contract with the insurance company, they provide APA and prime contractors with a safety incentive formula prior to conception. He asked how they could do this if the job was contracted before the insurance was in force. Haywood said the intention of the agreement is that language for policy be in the contract. He said it is designed for a project where language is included in the bid specification. Rep. Bylsma asked what the safety incentive formula is. Haywood responded that APA got a return of $100,000 to use on other projects, and $200,000 to use as incentive programs with contractors on the basis of good performance. Rep. Bylsma asked if the contractor and APA split that money. Haywood said the incentive is

based on losses.

Number 195 — Rep. Bylsma said that, on 10/2, premium return was mentioned. He said he was led to believe it would come back to the state, not the contractor.

Number 215 — Daryl Cody, president of Daryl A. Cody Company, a business consulting firm with offices in Anchorage and Washington state, said one of his specialties is assisting contractors in the acquisition of surety bonds and construction insurance. He listed his qualifications.

Number 250 — Cody described wrap-up programs that were attempted to be instituted in Washington state in the 1960s that were stopped because what they suggested as savings was over anything they could justify. He said he has been injured by the action of APA, as they took insurance out of one of his clients' hands. He said he is co-chairman of the Insurance Taxing and Bonding Committee of the Alaska Chapter of AGC, and that he holds an office in the national AGC.

Number 280 — Cody said he favors the free enterprise system. He is opposed to anything unnecessary, which is his first reason for opposing APCOP. He said it takes the normal insurance buying process away from the contractor. He said cost of insurance is a major consideration in putting bids together.

Number 297 — Cody was opposed to government involvement in business where no need or purpose is served, as in this case. He said the state and the APA are in the private sector, where they aren't wanted or needed. Cody said in APA's public relations program, they said they would save money. He saw no way they could save money over the way general contractors buy their own insurance. He commented on the document which was passed out to justify use of a wrap-up plan. He said they went back 25 years to find 25 projects. He referred to one project showing a 38% savings. He said these savings have no credibility, as the base used to show savings was subject to question. He did not feel the statistics were credible. He said wrap-ups don't save

money; he believed it would cost more.

Number 360 — Cody referred to APA's inference that money would stay in Alaska. He said they hired two of the largest brokers in the world, and that all the effort has been centered around the Seattle offices of those firms. Cody felt these firms could be considered non-Alaskan firms. Cody said the net of insurance does not save costs; it interferes with contractors' normal insurance buying processes; that contractual liability becomes confused because of the grey areas created by the net of insurance. He said the state is exposing itself beyond the protection of insurance, which is an additional cost.

Number 409 — Rep. Sutcliffe asked if the state has liability by providing the wrap-up. Cody said they assumed a risk greater than they were insuring. There was discussion. Rep. Rogers asked if the builders risk could be larger than the state is insured for. Cody said, if for any reason coverage is denied by the carrier, the state is liable. He said the state is acting as an insurance intermediary. Rep. Bylsma asked if that would be different if the general contractor had private insurance. Cody said yes, the contract specifies the contractor is liable.

Number 470 — Cody referred to exhibits attached to his prepared testimony.

Number 500 — Rep. Rogers tried to clarify the order of events. Cody said the tone of the message to the contractor regarding the change order (after the court battle) was: "Here is the contract. We'll sign it if you sign the change order."

Number 550 — Rep. Bylsma asked what law Washington had passed regarding wrap-up insurance. Cody said the committee has a copy of the law on file. The law prohibits an agency of state or local government in directing the purchase of surety bonds on a state or local project. He said the law was passed in 1967 or 1968.

Number 584 — Rep. Sutcliffe asked, if the state of Washington had built and owned projects as Alaska will, if there was a wrap-up

insurance program and if the state couldn't totally fund the project, would there be any implication that the insurance companies would pay out so much it would reflect back on the state? Cody could not think of a situation where overall financial feasibility of projects could be affected. He believed brokers and Risk Management people capable of handling risk and risk management. He questioned their right to involve state government in private business, and the right of the contractor to protect himself as he wishes to be protected.

Number 625 — Rep. Martin asked who paid for the public relations firm hired, and asked if there was any relationship between any of the board members of APA and the public relations firm hired. Cody assumed APA paid for the services. He said that, as of ten days ago, the firm was still working on the project.

Number 642 — Rep. Martin announced that the hearing would be continued on Friday, when a bill or resolution might be introduced.

Number 645 — Don Koch, Chief of Market Surveillance, Division of Insurance, and Ken Moore, Director of the Division of Insurance, came to testify before the committee. Moore said formal hearings were held in 1971 regarding the pipeline. Two years ago, when the pipeline was out and running, private enterprise approached them about having a wrap-up. As of August 26, the Division had published a worksheet of guidelines.

Tape 50, Number 003 — Koch said he contacted other states to find out their attitudes toward wrap-up programs. He got very little response, and said that some did not know what it was. He commenced work last summer because of a potential wrap-up on the pipeline and on other projects. Rep. Martin said he understood there was a wrap-up on the marine ferries. Koch said there had been only one that he was aware of: the Alyeska pipeline, a private project.

Number 030 — Rep. Martin asked Koch what advice he had given Risk Management and APA. Koch recalled discussions of self-insurance and wrap-up insurance. He said the discussion

was fairly general, and that he had given no advice.

Number 044 — Rep. Martin asked if Koch foresaw the state being solely responsible for paying workers compensation claims. Koch was not sure. He believed that should be considered.

Number 058 — Rep. Martin asked if the Division of Insurance had any overview responsibility, or if Risk Management was independent. Moore said Division of Insurance had no responsibility at all over Risk Management. Koch said they regulate provider coverage.

Number 071 — Rep. Martin asked if they had evaluated the program. Koch said they had not. He said if they were directed to look at it, all they would be required to say is whether or not it covers workers. He said they don't have the expertise to say if it is an appropriate program for those circumstances; that this is not one of the Division's roles.

Number 093 — Rep. Bylsma asked what effect elimination of wrap-up would have on workers compensation (he used Washington state as an example). Moore said it could have an effect. Koch said that whether compensation was a prime consideration when the legislation was created would be a factor.

Number 110 — Rep. Martin asked if the Division could evaluate the policy--percentage of risk and true value to the state. Koch said they did not have the expertise, and that they would have to contract that out if they were requested to provide such an evaluation.

Number 125 — Ken Vassar, attorney in the Department of Law, came before the committee. Rep. Rogers asked if he had reviewed the power sale agreement. Vassar had not. He responded to Rep. Rogers that he had not reviewed the interim financing agreement, either. Vassar said the APA has outside counsel, and he believed they had reviewed the documents in question. Rep. Rogers asked if Vassar had reviewed any of the insurance issues discussed. Vassar said he had. Rep. Rogers went over the occurrence of events:

07/27 APA met with Marsh & McLennan

08/06 Response of Marsh & McLennan with details
08/11 Bids come in
Aug/Sep APA chooses bidder
10/02 APA board meets & approves concept of APCOP
10/06 Change order issued
11/09 Press release regarding APCOP
11/23 and 12/02--sign memorandum of agreement

Vassar said this was not standard procedure. He was not familiar with the timeline. He said the decision to use the program was entered after the bid. He said this constitutes a change of circumstances. Vassar said the details came to the attention of the executive director after the bids were opened. There was discussion. Rep. Rogers asked if they were planning to review the sales agreement with Ketchikan and the interim financing agreement. Vassar said yes.

Number 190

Commissioner Ernst Mueller, vice chairman of the Board of Directors of Alaska Power Authority, said APA is a business in competition with private facilities. He feels it is his responsibility to investigate cost-cutting avenues. He said the only way to keep a cap on costs is to hire experts. Risk Management is one of their agencies used. He said decisions are rightfully in the hands of the Board. Mueller said that, at the meeting, there was sufficient justification to approve this approach. He said information to date has not changed his mind. He said the disadvantages of wrap-up insurance to general contractors are the same in the entire field of wrap-up programs, public and private. He said any decisions made about wrap-up programs should cover public and private contracts. Mueller said information to date indicates it is a good program.

Number 242

Rep. Rogers said, looking over the partial transcript of an APA board meeting, that Commissioner Webber had asked questions about board action and legislative approval, and that others had asked questions about liability, safety incentive, higher policy cost, and workers compensation; but that the Board had taken no action on these questions. Mueller said the Board could have delved more deeply into legal ramifications, and that there was no doubt

that this was an unusual procedure. He said it should have gone to bid differently, but the Attorney General did not seem to think it illegal. There was discussion.

Number 288

Rep. Rogers asked, regarding interim financing, if Mueller had ever seen the same situation (of the legislature being in a position to allow APA to default on interim financing, or approving funds to cover the financing). Mueller said he had not seen the same form. He said those building projects can't wait for a favorable bond market to do work. He said the Department of Revenue gives them money out of the general fund. He said one would have to speak to the APA Bond Council as to the processes involved. There was discussion of bonding. Rep. Rogers pointed out that there has been no legislative oversight of this project. Mueller agreed.

Number 358

Rep. Rogers asked if there were any inconsistencies in the Ketchikan power sales agreement in the ceiling versus statewide wholesale power cost rate. Mueller said they had asked Vassar to look at that to see if it conflicts with law.

Number 374

Rep. Bylsma said that, in the transcript of the 10/2 meeting, Slagle and Webber were talking about insurance when the Commissioner asked if the legislation was there. Slagle said he could not answer, "but we do it". Bylsma asked Mueller if he had questioned that. Mueller said they relied on the attorneys. There was discussion.

Number 400

Rep. Martin asked who was attending the 10/2 board meeting. Yould said he could provide a list of those attending.

Number 417

Rep. Martin noted, regarding a $9-million contract to a Japanese firm, that $570,000 was in advance. He asked if these monies had been authorized yet. Yould responded that they received bids to put in the submarine cable portion of Tyee. The Japanese firm was the lowest bidder. Insurance premiums have been provided for this portion of the program. Martin said this goes against the advertisement about keeping money in Alaska. He questioned

APA's procedure of insuring leased equipment but not insuring owned equipment, which would ensure that APA would get outside contractors because Alaskan contractors would own their equipment. Yould said this was to ensure that leased equipment would be insured. He said owned vehicled are already insured by the owner. Haywood said it was to insure items the owner has the greatest interest in. He said that owned equipment, vehicles, and aircraft are the contractor's responsibility. Martin said that was true, unless the contractor leases it. Haywood said to look at Tyee; they were concerned about someone grabbing a private plane or boat, crashing, and having no insurance. He said this could come back to the owner. Rep. Rogers said then it would make sense to rent or lease equipment, and that this would have an impact on future bids. He said there would be no reason to use one's own equipment, because the bid would be higher because of insurance on the equipment. Mueller disagreed, saying it would depend on the individual situation. Haywood said Tyee was not handled like a normal project. He said there was perhaps a valid concern regarding the conflict with competitive bid contracts. He referred to a companion program in place for contractors to use if they wished; the attorneys were not sure if insurance would affect low bids, so they elected to include subcontractors. He said they are not including aviation and watercraft coverage on future projects. There was discussion.

Number 597

Rep. Martin asked if the Japanese firm owned its equipment for cable laying. Haywood said it was leased on a time charter. Rep. Martin asked if the insurance covered them to and from the job. Haywood said it would cover marine exposure while bringing the cable to the jobsite.

Number 619

Rep. Bylsma questioned the length of the insurance contract. Haywood said there was no date because they were not sure when the exposure would end. Rep. Bylsma asked asked if they were insuring for the length of the program. Haywood said yes, that it was the same situation as when asking for a fixed price bid. He said change orders could increase or decrease the costs.

Number 654	Rep. Rogers said, regarding bids on various projects, that the difference between leased or owned equipment could make a difference in lowest bidder.
Number 678	Rep. Martin asked Mueller and Yould to clarify what legislation is needed to clarify this situation and make it legal. He said committee staff would prepare the opposite point of view. Yould said nothing precludes entering this type of program in Alaska. Vassar said the authority is broad enough under present law. Rep. Martin requested citation of specific authority. Vassar said nothing in the law expressly authorizes it; that it is general authority. There was discussion. Mueller said they asked many questions, wanting to clarify in their minds and ascertain if they had authority. There was more discussion.
Side B, Number 008	As Rep. Martin had announced that the hearing would be continued on Friday, April 2, and as there were no further witnesses wishing to testify, the meeting was adjourned at 3:35 p.m.

Absent:
Gardiner

4/2/82

Tape #

Mtg w/ APA & Dw. Risk Mgmt

12:58

000 Call to order. M said had opp to evaluate problem. Read stmt of committee's ~~position~~ position & presented CSSB 831, with addn making wrap up pgms illegal. Requested APA

027 Rogers moved to report CSSB 831 out. Discussion.
No obj, motion passed.

038 adjourned.
1:02

SIGN-IN SHEET (held) (APA)

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
JOHN HAYWOOD	JUNEAU	Risk MGT.	YES	465-2180
Aleen D. Shattuck	JUNEAU	SHATTUCK & GRUMMETT	YES	586-2414
Pat McCabe	Seattle	Cannon & Black	NO	5862300
Ben Kasdin	Juneau	Risk Mgmt	NO	465-2180
ERNIE Mueller	Juneau	ADEC/APA	Yes ?	465-2600

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 4/2/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		12:55	
Rep. D. Randolph	✓		12:56	
Rep. B. Rogers	✓		12:55	
Rep. T. Gardiner		✓		
Rep. T. Martin, Chair	✓		12:55	

Subject Matter:

House Bill No. _____ _____ _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

SB 831 SENATE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/04/82	01	0454	FIRST READING --- COMMITTEE REPORTS
03/18/82	02	0605	L&C --- DP04
03/22/82	03	0638	RLJ --- OTHER03
			TAKEN UP IMMEDIATELY
03/22/82	04	0643	SECOND READING
03/22/82	05	0643	ADVANCED TO 3RD READING BY UNAN CONSENT
03/22/82	06	0643	THIRD READING
03/22/82	07	0643	PASSED BY DIV 16-00-04
****	**	**	*** *** ***

SB 831 HOUSE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/22/82	08	0883	FIRST READING --- COMMITTEE REPORTS
04/02/82	09	1048	L&C --- DP04
04/02/82	10	1048	F/NOTE EQUALS ZERO
			RULES
			RULES
****	**	**	*** *** ***

4-5-82

HB 698

HB 705

HB 757

SB 535

Absent: Rogers Gardiner

4/5/82 H. Labor & Commerce Tape # 53

HB 698 SB 535
HB 705
HB 757

1: 39

000 Call to order

HB 757

010 Randolph moved CSHB 757 L&C out of comm, ind'l rec passed w/o obj.

HB SB 535

025 Martin into bill; explained background

037 Gordon Evans, Ely Bredes & Rudd; represent Multivisions, Anc — requested bill be held until Thursday so Bob Gould of multivisions cd testify.

Said HB 553 & SB 535 began as identical bills in Anc area, abt 4,000 illegal antennas; Multivisions losing ~$40,000/month. Handed out, Visions position stmt of abt bill. After the person who sells illegal antennas. Cited ltr from a man in AZ to man in Anc offering to sell antenna as example.

Explained how antennas work. Explained that they aren't after, prosecuting the people using illegal antennas, but those selling antennas. Pointed out that DA wd make decision abt that, though. Noted that it cd be up to a Class B felony to buy ~~pirate~~ pirate antenna. Said purchaser is committing theft of svcs, a misdemeanor. Again requested bill be held until Thurs. for Gould's testimony.

155 Discussion of bills.

198 Bill Barry presented analysis — this is already a crime, just isn't set out explicitly. Suggested amdmts to clarify law & address concerns.

225 Martin said Judiciary requested bill. ~~Said it was hel~~
Discussion of how to address provisions in bill.

CSSB 535 am

242 Randolph moved bill, be reported out w/ ind'l recmdn.
No objections, mo passed.

~~265~~ Brought HB 698 & HB 795 before comm for taking testimony.
HB 698 & HB 795

270 Paul Arnoldt, Dir, Div Retirent & Benefits
Explained that each bill addresses. Gave background on how bills came abt, & bill history. Discussion of bills, other legislation dealing w/ same areas, & fiscal notes.
Arnoldt felt CS SB 813 was better bill than the rest.

365 Discussion of arrearages, & funding of retirement system. Approx 80% funded; 20% unfunded is amortized over 20 yrs.

395 Bylsma suggested holding bills over until HB 813 is in committee.

403 Bob Cooksey, NEA Alaska – encouraged taking body of SB ~~HB~~ 813 & incorporating it into a CS for one of the other bills. Explained SB ~~HB~~ 813 & left cy of bill. Encouraged moving bill.

445 Arnoldt offered comm sectional analysis of bills.

452 Bob Greene, Ak School Bds assoc – tends to agree w/ prior testimony that emphasis shd be on SB ~~HB~~ 813; explained his reasoning. School Bd's concern is primarily w/ fiscal impact. Prefer to see bill that includes employee contr & phase in of benefits over period of time.

495 Martin commented on fiscal notes. Greene made recommendn on manner of pymt. Wanted consideration for future yr funding. Suggested 2 plans

555 Tended to favor 3-way variable equal split of costs, based on actuarial need in order to keep demands on system down. Greene agreed. Cooksey felt there was a need to deal w/ cost, but felt it wd ~~need~~ be dealt w/ at bargaining table.

605 Martin said he'd speak w/ other members & staff, & wd combine bills; also, that he'd requested unan. referral of SB 813 to HESS, rather than to L&C.

Discussion.

2:20

641 Adjourned

SIGN-IN SHEET SB 535

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
GORDON EVANS	Ely, Guess & Rudd Mendenhall Bldg Suite A	MultiVisions	Yes	SB-3210

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

SIGN-IN SHEET

HB 698 & HB 705

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
PAUL B. HENDERT	10TH FLOOR SOB	ADMINISTRATION	YES	465-4460
Bob Cooksey	JNU	NSA - Alaska	Yes	586-3090
BOB GREENE	JNU	AASB	Yes	586-1083

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

SB 535 TITLE & SPONSOR SUMMARY 09:19 4/06/82 PAGE 1 OF 3
AMENDED TITLE: CSSB 535(JUD)AM
AN ACT RELATING TO THE CRIMINAL LAWS OF THE STATE

PRIME SPONSOR: SENATE RULES COMMITTEE
CO-SPONSORS:
CURRENT STATUS: 3/29/82 IN (H) LABOR & COM REFERRAL: JUDICIARY

SB 535 SENATE ACTION 09:19 4/06/82 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/01/81	01	0929	FIRST READING -- COMMITTEE REPORTS
03/01/81	02	0929	GOV TRANSMITTAL LETTER
03/01/81	03	0929	GOV ZERO F/NOTE
03/17/82	04	0590	JUD -- CS01, NR03
03/25/82	05	0682	RLS -- OTHER03
			TAKEN UP IMMEDIATELY
03/25/82	06	0685	POSTPONED UNTIL 03/26/82 BY UNAN CONSENT
03/31/82	17	1006	L&C CMTE REFERRAL ADDED
03/26/82	07	0697	SECOND READING
03/26/82	08	0697	JUD CS ADOPTED BY UNAN CONSENT
03/26/82	09	0697	POSTPONED UNTIL 03/29/82 BY UNAN CONSENT
03/29/82	10	0715	AM01 WITHDRAWN
03/29/82	11	0715	AM02 ADOPTED BY UNAN CONSENT
03/29/82	12	0716	AM03 ADOPTED BY UNAN CONSENT
03/29/82	13	0716	ADVANCED TO 3RD READING BY UNAN CONSENT
03/29/82	14	0716	THIRD READING
03/29/82	15	0716	PASSED BY DIV 12-05-03
****	**	**	*** *** ***

SB 535 HOUSE ACTION 09:19 4/06/82 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/29/82	16	0959	FIRST READING -- COMMITTEE REPORTS
03/31/82	18	1006	L&C CMTE REFERRAL ADDED
			LABOR & COMMERCE
			JUDICIARY
			RULES
****	**	**	*** *** ***

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 4/5/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:38	
Rep. D. Randolph	✓		1:34	2:00
Rep. B. Rogers				
Rep. T. Gardiner				
Rep. T. Martin, Chair	✓		1:37	

Subject Matter:

House Bill No. 698 705 _____ _____ _____

Senate Bill No. 535 _____ _____ _____ _____

Special Orders:

4-6-82

HB 203

HB 831

SB 746

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

To: All Interested Parties
From: Terry Martin, Chairman
House Labor & Commerce Committee
Date: March 18, 1982
Subject: HB 703

As I trust you are interested in legislation which will impact the communications media in the state of Alaska, I want you to be aware that HB 703, which deals with the use of communications media under the Administrative Procedure Act, will be heard by this committee on April 6 at 1:00 p.m. PST.

I have enclosed a copy of the workdraft committee substitute for HB 703 for your review. If you wish to comment, please send your testimony to the House Labor & Commerce Committee at Pouch V, Juneau 99811. You may also testify in person, if you so desire. (This hearing will not be teleconferenced.)

If you have questions or would like further information, don't hesitate to contact me.

Sincerely,

Terry Martin

Terry Martin, Chairman
House Labor & Commerce Committee

jfm

Absent: Rogers. Gardiner

4/6/82 HB ~~703~~ 703 HB 831 SB 746

Tape # ~~55~~ 55

1:05

000 Call to order

SB 746

010 ~~655~~ — Martin explained bill

020 ~~655~~ Randolph moved to report CS SB 746 (Fin) bill out; no obj, so passed.

HB 703

026 ~~667~~ — Martin explained bill

032 ~~653~~ ~~Jacobs~~ Stewart Brown, pres, Telelink — supported CS HB 703. They have been promoting telecon'g as alternative to mtgs. HB 703 will clarify when telecon'g & mtg is legal for comms, bds, & state agencies.

049 ~~6684~~ Joanne Joan Clark, Dept H&SS — Dept has put out posn paper on orig bill — strongly support bill & CS. Feel it will allow them to hold mtgs in more effective & cost efficient way.

063 ~~6635~~ Bylsma moved to report out.

HB 831

068 ~~6635~~ ~~Stuart~~ ~~Cop~~ brought bill before committee. Discussion of bill. Northrip presented copy of his prev testimony.

Charlie Northrip & Scott Plummer

N — 1) inappropriate to combine pub bdes & ty

d) action might be premature when ED 50 does than yr old.

Plummer agreed.

104 ~~6635~~ Randolph moved bill not be reported out. No action taken.

109 ~~7884~~ Adjourned 1:14

645 = 000

661	684	698	703
635	635	635	635
26	49	63	68

739
635
104

SB 746 SENATE ACTION

DATE	SEQ	PAGE
02/11/82	01	0267
03/02/82	02	0421
03/11/82	03	0529
03/12/82	04	0555
03/12/82	05	0557
03/12/82	06	0557
03/12/82	07	0558
03/12/82	08	0558
03/12/82	09	0558
03/12/82	10	0558
****	**	**

SB 746 HOUSE ACTION

DATE	SEQ	PAGE
03/15/82	11	0793
04/06/82	12	1125
04/06/82	13	1125
****	**	**

LEGISLATIVE ACTION

FIRST READING -- COMMITTEE REPORTS
L&C -- DP03
FIN -- CS05
RLS -- OTHER03
TAKEN UP IMMEDIATELY

SECOND READING
FIN CS ADOPTED BY UNAN CONSENT
ADVANCED TO 3RD READING BY UNAN CONSENT

THIRD READING
PASSED BY DIV 16-01-03
EFFECTIVE DATE VOTE SAME AS PASSAGE

*** *** ***

LEGISLATIVE ACTION

FIRST READING -- COMMITTEE REPORTS
L&C -- DP01, NR02
F/NOTE HSE SUPPL #37
FINANCE
RULES

*** *** ***

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 4/6/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:04	
Rep. D. Randolph	✓		1:05	
Rep. B. Rogers		✓		
Rep. T. Gardiner		✓		
Rep. T. Martin, Chair	✓		12:55	

Subject Matter:

House Bill No. 703 831 _____ _____ _____

Senate Bill No. 746 _____ _____ _____ _____

Special Orde.s:

SIGN-IN SHEET

HB 703

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Joanne C. Clark	Pouch H-09, Juneau, AK 99811	Health + Social Services	yes	465-3331
S Plummer	Juneau	DW Tel Services	no	" 2041
Stewart Brown	Tele Inc.			

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

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I have enclosed a copy of the workdraft committee substitute for HB 703 for your review. If you wish to comment, please send your testimony to the House Labor & Commerce Committee at Pouch V, Juneau 99811. You may also testify in person, if you so desire. (This hearing will not be teleconferenced.)

If you have questions or would like further information, don't hesitate to contact me.

Sincerely,

Terry Martin

Terry Martin, Chairman
House Labor & Commerce Committee

jfm

4-7-82

SB552

SB648

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
April 7, 1982
1:13 p.m.

Members Present: Rep. Martin, Chairman
Rep. Randolph
Rep. Rogers

Members Absent: Rep. Bylsma, Vice Chairman
Rep. Gardiner

COMMITTEE CALENDAR

SB 552 — An Act exempting certain child care workers from the Alaska Wage and Hour Act.

SB 648 — An Act relating to workers' compensation coverage of certain persons providing community work service.

WITNESS REGISTER

Patrick Conheady, Director
Pretrial Services
Department of Law
Pouch KT
Juneau, Alaska 99811
465-3678
Position Statement: Explained and supported CSSB 648 (L&C).

Bev Koski
Division of Risk Management
Pouch C
Juneau, Alaska 99811
465-2180
Position Statement: Explained state's current workers compensation position.

Judy Knight
Department of Labor
Box 1149
Juneau, Alaska 99811
465-2700
Position Statement: Explained purpose of CSSB 648 (L&C).

PREVIOUS ACTION

SB 552 — Senate Action: First reading 5/6/81.
Reported from Labor & Commerce 5/28/81.
Reported from Finance 3/18/82, with zero

fiscal note. Reported from Rules 3/22/82; taken up immediately. Finance committee substitute adopted by unanimous consent in second reading 3/22/82. Passed third reading 3/22/82.

House Action: First reading 3/22/82; assigned to Labor & Commerce.

Statutory Reference: AS 23.10.055

Action Taken: CSSB 552 (Fin) reported out of committee.

SB 648

Senate Action: First reading 1/12/82. Reported from Labor & Commerce 2/11/82. Reported from Rules 2/17/82; taken up immediately. Recommitted to Labor & Commerce by unanimous consent 2/17/82. Reported from Labor & Commerce 3/18/82. Reported from Rules 3/22/82; taken up immediately. Labor & Commerce committee substitute adopted by unanimous consent in second reading 3/22/82. Passed third reading 3/22/82.

House Action: First reading 3/22/82; assigned to Labor & Commerce.

Statutory Reference: AS 23.30

Action Taken: Amended; committee substitute adopted; HCS CSSB 648 (L&C) reported out of committee, with Finance referral requested.

ACTION NARRATIVE

Tape #56
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:13 p.m. Members present were: Representatives Martin, Rogers, and Randolph. Representatives Bylsma and Gardiner were absent. Rep. Zharoff attended the meeting. Rep. Martin brought CSSB 648 (L&C) before the committee.

Number 010

Pat Conheady, director of Pretrial Services, Department of Law, said the bill was aimed at correcting problems encountered in community work service. He referred to letters he had given to the committee. He explained the problem the bill addresses,

and how this bill will correct the situation by defining those performing community work service at the direction of the state as employees of the state for purposes of workers compensation.

Number 042

There was discussion. Rep. Martin asked about the fiscal note. Conheady said a fiscal note would be extremely speculative, as it would be difficult to project costs. There was discussion of what type of work is performed, and by whom. Rep. Randolph was concerned that, as 2,000 people had worked over 50,000 hours with no workers compensation claims; he was concerned that making workers compensation available would encourage claims. There was discussion. rep. Randolph asked exactly what could be claimed--whether it was just medical expenses, or if it would include wages and dependents coverage. Conheady referred the question to Judy Knight.

Number 177

Bev Koski of the Division of Risk Management explained the state's current workers compensation position. There was discussion of who uses voluntary work.

Number 235

Judy Knight, Department of Labor, said she had worked with the Department of Law on drafting of the bill. She said the main purpose of the bill is to provide offenders and pretrial individuals with more places to do community work service. She said the purpose of the bill is to limit the liability an employer would accrue in order to encourage more employers to take part in community work service programs. Knight said they had modeled this bill after a bill introduced to cover high school students in work study programs. She saw the bill reducing the state's liability, as it would limit the liability to workers compensation. There was discussion of liability.

Number 311

Conheady explained how post-conviction work service works. Rep. Rogers was concerned about attempts by people to get a workers compensation claim for the income. There was discussion of this aspect of potential abuses. Rep. Randolph asked if other approaches had been considered. There was discussion. Rep. Rogers said he would be more comfortable with workers compensation

covering medical expenses, and the tort system for wages. There was discussion of alternatives.

Number 450 — Jeff Barry, committee aide, said that these people are not employees, so there is a question of their right to sue. He referred to a statute which sets out liability. Conheady disagreed with Barry's analysis, and went over case law regarding third parties.

Number 525 — Rep. Rogers moved that sections 1 and 2 be replaced with sections limiting compensation to medical expenses only, with language to be drafted by the legislative lawyers. There was discussion. The motion passed without objection.

Number 645 — Rep. Rogers moved, lines 6 and 7, to delete the language, "of certain persons providing community work service.", so that the title of the bill would read, "An Act relating to workers' compensation coverage.", and to add to the end of the bill the body of CSHB 159 (Fin). There was objection, and discussion. On the question: for--Rogers, Martin; opposed--Randolph. Motion carried.

Number 698 — Rep. Rogers moved to report HCS CSSB 648 (L&C) out of committee. Motion passed without objection.

Number 700 — Rep. Rogers moved to request an additional committee referral (to Finance committee). Motion passed without objection.

Side B, Number 000 — Rep. Rogers moved to report CSSB 552 (Fin) out of committee. There being no objection, the motion carried.

Number 010 — As there was no further business to come before the committee, the meeting was adjourned.

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
April 8, 1982
1:14 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph

Members Absent: Rep. Gardiner
Rep. Rogers

COMMITTEE CALENDAR

SB 548 — An Act relating to the Medical Indemnity Corporation of Alaska (AS 21.88).

SB 611 — An Act revising the criminal penalties for unlawful operation of an aircraft.

WITNESS REGISTER

Don Koch, Chief
Market Surveillance Section
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2577
Position Statement: Supported CSSB 548; gave background and explained bill.

William G. Brock
Medical Indemnity Corporation of Alaska (MICA)
1700 Angus Way
Juneau, Alaska 99801
586-3656
Position Statement: Explained need for bill.

PREVIOUS ACTION

SB 548 — Senate Action: First reading 5/5/81. Reported from Labor & Commerce 1/27/82. Reported from Finance 3/17/82. Reported from Rules 3/18/82; taken up immediately. Recommitted to Rules by unanimous consent 3/18/82. Reported back out from Rules 3/22/82; taken up immediately. Finance committee substitute adopted in second reading by unanimous consent 3/22/82. Advanced to third reading and passed third reading 3/22/82.

House Action: First reading 3/22/82; referred to Labor & Commerce.

Statutory Reference: AS 21.88; Sections 1 and 21(b), ch. 177, SLA 1978.

Action Taken: CSSB 548 (Fin) reported out of committee.

SB 611

Senate Action: First reading 1/11/82. Reported from Labor & Commerce 2/9/82. Reported from Judiciary 2/25/82. Reported from Rules 3/1/82; taken up immediately. Passed second reading 3/2/81; advanced to third reading and passed 3/1/82.

House Action: First reading 3/1/81. Labor & Commerce Committee referral added 3/5/82.

Statutory Reference: AS 02.30.040; AS 02.35.120

Action Taken: Bill reported out with individual recommendations.

ACTION NARRATIVE

Tape #57
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:14 p.m. Members present were: Representatives Martin, Bylsma, and Randolph. Representatives Rogers and Gardiner were absent. Rep. Martin announced Rep. Randolph's upcoming birthday.

Number 017

Rep. Martin brought CSSB 548 before the committee for consideration.

Number 022

Don Koch, Division of Insurance, supported the bill. He gave background and explained what the bill does. He said: 1) it changes the makeup of the board of governors of MICA; 2) dates in the law are now obsolete, so these were removed, and provided that coverage for prior periods should be available under certain conditions for a fee; 3) language would permit writing general liability coverages at the discretion of the director; and, 4) the bill deals with the director's ability to lower, remove, or reinstate assessments.

Number 084	William Brock, member of the board of governors and legislative committee member of MICA, explained assessability. He said there is also a provision allowing them to insure institutions (not doctors or hospitals) which provide care under the direction of medical doctors if the direction of the Division of Insurance thinks it appropriate. He cited examples (eg, Alaska Treatment Center in Anchorage).
Number 145	Rep. Bylsma moved to report CSSB 548 (Fin) out of committee. There being no objection, the motion passed.
Number 150	Rep. Martin then brought SB 611 before the committee. He gave background on the bill. There was discussion.
Number 188	Jeff Barry, committee aide, reported progress on the Alaska Power Authority investigation. He went over a list of legislative subpoenas needed, and the reasons for the subpoenas. There was discussion of the need for subpoenas.
Number 223	Rep. Randolph moved that subpoenas be prepared. There was discussion. There being no objection, the motion passed.
Number 231	Rep. Bylsma moved that SB 611 be reported out of committee, with individual recommendations. There being no objection, the motion passed.
Number 241	As there was no further business to come before the committee, the meeting was adjourned.

Absent: Bylsma Gardiner

4/7/82 H. Labor & Commerce Tape # 56

SB 552
SB 648 Zharoff here

1:13

000 Call to order
CSSB 648 (L&C) Conheady
010 Pat ~~Conedy~~, dir pretrial svcs, dept law — aimed at correcting probs encountered in comm wk svc. Referred to ltrs he had given committee. Explained problem bill addresses & how this will correct situ by defining those performing comm wk svc at the direction of the state, as an employee of the state for purposes of wkrs comp.
042 Discussion. Martin asked abt f/n — Conedy said a f/n wd be extremely speculative — difficult to project costs. Discussion of what type of work is performed, & by whom. Randolph was concerned, as 2.000 people had wkd over 50,000 hrs w/no claims, he was concerned that making W/C available wd encourage claims. Discussion.
Rep. Randolph asked exactly what cd be claimed — whether it was just medical expenses, or if it wd include wage & dependents coverage. Conedy deferred the q's to Judy Knight.
177 Bev ~~Kosky~~ Koski, Div Risk Mgmt — explained ~~state's~~ current w/c position.
There was discussion of who uses voluntary work.
235 Judy Knight, DOC — wkd w/Law Dept on drafting of bill. Main purpose of bill is to provide offenders & pretrial inmates w/more places to do community wk svc. Purp of bill is to limit liability employer wd accrue.

Modeled after bill int'd to cover high school students in work study pgms. She sees bill reducing State's liability, as it limits liability to W/C. Discussion of liability.

311 Conedy ~~said post-conviction people~~ explained how post-conviction wk svc works. Rogers was concerned abt attempt by a person to get a W/C claim for income. There was discussion of this aspect of potential abuses. Randolph asked if other approaches had been considered. Discussion. Rogers said he'd be more comfortable w/ comp medical & lost wage. Discussion of alternatives.

~~450~~ ~~445~~ Barry – 1) These are not employees, so there is question of right to sue. He referred to a statute which ~~said~~ sets ~~State or employer as far~~ out liability. Conedy disagreed w/ Barry's analysis; went over case law regarding third parties.

525 Rogers moved, secs 1 & 2 be replaced w/ sections limiting comp to medicals (expenses) only. Discussion. Passed W/O obj.

645 Rog- l. 6 & 7, delete lang. & insert "of certain... wk svc." (to end of bill body of) Fin CS HB 159. Objection. Discussion.

Vote: for, Rogers Martin oppd Rand passed.

698 Rogers moved to report CS out; passed.

700 " " " add Fin referral. Discussion. Passed.

Side B

000 Rog moved to report CSSB 552 (Fin) out of comm.
No obj, so passed.

010 adjourned

DATE	SEQ	PAGE	LEGISLATIVE ACTION
05/06/81	01	0978	FIRST READING -- COMMITTEE REPORTS
05/28/81	02	1237	L&C -- CS03
03/18/82	03	0603	FIN -- CS04
03/18/82	04	0603	F/NOTE EQUALS ZERO
03/22/82	05	0638	RLS -- OTHER03
			TAKEN UP IMMEDIATELY
03/22/82	06	0641	SECOND READING
03/22/82	07	0641	FIN CS ADOPTED BY UNAN CONSENT
03/22/82	08	0641	ADVANCED TO 3RD READING BY UNAN CONSENT
03/22/82	09	0641	THIRD READING
03/22/82	10	0642	PASSED BY DIV 16-00-04
****	**	**	*** *** ***

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/22/82	11	0885	FIRST READING -- COMMITTEE REPORTS
04/07/82	12	1173	L&C -- DP01, NR02
			FINANCE
			RULES

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 4/7/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair				
Rep. D. Randolph	✓		1:12	
Rep. B. Rogers	✓		1:12	
Rep. T. Gardiner				
Rep. T. Martin, Chair	✓		1:00	

Subject Matter:

House Bill No. _____ _____ _____ _____ _____

Senate Bill No. 552 648 _____ _____ _____

Special Orders:

SIGN-IN SHEET

SB 552

Name (please print.)	Address	Representing	Testify? (YES or NO)	Phone Number
Dale Cheek		Dept of Labor	Yes	4870
Ref 3/16, OFF			Yes	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

SB 648

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Judy Knight	Box 1149 Juneau AK	AK Dept of Labor	if necessary	2700
~~Robert Thresh~~	~~Box 0330 Juneau AK 99802~~	~~AK Dept of Labor~~	~~SB 55~~	~~465-2700~~
PATRICK CONNEADY	POUCH KT	DEPT. of LAW	YES	3678 ~~2700~~
Bev Kosh	POUCH C	Div of Risk Mgt	~~if~~ necessary	2180

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

4-8-82

SB548

SB611

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
April 8, 1982
1:14 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph

Members Absent: Rep. Gardiner
Rep. Rogers

COMMITTEE CALENDAR

SB 548 — An Act relating to the Medical Indemnity Corporation of Alaska (AS 21.88).

SB 611 — An Act revising the criminal penalties for unlawful operation of an aircraft.

WITNESS REGISTER

Don Koch, Chief
Market Surveillance Section
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2577
Position Statement: Supported CSSB 548; gave background and explained bill.

William G. Brock
Medical Indemnity Corporation of Alaska (MICA)
1700 Angus Way
Juneau, Alaska 99801
586-3656
Position Statement: Explained need for bill.

PREVIOUS ACTION

SB 548 — Senate Action: First reading 5/5/81. Reported from Labor & Commerce 1/27/82. Reported from Finance 3/17/82. Reported from Rules 3/18/82; taken up immediately. Recommitted to Rules by unanimous consent 3/18/82. Reported back out from Rules 3/22/82; taken up immediately. Finance committee substitute adopted in second reading by unanimous consent 3/22/82. Advanced to third reading and passed third reading 3/22/82.

House Action: First reading 3/22/82; referred to Labor & Commerce.

Statutory Reference: AS 21.88; Sections 1 and 2(b), ch. 177, SLA 1978.

Action Taken. CSSB 548 (Fin) reported out of committee.

SB 611

Senate Action: First reading 1/11/82. Reported from Labor & Commerce 2/9/82. Reported from Judiciary 2/25/82. Reported from Rules 3/1/82; taken up immediately. Passed second reading 3/2/81; advanced to third reading and passed 3/1/82.

House Action: First reading 3/1/81. Labor & Commerce Committee referral added 3/5/82.

Statutory Reference: AS 02.30.040; AS 02.35.120

Action Taken: Bill reported out with individual recommendations.

ACTION NARRATIVE

Tape #57
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:14 p.m. Members present were: Representatives Martin, Bylsma, and Randolph. Representatives Rogers and Gardiner were absent. Rep. Martin announced Rep. Randolph's upcoming birthday.

Number 017

Rep. Martin brought CSSB 548 before the committee for consideration.

Number 022

Don Koch. Division of Insurance, supported the bill. He gave background and explained what the bill does. He said: 1) it changes the makeup of the board of governors of MICA; 2) dates in the law are now obsolete, so these were removed, and provided that coverage for prior periods should be available under certain conditions for a fee; 3) language would permit writing general liability coverages at the discretion of the director; and, 4) the bill deals with the director's ability to lower, remove, or reinstate assessments.

Number 084 — William Brock, member of the board of governors and legislative committee member of MICA, explained assessability. He said there is also a provision allowing them to insure institutions (not doctors or hospitals) which provide care under the direction of medical doctors if the direction of the Division of Insurance thinks it appropriate. He cited examples (eg, Alaska Treatment Center in Anchorage).

Number 145 — Rep. Bylsma moved to report CSSB 548 (Fin) out of committee. There being no objection, the motion passed.

Number 150 — Rep. Martin then brought SB 611 before the committee. He gave background on the bill. There was discussion.

Number 188 — Jeff Barry, committee aide, reported progress on the Alaska Power Authority investigation. He went over a list of legislative subpoenas needed, and the reasons for the subpoenas. There was discussion of the need for subpoenas.

Number 223 — Rep. Randolph moved that subpoenas be prepared. There was discussion. There being no objection, the motion passed.

Number 231 — Rep. Bylsma moved that SB 611 be reported out of committee, with individual recommendations. There being no objection, the motion passed.

Number 241 — As there was no further business to come before the committee, the meeting was adjourned.

Absent: Rogers Gardiner

SB 548
SB 611

4/8/82
H. Labor & Commerce

Tape # 57

1:14

000 Call to order. Announced Randolph's b/d.

017 CS SB 548

022 Don Koch - supported bill; gave background & explained what bill does.

1) chngs makeup of bd of governors of MICA

2) dates in law are now obsolete; these were removed, & coverage for prior periods shd be avail under certain condns for a fee

3) lang wd permit writing gen'l liability coverages at discretion of director

4) deals w/director's ability to lower, remove, or reinstate assessments.

084 William Brock, member of bd of governors & on legislative committee of MICA. Explained assessibility. Said there is also provn allowing them to insure institutions (not drs or hospitals) which provide care under direction of medical doctors if dir of div of insurance thinks it appropriate. Cited examples (eg, AK Treatment Ctr in Anc).

145 Bylsma moved to report CSSB 548 out. No obj, so passed.

150 SB 611 brought before comm. Martin gave background. Discussion.

188 Barry reported progress on APA investigation. Went over list of legislative subpoenas needed, & reasons for subpoenaes. Discussion of need for subpoenaes.

003 Randolph moved subpoenas be prepared. Discussion. No obj, passed

231 Bylsma moved HB611 be reported out w/ind rec. No obj, so passed.

241 Adjourned.

~~SB 548~~ SB 548

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
William G. Brock	1700 Aygus Way, Juneau	MICA	if needed	586-3656
DENNIS DEWITT	319 SEWARD CT "	AK Hospital Assoc	if needed	586-1790
DON KOCH	POUCH D 99811	DIV OF INSURANCE	YES	465 2377

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

SB 611 SENATE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/11/82	01	0005	FIRST READING -- COMMITTEE REPORTS
02/09/82	02	0236	L&C -- DP02, NR01
02/25/82	03	0388	JUD -- DP03
03/01/82	04	0411	RLS -- OTHER04
			TAKEN UP IMMEDIATELY
03/01/82	05	0412	SECOND READING
03/01/82	06	0412	ADVANCED TO 3RD READING BY UNAN CONSENT
03/01/82	07	0412	THIRD READING
03/01/82	08	0412	PASSED BY DIV 17-00-02
****	**	**	*** *** ***

SB 611 HOUSE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/01/81	09	0631	FIRST READING -- COMMITTEE REPORTS
03/05/82	10	0701	L&C CMTE REFERRAL ADDED
04/12/82	11	1228	L&C -- DP02, DNP01, OTHER01
			JUDICIARY
			RULES

DATE	SEQ	PAGE	LEGISLATIVE ACTION
05/05/81	01	0959	FIRST READING -- COMMITTEE REPORTS
01/27/82	02	0130	L&C -- CS03, NR01
03/17/82	03	0590	FIN -- CS05
03/18/82	04	0606	RLS -- OTHER03
			TAKEN UP IMMEDIATELY
03/18/82	05	0608	RECOMMITTED TO RLS BY UNAN CONSENT
03/22/82	06	0638	RLS -- OTHER03
			TAKEN UP IMMEDIATELY
03/22/82	07	0640	SECOND READING
03/22/82	08	0640	FIN CS ADOPTED BY UNAN CONSENT
03/22/82	09	0640	ADVANCED TO 3RD READING BY UNAN CONSENT
03/22/82	10	0640	THIRD READING
03/22/82	11	0641	PASSED BY DIV 16-00-04
****	**	**	*** *** ***

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/22/82	12	0885	FIRST READING -- COMMITTEE REPORTS
04/12/82	13	1229	L&C -- DP03
04/12/82	14	1228	F/NOTE EQUALS ZERO
			FINANCE
			RULES

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 4/8/87 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:14	
Rep. D. Randolph	✓		1:08	
Rep. B. Rogers				
Rep. T. Gardiner				
Rep. T. Martin, Chair	✓		1:08	

Subject Matter:

House Bill No. _____ _____ _____ _____ _____

Senate Bill No. 548 611 _____ _____ _____

Special Orders:

4-15-82

SB 752

SCR 46

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
April 15, 1982
2:05 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph
Rep. Rogers

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

SCR 46 — Relating to Small Business Week.

SB 752 — An Act relating to savings associations; and providing for an effective date.

WITNESS REGISTER

Eddie Turner, President
Peninsula Savings & Loan
Pouch 1000
Soldotna, Alaska
262-9166
Position Statement: Explained what SB 752 does.

Tom Lusk
Chief Bank Examiner
Division of Banking & Securities
Juneau, Alaska 99811
465-2521
Position Statement: Said SB 752 is cleanup legislation.

Dave Grey
Rainier Bank Corporation
no address or phone given
Position Statement: Requested SB 752 be held over for additional testimony.

Jim Hackett, Chairman
Legislative Affairs Committee
Alaska Banking Association
645 G Street
Anchorage, Alaska
349-1675
Position Statement: Explained how SB 752 would work, and compared it to existing statutes.

PREVIOUS ACTION

SCR 46	Senate Action: First reading 3/15/82. Moved from Labor & Commerce to Rules by unanimous consent 3/29/82. Reported from Rules 3/30/82. Taken up immediately 3/30/82; passed second and third readings 3/30/82. House Action: First reading 3/31/82. Assigned to Labor & Commerce. Statutory Reference: None. Action Taken: Reported out of committee with unanimous do-pass recommendation.
CS SB 752 (L&C) am	Senate Action: First reading 2/11/82. Reported from Labor & Commerce 3/9/82. Reported from Rules 3/24/82; taken up immediately. Advanced to second reading 3/24/82. Labor & Commerce committee substitute adopted by unanimous consent 3/24/82. Postponed until 3/25/82 by unanimous consent. Amended, advanced to third reading, and passed 3/25/82, effective date vote same as passage. House Action: First reading 3/26/82. Assigned to Labor & Commerce. Statutory Reference: AS 06.30 Action Taken: Amended; further action postponed to 4/19/82.

ACTION NARRATIVE

Tape #58 Recording Number 000	The meeting was called to order by Chairman Martin at 2:05 p.m. Members present were: Representatives Bylsma, Martin, Randolph, and Rogers. Rep. Gardiner was absent.
Number 010	Rep. Randolph moved to report SCR 46 out of committee with unanimous do-pass recommendation. There being no objection, the motion passed.
Number 016	Rep. Martin introduced CS SB 752 (L&C) am.
Number 021	Eddie Turner, president of Peninsula Savings & Loan of Soldotna, said the bill pertains only to savings and loans. He said his is

asked about the rest of the sections. Grey said the rest refer to commercial banks, but Section 4 refers only to savings and loans. There was discussion of what the proposed committee substitute does, and the committee went over the changes. Rep. Bylsma asked what eliminating sections does to the bill; Grey explained.

Number 363 — Rep. Rogers questioned Grey's opposition to the new Section 4. Grey explained it would allow direct purchase of a bank, which is not part of interstate banking. He suggested a change.

Number 402 — Rep. Martin asked Lusk to have his division evaluate the proposed committee substitute over the weekend.

Number 409 — Jim Hackett, chairman of the legislative affairs committee, Alaska Bankers Association, explained how the bill would work and compared it to current statutes. He elaborated on related federal laws. Rep. Rogers asked if this would allow savings and loans to become holding companies to purchase banks. Hackett explained. He felt the provision was unnecessary. There was discussion.

Number 505 — There was discussion of various provision in the bill.

Number 527 — Rep. Martin said action would be postponed until the committee meeting on 4/29/82. Jeff Barry, committee aide, commented on how the bill could be changed. Rep. Martin said he felt uncomfortable about piggybacking bills. The issue was postponed until 1:00 Monday.

Number 556 — Rep. Martin brought the committee up to date on proceedings in the Alaska Power Authority investigation. This was discussed. Barry explained what is being done on the Terror Lake project. There was discussion of the fiscal note submitted by Haywood, Division of Risk Management.

Number 728 — Rep. Rogers moved a letter be sent to Speaker Hayes regarding confirmation of the governor's appointments, saying that no member had expressed opposition to the appointments, but that members reserved the

right to vote otherwise. He suggested looking at similar letters sent by Senate committees. There was discussion. Rep. Rogers asked unanimous consent. There being no objection, the motion passed.

Side B, Number 011 There being no further business to come before the committee, the meeting was adjourned at 2:50 p.m.

SB 752 SENATE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/11/82	01	0268	FIRST READING -- COMMITTEE REPORTS
03/09/82	02	0493	L&C -- CS02, NR02
03/24/82	03	0669	RLS -- OTHER03
			TAKEN UP IMMEDIATELY
03/24/82	04	0671	SECOND READING
03/24/82	05	0671	L&C CS ADOPTED BY UNAN CONSENT
03/24/82	06	0671	POSTPONED UNTIL 03/25/82 BY UNAN CONSENT
03/25/82	07	0685	AM01 ADOPTED BY UNAN CONSENT
03/25/82	08	0685	ADVANCED TO 3RD READING BY UNAN CONSENT
03/25/82	09	0685	THIRD READING
03/25/82	10	0685	PASSED BY DIV 20-00-00
03/25/82	11	0686	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** *** ***

SB 752 HOUSE ACTION

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/26/82	12	0922	FIRST READING -- COMMITTEE REPORTS
			LABOR & COMMERCE
			RULES
****	**	**	*** *** ***

SCR 46 SENATE ACTION

LEGISLATIVE ACTION

DATE	SEQ	PAGE	
03/15/82	01	0575	FIRST READING -- COMMITTEE REPORTS
03/29/82	02	0721	MOVED FROM L&C TO RLS BY UNAN CONSENT
03/30/82	03	0729	RLS -- OTHER03
			TAKEN UP IMMEDIATELY
03/30/82	04	0734	SECOND READING
03/30/82	05	0734	PASSED BY DIV 19-00-01
****	**	**	*** *** ***

SCR 46 HOUSE ACTION

LEGISLATIVE ACTION

DATE	SEQ	PAGE	
03/31/82	06	0982	FIRST READING -- COMMITTEE REPORTS
04/15/82	07	1302	L&C -- DP04
			RULES
			RULES
****	**	**	*** *** ***

Absent:

SB 752 H. Labor & Commerce Tape # 58
~~SB~~ SCR 46

2: 05

000 Call to order.

010 Rand moved to report SCR 46 out w/ unan do pass. No obj, passed.

016 Int'd CS SB 752 (L&C) am

021 Eddie Turner, pres Peninsula Savings & Loan. Pertains only to savings & loans - his outfit is the only one in the state. Explained what bill does.

054 Bylsma asked if he was only ~~savs~~ S & L. He said only state chartered S & L. Randolph gotned ~~provision~~ ~~etc~~ wording of line 9, p. 2, "his" sponse.
~~Randolph moved~~ Discussion of how to word this.

078 Rand moved to chng to "his or her". Passed w/o obj.

085 Tom Lusk, chief bank examiner, Dev of Banking & Securities - bill is cleanup legislation to let state chartered S & Ls to act in parity w/ fed'l counterparts

102 Dave Grey, Rainier Bank Corp - asked committee to hold bill over until Monday for further testimony. Said if C & C wanted to move favorably on interstate gotn, sections pertaining to loans would have to be deleted.

145 ~~140~~ Rogers ~~Sp~~ recalled similar bills from prev yrs - felt chng in bill title wd allow both interstate banking & savings issues to be combined. Discussion.

184 Bylsma had gotns on what wd need to be deleted. Grey passed out cys of ~~out~~ his prop'd CS ~~Change~~ & explained ~~his pp~~ what he referred to as the savings interstate banking bill in Senate L & C. Said he wanted a full blown hearing with public participation.

242 Randolph said issue has been substantially discussed in the legislature. Favored a hrg early next week.

252 Rogers urged CS include sections 4-7 of original bill. He wd oppose interstate banking if it wiped out any portion of orig bill. Grey said Berries recommended changes as law might be challenged otherwise.

277 Eddie Turner said re interstate banking bill, that sec 4 had been added & ~~opposed~~ that it said they cd purchase a bank. He opposed that portion. Did not object to Senate banking bill. ~~Boylsma~~ asked abt rest of the sections. Grey said the rest refer to commercial banks, but sec 4 refers only to S&Ls. Discussion of what the prop'd CS does. Went over ~~bills~~ changes. Boylsma asked what eliminating sections does to bill; Grey explained.

363 Rogers questioned Grey's opinion to new section 4. ~~Mr~~ Grey explained it wd allow direct purchase of a bank, which is not part of interstate banking. Suggested a change.

402 Martin asked Lusk to have his dwn evaluate prop'd CS over weekend.

409 Jim Hackett, chmn, leg affairs comm, Bankers Assoc(?)— ~~interstate banking relates to ability of state~~ explained how bill wd work, & compared it to current statutes. Elaborated on related federal laws. Rogers asked if this wd allow S&Ls to become holding cos to purchase banks. Hackett explained. ~~Bill~~ proviso was unnecessary. Discussion.

488 Lusk commented on recent purchase of ~~the~~ S+L by bank holding co.
Discussion.

505 Grey said portion Murray objected to came fm a S+L institution.
Discussion.

527 Martin said action cd be postponed until hrg on Monday.

532 Barry commented on how bill cd be changed.

541 Martin said he feel too uncomfortable abt piggybacking bills.
Postponed issue until 1:00 Mon.

556 Martin brought comm. up to date on proceedings in APA investigation. This was discussed.

632
~~636~~ Barry explained what is being done on Terror Lake project.

670 —— Discussion of fiscal note submitted by Haywood.

708 Rogers moved sending ltr to speaker, ~~Bastis~~ appts, saying no member had expressed oppsn, but reserved right to vote otherwise. Suggested looking at similar wording used by Senate. Discussion. Asked unan consent; no objection, so passed.

Side B

011 2:50 Adjourned

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3733

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

To: Speaker Joe Hayes
From: Terry Martin, Chairman
House Labor & Commerce Committee
Date: April 15, 1982
Subject: Confirmation of Governor's Appointments

The House Labor & Commerce Committee has considered the nomination of the following persons, and no objections have been stated to their confirmation:

Board of Registration for Architects, Engineers and Land Surveyors	Robert B. Boswell
Board of Chiropractic Examiners	Linnea Burmeister
Occupational Safety and Health Review Board	Lew L. McFerren Lars Eide
Board of Veterinary Examiners	Val D. Stuve, DVM
Alaska Worker's Compensation Board	Morris M. Langberg

This does not indicate an intention on the part of any Committee member to vote for or against confirmation of any individual listed above.

_____
Terry Martin, Chairman

jm

Speaker of the House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3720

Official Business

TO: Representative Terry Martin, Chairman
Labor and Commerce Committee

FROM: Speaker Joe Hayes

DATE: March 19, 1982

RE: Confirmation of Governor's Appointments

The following names have been submitted by the Governor for confirmation. Please evaluate the nominees and conduct confirmation hearings as you deem necessary. Please dubmit your recommendations for action on the nominations by the House of Representatives as soon as possible.

State Board of Registration for Architects, Engineer and Land Surveyors
Robert B. Boswell, Fairbanks, term expiring 07/01/87

Board of Chiropractic Examiners
Linnea Burmeister, Nome, term expiring 07/15/82

Occupational Safety and Health Review Board
Lew L. McFerren, Skagway, term expiring 08/01/85
Lars Eide, Petersburg, term expiring 08/01/85

Board of Veterinary Examiners
Val D. Stuve, DVM, Fairbanks, term expiring 01/31/86

Alaska Worker's Compensation Board
Morris M. Langberg, Fairbanks, term expiring 07/01/84

Rep. Bylsma

Yes - NAY - Comments

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 4/15/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		2:03	
Rep. D. Randolph	✓		2:03	
Rep. B. Rogers	✓		2:14	
Rep. T. Gardiner		✓		
Rep. T. Martin, Chair	✓		1:55	

Subject Matter:

House Bill No. 4 _____ _____ _____ _____

Senate Bill No. 752 SCR 46 _____ _____ _____

Special Orders:

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Eddie J. Turner	Pouch 1000 Soldotna AK	Peninsula Sav. + Loan	Yes	262-9166
Janet E Turner	Pouch 1000 Soldotna, AK	Peninsula Sanctuary	NO	262-9161
Tom Lusk	Dimension Banking	"	Yes	465-2521
Tony Rivera	✓ ✓	✓	No	465-2521
Remington Land	B.M. Rebecca's Bank	"	?	586-6800
L C Coffman	301 N Franklin St Juneau	Alaska League of S&L	✓	6-1015
Jim Hackett	645 G Street Alaska Bankers Association	ABA	yes	349-1675

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

SIGN-IN SHEET

CSSB 152 (LVC) Am

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
~~AK~~ Joe Geldhof	130 Seward St.	Ak Pac Bank	NO	586-2890

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

4-16-82

SB 816

SB 874

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
April 16, 1982
1:20 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Gardiner

Members Absent: Rep. Rogers
Rep. Randolph

COMMITTEE CALENDAR

SB 816 — An Act continuing the existence of the Real Estate Commission; and providing for an effective date.

SB 874 — An Act continuing the existence of the Board of Electrical Examiners; and providing for an effective date.

WITNESS REGISTER

Mel Crogsen
real estate broker
Juneau, Alaska 99801
Position Statement: Explained need for amendment to SB 816.

Harry Treager, director
Division of Occupational Licensing
Department of Commerce
Pouch D
Juneau, Alaska 99811
465-2534
Position Statement: Supported continuance of Board of Electrical Examiners.

PREVIOUS ACTION

SB 816 — Senate Action: First reading 2/22/82. Reported from Labor & Commerce 4/13/82. Reported from Rules 4/14/82; taken up immediately. Passed second reading 4/14/82; advanced to third reading by unanimous consent. Passed third reading 4/14/82, effective date vote same as passage.

House Action: First reading 4/15/82; assigned to Labor & Commerce.

Statutory Reference: AS 08.03.010(c)(18)
Action Taken: Committee substitute adopted, substituting body and title of CSHB 704 (L&C) for body of bill, and including an amendment offered by the Real Estate Commission. HCS SB 816 (L&C) reported from committee.

SB 874

Senate Action: First reading 3/25/82. Reported from Labor & Commerce 4/13/82. Reported from Rules 4/14/82; taken up immediately. Passed second reading 4/14/82; advanced to third reading by unanimous consent. Passed third reading 4/14/82, effective date vote same as passage.

House Action: First reading 4/15/82; assigned to Labor & Commerce.

Statutory Reference: AS 08.03.010(c)(14).

Action Taken: Bill reported out.

ACTION NARRATIVE

Tape #59
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:13 p.m. Members present were: Representatives Martin, Bylsma, and Gardiner. Rep. Martin introduced SB 816 and referred to HB 704.

Number 010

Rep. Gardiner moved that CSHB 704 (L&C) be substituted for the body of SB 816. There being no objection, the motion passed.

Number 015

Rep. Martin explained a problem noted by the Real Estate Commission.

Number 023

Mel Crogsen, a local real estate broker, explained the need for the amendment, which was to cover the cost of hearings.

Number 033

Rep. Gardiner moved that the proposed amendment be adopted to the committee substitute just adopted. This was discussed. There being no objection, the motion passed.

Number 040

Rep. Gardiner moved that HCS SB 816 (L&C) be reported out of committee. There being no objection, the motion passed.

Number 045	Rep. Martin brought SB 874 before the committee.
Number 048	Harry Treager, director of the Division of Occupational Licensing, supported the continuance of the Board of Electrical Examiners. The bill and possible amendments were discussed.
Number 064	Rep. Gardiner moved that SB 874 be reported out of committee. There being no objection, the motion passed.
Number 068	Committee aide Jeff Barry announced an invitation by the Finance Committee to participate in their Saturday hearing. There was discussion of the progress on HCS SB 831 (L&C) and the APA investigation.
Number 083	There being no further business to come before the committee, the meeting was adjourned at 1:20 p.m.

SB 816 SENATE ACTION 11:41 4/19/82 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/22/82	01	0352	FIRST READING -- COMMITTEE REPORTS
04/13/82	02	0877	L&C -- DP04, NR01
04/14/82	03	0899	RLS -- OTHER03
			TAKEN UP IMMEDIATELY
04/14/82	04	0908	SECOND READING
04/14/82	05	0908	ADVANCED TO 3RD READING BY UNAN CONSENT
04/14/82	06	0908	THIRD READING
04/14/82	07	0908	PASSED BY DIV 20-00-00
04/14/82	08	0908	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** *** ***

SB 816 HOUSE ACTION 11:41 4/19/82 PAGE 3 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/15/82	09	1290	FIRST READING -- COMMITTEE REPORTS
			LABOR & COMMERCE
			RULES
****	**	**	*** *** ***

SB 874 SENATE ACTION 11:42 4/19/82 PAGE 2 OF 3

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/25/82	01	0683	FIRST READING -- COMMITTEE REPORTS
04/13/82	02	0878	L&C -- DP04, NR01
04/14/82	03	0899	RLS -- OTHER03
			TAKEN UP IMMEDIATELY
04/14/82	04	0909	SECOND READING
04/14/82	05	0910	ADVANCED TO 3RD READING BY UNAN CONSENT
04/14/82	06	0910	THIRD READING ; passed, EO vote same as passage

4/15 first reading

Introduced: 2/22/82
Referred: Labor & Commerce

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

SENATE BILL NO. 816

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act continuing the existence of the Real Estate Commission; and providing for an effective date."

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

* Section 1. AS 08.03.010(c)(18) is amended to read:

(18) Real Estate Commission (AS 08.88.011) -- June 30, 1986 [1982].

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Please prepare, in final, a House Labor & Commerce committee substitute by substituting for this bill the body & title of CSHB 704 (L&C), attached, & also including the attached amendment offered by the Real Estate Commission. If you have questions, please call.

Joan Mathews
H. Labor & Commerce
465-3657

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
HARRY TREAGER	Board of Div of Occupational Licensing	DEPT of COMMERCE	YES (SB 674)	2534

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: _____

To: Representative Terry Martin
Chairman, Labor and Commerce Committee

From: Real Estate Commission

Re: Senate Bill 816

Date: April 15, 1982

We request the following amendment be added by your committee to SB816.

8.88.455(c) Costs directly incurred in hearing claims may be charged against the fund. Amounts received from licensees against whom claims are paid, including such costs shall be redeposited into the surety fund.

Requires $50,000 appropriation from surety fund for FY83 hearing officer costs.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: _____ Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:12	
Rep. D. Randolph				
Rep. B. Rogers				
Rep. T. Gardiner	✓		1:13	
Rep. T. Martin, Chair	✓		1:00	

Subject Matter:

House Bill No. _____ _____ _____ _____ _____

Senate Bill No. _____ _____ _____ _____ _____

Special Orders:

Absent: Rogers Randolph

4/16/82 SB 816 SB 874 Tape # 59

1:13

000 Call to order. Intro to SB 816 & ref to HB 704

010 Gard moved CSHB 704, LOC be sub'd for SB 816; no obj, passed.

015 Martin explained a prob noted by Real Estate Comm.

023 Mel Crogsen, Real Estate broker, explained need for amdmt. — Cover cost of hearings

033 Gard moved amdmt be adopted to CS just adopted. Discussion. No obj, passed.

040 Gard moved to report CS out; no obj, passed.

045 Intro of SB 874

048 Harry Teague, dir, div occ'l licensing — supported continuance of elect examiners

052 Discussion of bill & possible amdmts

064 Gard moved SB 874 out of comm; no obj, passed.

068 Barry announced finance invitation to participate in hrg on H/CS SB 851 (?) tomorrow. Discussion of progress.

083 1:20 Adjourned

4-19-82

SB 752

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
April 19, 1982
12:14 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph

Members Absent: Rep. Rogers
Rep. Gardiner

COMMITTEE CALENDAR

SB 752 An Act relating to savings associations; and providing for an effective date.

WITNESS REGISTER

Senator Rodey
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-3717
Position Statement: Explained bill and why legislation will benefit Alaska.

Tom Lusk
Chief Bank Examiner
Division of Banking & Securities
Juneau, Alaska 99811
465-2521
Position Statement: Did not oppose bill.

Bob Lowe, Chairman
Peoples Bank & Trust
807 G Street
Anchorage, Alaska
338-3613
Position Statement: Supported interstate banking.

Jim Hackett, Chairman
Legislative Affairs Committee
Alaska Bankers Association
400 West 76th, #113
Anchorage, Alaska
349-1675
Position Statement: Association supported bill.

Eddie Turner
Peninsula Savings & Loan
Pouch 1000

Soldotna, Alaska
262-9166
Position Statement: Supported bill.

Gene Erskine, president
Unicorp
owners of United Bank Alaska
645 "G" Street
Anchorage, Alaska
276-1911
Position Statement: Supported concept of interstate banking.

Arnold Espe, Chairman
Alaska Pacific Bank Corporation
PO Box 420
Anchorage, Alaska
276-0002
Position Statement: Supported bill because they are convinced it will happen at federal level.

PREVIOUS ACTION

SB 752

See minutes of meeting of 4/15/82.

Statutory Reference: (HCS CSSB 752 L&C) AS 06.30; AS 06.05.

Action Taken: Committee substitute adopted; amended; and reported out of committee.

ACTION NARRATIVE

Tape #60
Recording
Number 000

The meeting was called to order by Chairman Martin at 12:14 p.m. Members present were: Representatives Martin, Bylsma, and Randolph. Representatives Rogers and Gardiner were absent. Rep. Martin brought SB 752 and the proposed committee substitute before the committee, and explained what had happened to date on the legislation.

Number 008

Senator Rodey commented on the interstate banking aspect of the committee substitute. He said the benefits of interstate banking to Alaska would be: greater capital available; greater competition among financial institutions; a greater variety of services would be offered; and that competition and the use of electronic services would slow the rise in service

costs. He said the on the whole, there was strong public interest in seeing interstate banking in Alaska. Sen. Rodey said the only criticism being made is that some deposits will leave Alaska. He said this would not happen, and explained why. He said that interstate banking would provide a greater source and a greater variety of sources of capital, which would be good for the consumer.

Number 054 — Rep. Bylsma asked Sen. Rodey's opinion of the committee substitute. Sen. Rodey said the language in the bill should be very carefully and skillfully drafted. He said the committee substitute uses the best language in this area. He offered the assistance of his staff in checking the language of the committee substitute to be sure it is correct.

Number 066 — Rep. Martin said some people were saying that some national banks might have an advantage over others in being aware of the legislation. He asked if there was possibility of providing a grace period. Sen. Rodey said that anyone interested in acquiring an Alaskan bank could do so, and that it would be wrong to regulate the market. This was discussed.

Number 105 — Rep. Martin asked how the public would perceive the legislation. Sen. Rodey said there should be no problem; that bringing national companies to Alaska was good for us and should be encouraged.

Number 130 — Tom Lusk, Chief Bank Examiner for the Division of Banking & Securities, gave an overview of the committee substitute. He said they did not oppose the bill. There was discussion. Lusk said the Attorney General had recommended the bill title, and that the change was made at the AG's suggestion. There was discussion.

Number 154 — Bob Lowe, chairman of Peoples Bank, said that Sen. Rodey had covered the points he wished to make. He felt that, with interstate banking, the infusion of capital would enable his bank to branch in areas which would allow them to be competitive. He said growth is currently limited to what they can generate through internal earnings.

Lowe said the ability of small banks to grow is limited by capital. He felt that the interstate banking system would bring in this capital. He said it would lessen the cost of services and interest rates. He said it also brings sophistication and expertise not currently being provided. Lowe said he had heard the argument raised that these banks would drain off deposits. He said this was not the case: he said the banks are looking for a market for loans, and that they would bring in capital, which would benefit the consumer. Lowe said that competition would strengthen the banking system. Lowe said that another argument is that local control of banking institutions would be lost. Lowe said there is currently no ready market for bank stocks, and that interstate banking would provide this. He said, regarding local control, that he believes small banks will be operated as subsidiaries. Lowe explained how it would impact his bank.

Number 261

Jim Hackett, chairman of the Legislative Affairs Committee of the Alaska Bankers Association, said the Association fully supports the idea of interstate banking. He said it already exists in some cases, and gave examples. Hackett said the issue relates to ownership of existing franchises by out of state holding companies. He said the Association supports the change, as it will open competition; will allow the continued existence of the identity of franchises within the state; allows for the infusion of additional capital and additional deposits; provides greater customer services; and that the interests and knowledge of Alaska would substantially increase. Hackett said the Association supports interstate banking, and supports a wide open approach to banking in Alaska, with few constraints. He said the potential change in statute has been widely publicized throughout the country, and that few banks would be unaware of the opportunity to purchase Alaska banks.

Number 331

Rep. Randolph asked what the negatives would be, from a consumer point of view. Hackett found it difficult to see any negatives. He said that competition for consumer services would increase, which would be positive.

Number 355 — Eddie Turner, Peninsula Savings & Loan, said that the proposed committee substitute addressed all his concerns except one, which was that, in Section 3, the reference to "his" spouse should be changed to "his or her". Regarding what the bill would do for consumers, Turner said that competition would benefit the consumer, and illustrated this view. Turner said he strongly supported the concept of the bill.

Number 393 — Rep. Martin questioned why language in Section 2 had been changed from "shall" to "may". Turner said the changes were needed to make stockholder records more confidential.

Number 413 — Gene Erskine, president of Unicorp, which is the holding company that owns United Bank Alaska, said the owners of Unicorp and management support the concept of interstate banking. He elaborated on why they supported this.

Number 447 — Arnold Espe, chairman of Alaska Pacific Bank Corporation, said they support interstate banking because they are convinced that it will happen at the federal level. He explained. Espe said he feared that Alaska would be declared contiguous to Washington state if the federal government made the changes in law.

Number 468 — Rep. Martin said he had heard that the state of Maine had turned down similar legislation, and asked if anyone knew why. Senator Rodey said it was passed by the Senate, but failed in the House, and that the legislation would not be of as much benefit to Maine as it would to Alaska. Sen. Rodey agreed with Espe that interestate banking was coming. There was discussion. Rep. Randolph said if the federal government does it, it might not be in our interest. He felt we should get into the system ahead of the feds, as there would be more benefits to derive than if we waited.

Number 513 — Rep. Randolph requested more explanation of the overall philosophy of the committee substitute. Sen. Rodey said, regarding the savings and loan bill portions of the bill, that it would put Alaska chartered savings and loans in parity with federal law, so

that all such institutions would be treated equally. Sen. Rodey said the second part of the bill provides language to meet the requirements of the Douglas amendment, allowing bank holding companies to come into the state and acquire banks. Rep. Randolph asked if previous testimony had been on the committee substitute. It was agreed that it had been. Jeff Barry, committee aide, said the Section 10 was an oversight in drafting; amendments were discussed.

Number 593 — Rep. Randolph moved to accept HCS CS SB 752 (L&C). There being no objection, the motion passed.

Number 602 — Rep. Randolph moved, on page to, to add "or her" to the phrase, "his spouse". There being no objection, the motion passed.

Number 614 — Rep. Bylsma moved that a new Section 10 be inserted, being the same as the old Section 7; and that the existing Section 10 be renumbered. There being no objection, the motion passed.

Number 630 — Rep. Randolph moved that HCS CSSB 752 (L&C) be reported out of committee, as amended. There being no objection, the motion passed.

Number 638 — As there was no further business to come before the committee, the meeting was adjourned at 12:56 p.m.

Absent: Rogers Gardiner

SB 752
~~SB 756~~

H. Labor & Commerce

Tape # 60

4/19/82

12:14

Sen. Rodey attended.

000 Call to order; int'd SB 752 & prop'd CS. Gave background.

008 Sen Rodey commented on interstate banking aspect of CS.

- greater capital avail
- " competn among fin'l instns
- " variety of services offered

} benefits of interstate banking

- competn & use of electronic svcs will slow rise in svc costs

On whole, strong pub interest in seeing interstate banking in Ak.

Only criticism is some deposits will leave Ak — this will not happen. Explained.

Int. bnkg will provide greater source & variety of sources of capital. — good for consumer.

051 Bycsma asked opn of CS. Rodey said lang in bill shd be drafted very carefully & skillfully. Said CS uses best lang in this area. Requested comm work w/ his staff to be sure lang is correct.

066 Martin said some people said some nat'l banks might have advantage over others. Asked if there was possibility of providing grace period. Rodey said anyone interested in acquiring Akn bank cd do so; wd be wrong to regulate market. Discussion.

1 05 Martin asked if this wd cause harm; asked how public wd perceive legisn. Rodey said there shd be no problem. Said bringing nat'l companies to AK was good for us & shd be encouraged.

1 30 Tom Lusk, chief bank examiner overview of dlw banking & securities — ~~said~~ CS — did not oppose bill. Discussion. Said AG said this is how bill wd have to be titled; said chng was made at his suggestion. Discussion.

1 54 Bob Low ~~n~~ cama Peoples Bank — Sen Rodey covered pts well. Explained posn of his bank. ~~Indicated~~ Feel that w/ cnt. leg. — infusion of capital wd enable his bank to branch in areas in order to be competitive. Growth is currently limited to what they can generate th/ internal earnings. Ability of small banks to grow is limited by capital; int'l bkg system brings in this capital. Will lessen cost of svcs & % rates; also brings sophistication & expertise not currently being provided. Heard argument raised that these banks will drain off deposit; not the case — they're looking for market for loans, bringing in capital. Will benefit consumer. Competition will strengthen banking system. Another argument is we'll lose control of local banking instns — ~~seems~~ currently no ready market for bank stocks — int'l bkg will provide this. Re local control, blw small banks will be operated as subsidiaries. Explained how it wd impact his bank.

261 Jim Hackett, Ak Bankers assoc — Bkrs assoc fully supports idea of interst bkg. Said it already exists in some cases. Issue relates to ownership of existing franchises by out of state holding cos. Assoc supports chng:

- will open competn
- allows continued existence of identity of franchises w/in state
- allows for infusion of add'l capital & add'l deposits.
- greater customer services
- • interests & knowledge of ak wd substantially increase.

Assoc supports interstate bkg, support wide open approach to bkg in ak w/few constraints. Pot'l chng has been widely publicized th/out country.

331 Randolph - fm consumer pt of view, what are negatives. Hackett found it difficult to see negatives. ~~Outside banks tod have~~ Competn for consumer svcs wd increase, which is positive. Transition period may be negative, but not very.

355 Eddie Turner — Penin S&L — Martin said there was tentative prob last mtg; asked if it had been resolved. Turner said prop'd CS solved all but one item: Sec 3 — his "or her". Re what it wd do for consumer — competn will benefit consumer. Gave example. Strongly supports concept of bill.

393 Martin asked abt chngs in sec 2 ("shall to "may") — Turner elaborated on why chngs were needed. - to make stock-holder records more confidential.

413 Gene Erskine - pres, Unicorp, holding co that owns United Bank Alaska — ~~speaking~~ owners of Unicorp support concept of intst bkg. Elaborated. Mgmt supports concept because they can make alliances to bring in expertise, ~~sources~~, & good bankers. Need oppor to make alliances to bring in new thinking & new technology.

447 Arnold Esbee, chm, Ak Pac Bank Corp — support intst bkg because they're convinced it will happen at fedl level. Explained. Fear that Ak will be declared contiguous to Wash state.

468 Martin asked - heard state of Maine turned down similar legion, asked if anyone knew why. Sen Rodey said it failed in H., was passed by S. - didn't have as much benefit to Maine as it does to Ak. Rodey agreed w/ Esby that intst bkg was coming. Discussion. Randolph said if feds do it, it might not be in our interest. We shd get into system ahead of feds — more benefits to derive than if we wait.

513 Rand ~~moved~~ asked for more explan of CS; ~~Barry gave overview~~ overall philosophy of CS. Martin noted changes in underlining (typo errors) — Sen Rodey said, re S&L bill - puts them on parity w/ fed's law. Second pt of bill also provides lang to meet reqmts of Douglas amdmt allowing bank holding cos to come into state & acquire banks. Rand asked if prev testimony had been on CS; it was agreed that it had been. Barry said sec 10 was oversight in drafting.

593 Rand moved to accept HCS CSSB 752 (L&C); no obj., passed.

600 ~~Martin~~ R moved, p. 2, to add "or her" sponsor.
No obj, passed.

614 B moved, wording see 10 ~~be~~ be deleted
AS. 06.30.555 (6)(4) is repealed &
renumber following sections accordingly.
No obj, passed.

630 R moved bill out; no obj, passed.

638 10:56 Adjourned.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 4/19/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		12:02	
Rep. D. Randolph	✓		12:14	
Rep. B. Rogers		✓		
Rep. T. Gardiner		✓		
Rep. T. Martin, Chair	✓		12:00	

Subject Matter:

House Bill No. _____ _____ _____ _____ _____

Senate Bill No. 752 ~~752~~ _____ _____ _____

Special Orders:

Sen. Rodey attended.

Please prepare HCS (L&C)
for CSSB 752 (L&C) am.

If you have questions, contact Jeff Barry, H. Labor & Commerce X3669

HCS for CS FOR SENATE BILL NO. 752 (L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION
A BILL RELATING TO

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

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

* Section 1. AS 06.30.115 is amended to read:

Sec. 06.30.115. ACCESS TO BOOKS AND RECORDS OF ASSOCIATION. (a) Every member or stockholder may inspect the books and records of an association which pertain to his loan, [OR] savings account, or voting rights.

(b) Except as provided in (a) [AND (c)] of this section, the right of inspection and examination of the books and records is limited to (1) the commissioner or his authorized representatives as provided in this chapter, (2) persons authorized to act for the association, and (3) any federal instrumentality or agency authorized to inspect or examine the books and records of an insured association.

[(c) IN STOCK ASSOCIATIONS EVERY STOCKHOLDER MAY INSPECT THE GENERAL BOOKS AND RECORDS OF THE ASSOCIATION EXCEPT A STOCKHOLDER MAY NOT HAVE ACCESS TO THE LOAN AND SAVINGS RECORDS OF OTHER MEMBERS.]

* Sec. 2. AS 06.30.120 is amended to read:

Sec. 06.30.120. BOOKS AND RECORDS [PERTAINING TO MEMBERS' ACCOUNTS] TO BE KEPT CONFIDENTIAL. Except as provided in AS 06.30.115, the [THE] books and records pertaining to the accounts, [AND] loans, and voting rights of members, stockholders, savers, and borrowers shall be kept confidential by the association, its directors, officers and employees, and by the commissioner, his examiners and representatives, except where disclosure is compelled by a court of competent jurisdiction. Except as provided in AS 06.30.115, no [NO] person, including a member or stockholder may

[SHALL] have access to the books and records or [SHALL] be furnished [OR SHALL POSSESS] a partial or complete list of the members or stockholders except upon express action and authority of the board of directors.

* Sec. 3. AS 06.30.145(b) is amended to read:

(b) In a stock association each director shall own individually or jointly with his or her spouse [IN HIS OWN RIGHT] free of any encumbrance capital stock of the association in an amount equal to at least $1,000 in par value.

* Sec. 4. AS 06.30.500(3) is amended to read:

(3) Except for participation loans authorized under AS 06.30.530, no [NO] investment may be made in a conventional loan secured by a mortgage on a one-to-four family residence unless the mortgaged property is located inside the state.

* Sec. 5. AS 06.30.520 is amended to read:

Sec. 06.30.520. PROPERTY IMPROVEMENT AND CONSUMER LOANS. An association may make property improvement loans to property owners for maintenance, repair, modernization, improvement, and equipment of their properties. In addition, an association may make consumer loans. A property improvement or consumer loan may be made with or without security and may be secured by liens on real estate and mobile homes. An association may not make property improvement loans exceeding 25 percent of its assets or consumer loans exceeding 40 percent of its assets.

* Section 6. AS 06.05.235(a) is amended to read:

(a) Except as provided in (b) or (e) of this section it [IT] is unlawful for a company to own, control or hold with power to vote 25 percent or more of a class of voting securities or other [THE] capital stock of one or more state banks or domestic [STATE] bank holding companies subject to regulation under this chapter. [NOTHING IN THIS SUBSECTION PROHIBITS A COMPANY FROM QUALIFYING AS A BANK HOLDING COMPANY UNDER (b) OF THIS SECTION.] However, when it becomes a bona fide necessity to avoid loss for a creditor to accept shares of stock in one or more state banks or domestic bank

holding companies constituting more than 25 percent of the ownership or control of a state bank or domestic bank holding company in payment of indebtedness owing to the creditor, shares of stock may be accepted, but the shares of the one or more state banks or domestic bank holding companies exceeding that 25 percent shall be promptly disposed of under the supervision of the department.

* Sec. 7. AS 06.05.235(b) is amended to read:

(b) A domestic bank holding company, as defined in AS 06.05.540 and organized under AS 10.05, which maintains its principal office and place of business in the state and conducts its principal operations in the state, may acquire and own all or any portion of the voting securities [SHARES] or other capital stock of, or all or substantially all of the assets of, one or more banks or bank holding companies unless the bank is a recently formed bank. The department may require a domestic bank holding company to post a bond with the department in an amount equal to the paid-in capital and paid-in surplus represented by the proportion of state bank stock directly or indirectly owned, held, or controlled by it, under conditions the department may prescribe, to assure full protection of the public. The domestic bank holding company is subject to an examination by the department or a competent person designated by the department when the department considers it necessary, but not less than once each year. The domestic bank holding company shall pay an examination fee in accordance with AS 06.01.010.

* Sec. 8. AS 06.05.235(c) is amended to read:

(c) The department may adopt regulations for [BANK HOLDING] companies qualifying as domestic bank holding companies or out-of-state bank holding companies under (b) or (e) of this section to assure financially sound banking organization and practice.

* Sec. 9. AS 06.05.235 is amended by adding new subsections to read:

(e) An out-of-state bank holding company as defined in (h) of this section may acquire and own all or any portion of the

voting securities or other capital stock of, or all or substantially all of the assets of, one or more state banks, domestic bank holding companies, or national banks conducting a banking business in the state unless the state bank or national bank is a recently formed bank. To assure full protection of the public the department may require an out-of-state bank holding company that directly or indirectly owns, holds, or controls stock in a state bank or domestic bank holding company to post a bond with the department, under conditions the department may prescribe. The amount of the bond shall be equal to the product obtained by multiplying the amount of paid-in capital and paid-in surplus of the state bank or domestic bank holding company by the percentage of state bank or domestic bank holding company stock directly or indirectly owned, held, or controlled by the out-of-state bank holding company.

(f) When the department considers it necessary, an out-of-state bank holding company directly or indirectly owning, holding, or controlling state bank stock or domestic bank holding company stock is subject to an examination by the department or a competent person designated by the department. The out-of-state bank holding company shall pay an examination fee in accordance with AS 06.01.010.

(g) As used in this section a "recently formed bank" is a state bank or national bank conducting a banking business in the state that commenced that banking business in the state on or after July 1, 1982, and that has not been in existence and continuously operating in the state for a period of three years or more. However, the term "recently formed bank" does not include

(1) a bank organized solely for the purpose of facilitating acquisition of a bank that either has been in existence and continuously operating in the state as a bank for a three-year period, or was conducting a banking business in the state on or before June 30, 1982;

(2) a state bank that the department determines was not chartered directly or indirectly by an acquiring out-of-state bank holding company, and that does not have the capacity to

continue to conduct its business independently in a fashion consistent with the public interest and the interest of depositors, creditors, and shareholders; or

(3) a national bank that the Board of Governors of the Federal Reserve System, or their designee, determines was not chartered directly or indirectly by an acquiring out-of-state bank holding company, and that does not have the capacity to conduct its business independently in a fashion consistent with the public interest of depositors, creditors, and shareholders.

(h) As used in this section "out-of-state bank holding company" means a company that

(1) is a bank holding company as defined in the U.S.C. 1841, et seq.);

(2) is registered as a bank holding company with the Board of Governors of the Federal Reserve System, with the Federal Reserve Bank of the Federal Reserve District in which the operations of the bank holding company are principally conducted, or with a Federal Reserve Bank that the Board of Governors may designate;

(3) maintains its principal office and place of business outside the state; and

(4) principally conducts its banking operations through out-of-state banking subsidiaries, as measured by total deposits held or controlled by it on the date on which it becomes an out-of-state bank holding company;

(i) For the purpose of this section, a trust company organized under the laws of this state which is conducting a banking business shall be deemed to be a state bank.

* Sec. ~~10~~ 11. This Act takes effect July 1, 1982.

Sec. 10 — take ~~&~~ section 7 of original bill (CSSB 752 (L+C) am) & insert here as new Section 10.

Sen. Pat Rooley.

SIGN-IN SHEET

CSSB 752

	Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
(3)	James M HACKETT	400 W 76th #113 ANCHORAGE	ALASKA BANKERS ASSOC	Yes	349-1675
(1)	Tom Lusk	Department of Banking		Yes	465-2521
	TONY RIVERA			NO	465-2521
(4)	Eddie J. Turner	Pouch 1000 Soldotna AK	Peninsula S+L	Yes	262-9166
	EARL M. Miller	P.O. Box 1120 Anchorage 99510	Alaska Mutual Bank	No	274-3561
(5)	GENE ERSKINE	645 "G" St. ANCHORAGE	UNITED BANK ALASKA	YES	276-1911
(2)	Bob Dove	800 6 00 anchorage	People Bank	No	338 3613
	Chuck Mullen	34th Fl. Rain Bk Tow. Seattle	Rain Bancorporation	NO	206/624/5300
(6)	ARNOLD ESPE	P.O. Box 420 ANCH, AK	AK Pacific Bancorp	Yes	276-0002
	RJ Miller JR	Pouch 7012, ANC AK	AK Bankers Comm	NO	261-5302
	Mona Lovelace	P.O Box 1230 Fairbanks Alaska	First National Bank of Fairbanks	? NO	452-2146
	Wes Cagney			No	

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 4-14-82

4-22-82

SB 841

SB 749

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
April 22, 1982
1:11 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph

Members Absent: Rep. Gardiner
Rep. Rogers

COMMITTEE CALENDAR

CSSB 749 (L&C) An Act relating to equity participation; and providing for an effective date.

CSSB 841 (L&C) An Act relating to insurance policy provisions on policy loans and reinstatement of policies; and providing for an effective date.

WITNESS REGISTER

Senator Rodey
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-3717
Position Statement: Supported CSSB 749 (L&C).

Ken Moore, Director
Division of Insurance
Department of Commerce & Economic Development
Pouch D
Juneau, Alaska 99811
465-2515
Position Statement: Supported CSSB 749 (L&C).

Mike Thomas
American Council of Life Insurance
Juneau, Alaska 99801
586-3348
Position Statement: Supported CSSB 841 (L&C).

Don Koch, Chief
Market Surveillance Section
Division of Insurance
Pouch D
Juneau, Alaska 99811
465-2577
Position Statement: Division supported CSSB 841 (L&C).

PREVIOUS ACTION

SB 749

Senate Action: First reading 2/11/82. Reported from Labor & Commerce 4/8/82. Reported from Rules 4/20/82; taken up immediately. Labor & Commerce committee substitute adopted in second reading; bill advanced to third reading and passed 4/20/82, with effective date vote same as passage.

House Action: First reading 4/20/82; assigned to Labor & Commerce.

Statutory Reference: AS 45.45.010(f)

Action Taken: Bill reported out.

SB 841

Senate Action: First reading 3/8/82. Reported from Labor & Commerce 4/8/82. Moved from Judiciary to Rules by unanimous consent 4/14/82. Reported from Rules 4/20/82; taken up immediately. Labor & Commerce committee substitute adopted in second reading; advanced to third reading by unanimous consent. Passed 4/20/82, with effective date vote same as passage.

House Action: First reading 4/20/82; assigned to Labor & Commerce.

Statutory Reference: AS 21.45.080; AS 21.45.110.

Action Taken: Bill reported out with individual recommendations.

ACTION NARRATIVE

Tape #61
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:11 p.m. Members present were: Representatives Martin, Bylsma, and Randolph. Representatives Gardiner and Rogers were absent. Rep. Martin brought CSSB 749 (L&C) before the committee.

Number 004

Senator Pat Rodey explained the change in equity prohibition. He said there has been a prohibition on equity participation that goes back to about 1970. This bill would change that and would allow equity

participation above a million dollars and for a five year take out, so there are restrictions. He said most other states have been moving in this direction as a matter of economics. Few projects, particularly large commercial projects, can support an effective 17% interest rate, and there is no long term takeout for building. AIDA is the only entity prov[illegible]g take out for the construction of new properties in Anchorage, with the exception of ARCO and Hunt Brothers. Senator Rodey said this would allow the lender to take an equity position in the project. He explained that what is really happening is the lender will defer interest. If the project will support a 13% interest rate, and the net effective rate has to be 17%, the other 5% will be put into an equity position in that project and it will come out someplace during the project or when the project is sold. It allows, in a very uncertain market, for the lender to be secured, because if he is not, he will not lend the money. Senator Rodey felt there really is no alternative, interest rates being what they are today. He said in addition, people are starting to get around the existing statute by signing agreements with Seattle, and finding creative solutions. It was his opinion as a lawyer that you can probably get around the statute, as it is drafted now, anyway, but there is some uncertainty. It was Senator Rodey's intent that the small borrower will not be subject to levering by a lender; and that the larger, sophisticated lenders will be able to seek a national market.

Number 040

Rep. Martin asked if eventually the law should be repealed. Sen. Rodey did not believe the prohibitions should be eliminated completely, in order to avoid undue pressure by lenders on the small borrowers. He felt the law needs to be changed to keep current with economic conditions, but that this revision in the law is appropriate now.

Number 056

Ken Moore, director of the Division of Insurance, supported the bill. He said that among the items listed in the bill are lenders, and among the lenders are insurance companies. He favored the bill so they can leverage the loan. Moore said it is being

done in other states and, as Senator Rodey said, they are just by-passing us and doing it in those states that already give this leveraging permit. Regarding deleting the law entirely, Moore felt that would probably result in massive reconstruction of statutes. This saves that.

Number 065 — Rep. Randolph moved to report CSSB 749 (L&C) out of committee. There being no objection, the motion passed.

Number 075 — Rep. Martin brought CSSB 841 (L&C) before the committee.

Number 082 — Mike Thomas, American Council of Life Insurance, said the council supports the bill. He explained the changes effected by the committee substitute, why the bill is needed, and how the bill would work. He said the law would result in cost savings on new policies.

Number 152 — Rep. Randolph questioned how this would affect existing policies. Thomas said there would be no affect.

Number 165 — Rep. Martin asked about a possible conflict between page 2, lines 9-12, and page 4, the effective date. He requested clarification. Thomas explained. There was discussion among the committee, Moore, and Thomas about how the bill would work.

Number 233 — Don Koch, Chief of the Market Surveillance Section of the Division of Insurance, said the division supported the bill.

Number 235 — Rep. Randolph moved the bill be reported out of committee with individual recommendations. There being no objection, the motion passed.

Number 251 — As there was no further business to come before the committee, the meeting was adjourned at 1:30 p.m.

H. Labor & Commerce

4/22/82 SB 841 SB 749

Tape # 61

Absent: Rogers, Gardiner

1: 11 Sen. Rodey attending

000 Call to order
Intd CSSB 749 (L&C)

004 Sen. Rodey - explained, chng in equity prohibition. Explained how bill wd affect lenders & borrowers. Said bill wd clarify statutes.

040 Martin asked if eventually law shd be repealed. Rodey said people might be concerned that, if no prohibitions, small businessmen might experience undue pressure for lender. Felt bill was appropriate at this time.

056 Ken Moore, Dir, Div of Ins - ~~sp~~ supported bill as it applies to ins. cos & coverage. Re deleting law entirely, felt wd result in massive reconstruction of statutes.

065 Randolph moved to report out; no obj; passed.

075 Intd CS SB 841 (L&C)

082 Mike Thomas, Am Council of Life Insurance - Council supports bill. Explained chngs in CS, & why bill is needed, how bill wd work. Said law wd result in cost savings in new policies.

152 Rep. Randolph asked how this wd affect existing policies. Thomas said there wd be no effect.

165 Martin ~~asked~~, pg., l 9-12, & felt there was a conflict w/p. 4, ED. Requested clarification. Thomas explained. ~~Re~~ Discussion among committee, Moore, & Thomas of how bill wd work.

233 Koch said Div supports bill.

235 Randolph moved bill be reported out w/ind recomm. No obj, passed.

251 1:30 Adjourned.

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 4/22/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓		1:01	
Rep. D. Randolph	✓		1:11	
Rep. B. Rogers			✓	
Rep. T. Gardiner			✓	
Rep. T. Martin, Chair	✓		12:55	

Subject Matter:

House Bill No. _____ _____ _____ _____ _____

Senate Bill No. 841 749 _____ _____ _____

Special Orders:

DATE	SEQ	PAGE	LEGISLATIVE ACTION
02/11/82	01	0267	FIRST READING -- COMMITTEE REPORTS
04/08/82	02	0837	L&C -- CS04, NR01
04/20/82	03	0965	RLS -- L&C CS03, OTHER04
			TAKEN UP IMMEDIATELY
04/20/82	04	0969	SECOND READING
04/20/82	05	0970	L&C CS ADOPTED BY UNAN CONSENT
04/20/82	06	0970	ADVANCED TO 3RD READING BY UNAN CONSENT
04/20/82	07	0970	THIRD READING
04/20/82	08	0970	PASSED BY DIV 16-04-00
04/20/82	09	0970	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** *** ***

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/20/82	10	1439	FIRST READING -- COMMITTEE REPORTS
04/22/82	11	1498	L&C -- DP03
			RULES
			RULES
****	**	**	*** *** ***

DATE	SEQ	PAGE	LEGISLATIVE ACTION
03/08/82	01	0480	FIRST READING -- COMMITTEE REPORTS
04/08/82	02	0838	L&C -- CS03, NR02
04/14/82	03	0914	MOVED FROM JUD TO RLS BY UNAN CONSENT
04/20/82	04	0965	RLS -- OTHER04
			TAKEN UP IMMEDIATELY
04/20/82	05	0971	SECOND READING
04/20/82	06	0971	L&C CS ADOPTED BY UNAN CONSENT
04/20/82	07	0971	ADVANCED TO 3RD READING BY UNAN CONSENT
04/20/82	08	0971	THIRD READING
04/20/82	09	0971	PASSED BY DIV 19-01-00
04/20/82	10	0972	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** *** ***

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/20/82	11	1439	FIRST READING -- COMMITTEE REPORTS
04/22/82	12	1498	L&C -- DP01, NR02
			JUDICIARY
			RULES
****	**	**	*** *** ***

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Tom Lusk	Division of Banking		Yes if instructed	465-2521
Tony Rivera	//		no	465-2571
Mike Thomas	Council of Life Americans	SB841	Yes ✓	5863348
Don Koch	Div of Ins	SB841	Yes ✓	465-2577
Ken Moore	—	SB 749	no	465-2515

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 4-22-82

4-23-82

SB630

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
April 23, 1982
1:04 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Gardiner
Rep. Rogers

Members Absent: Rep. Randolph

COMMITTEE CALENDAR

CSSSSB 630 (SA) am — An Act relating to the legislative oversight procedures relating to state agencies, boards, and commissions under AS 08.03 and AS 44.66; and providing for an effective date.

WITNESS REGISTER

Margo Waring
staff to Senator Sturgulewski
Pouch V
Juneau, Alaska 99811
465-3818
Position Statement: Explained bill.

PREVIOUS ACTION

CSSSSB 630 (SA) am — Senate Action: First reading 1/18/82. Reported from State Affairs 2/25/82. Finance Committee referral added by unanimous consent 3/18/82. Reported form Labor & Commerce 3/18/82. Moved from Finance to Rules 3/29/82 by unanimous consent. Reported from Rules 3/31/82; taken up immediately. Advanced to second reading 3/31/82. Postponed until 4/5/82 by unanimous consent. State Affairs committee substitute adopted by unanimous consent 4/5/82. Amended 4/5/82 and postponed until 4/6/82 by unanimous consent. Amendment 2 withdrawn 4/6/82; bill advanced to third reading by unanimous consent. Passed third reading 4/6/82 with effective date vote same as passage.

House Action: First reading 4/7/82. Reported from State Affairs 4/21/82.

Statutory Reference: AS 44.66.010

Action Taken: Bill was amended and reported out. NOTE: Several of the amendments made during this hearing were later withdrawn, as explained at the end of Action Narrative of these minutes.

ACTION NARRATIVE

Tape #62
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:04 p.m. Members present were: Representatives Martin, Bylsma, Gardiner, and Rogers. Rep. Randolph was absent. Before the committee was CSSSSB 630 (State Affairs) amended.

Number 005

Rep. Rogers moved, page 2, lines 14-16, to delete underlined language. Rep. Bylsma objected. Rep. Rogers explained his motion.

Number 015

Margo Waring, staff to Senator Sturgulewski, explained why the language was included. She said Sen. Sturgulewski supports the language as it accomplishes their purpose. Waring said they want to avoid a free conference committee on the bill. There was discussion of timeframes for the bill.

Number 049

Rep. Rogers asked about continuing the ABC Board (refering to page 1, line 17). There was discussion.

Number 058

Rep. Rogers motion regarding page 2, lines 14-16, was discussed. Waring suggested deleting all of (c). Rep. Rogers explained his intent in moving to delete only the underlined language. On the question: there being no objection, the motion passed.

Number 073

Rep. Rogers moved, page 1, line 19, to delete 1983 and insert 1982. Waring said there had been no sunset audit yet. Rep. Rogers said there had been a sunset audit, and that the decision had been made to sunset the Board in 1983. He felt this was a mistake and that the board should be sunsetted sooner. There was discussion of the motion and the need to sunset the Alaska Transportation Commission.

Number 114 — On the question, there being no objection, the motion passed.

Number 119 — Rep. Gardiner asked if an audit had been done on the ABC Board. Waring said an audit had been done in 1980 and the board had been extended to 1983 with recommendations to make changes. There was discussion.

Number 142 — Rep. Martin, referring to page 1, line 20 (State Parole Board), said Sen. Parr had sent over a bill to extend the Board to 1986. Rep. Martin moved to extend the Board to 1986. Rep. Rogers asked him to change his motion to extend the Board to 1984. Rep. Martin changed his motion. There being no objection, the motion passed.

Number 161 — Rep. Gardiner brought up (page 1, line 27) extending the date on the Alaska Code Revision Commission. There was discussion.

Number 180 — Rep. Gardiner moved, page 1, line 29, to extend the Commission to 1986. Rep. Martin asked him to change the motion to extend the Commission to 1984. Rep. Gardiner changed his motion. There being no objection, the motion passed.

Number 195 — Rep. Rogers moved to incorporate the changes into a Labor & Commerce committee substitute. There being no objection, the motion passed.

Number 198 — Rep. Rogers moved to report the bill out of committee. There being no objection, the motion passed.

Number 203 — The committee had a general discussion concerning bills still in committee. No action was taken.

Number 253 — There being no further business to come before the committee, the meeting was adjourned at 1:22 p.m.

NOTE: Although several changes were made to this bill during this meeting of the House Labor & Commerce Committee, it was recommended by Legislative Affairs legal counsel that changes made to the sunset dates on the various boards and commissions be deleted from the committee substitute as they may not be legal. Therefore, the only

change reflected in the actual committee substitute is the deletion of the underlined language on page 2, lines 14-16.

DATE	SEQ	PAGE	LEGISLATIVE ACTION
01/18/82	01	0074	FIRST READING -- COMMITTEE REPORTS
02/25/82	02	0388	S.A. -- CS04
03/18/82	03	0613	FIN COMM REFERRAL ADDED BY UNAN CONSENT
03/18/82	04	0603	L&C -- S.A. CS04
03/29/82	05	0720	MOVED FROM FIN TO RLS BY UNAN CONSENT
03/31/82	06	0746	RLS -- NR01, OTHER02
			TAKEN UP IMMEDIATELY
03/31/82	07	0749	SECOND READING
03/31/82	08	0749	POSTPONED UNTIL 04/05/82 BY UNAN CONSENT
04/05/82	09	0793	S.A. CS ADOPTED BY UNAN CONSENT
04/05/82	10	0794	AM01 ADOPTED BY DIV 11-05-04
04/05/82	11	0794	POSTPONED UNTIL 04/06/82 BY UNAN CONSENT
04/06/82	12	0805	AM02 WITHDRAWN
04/06/82	13	0805	ADVANCED TO 3RD READING BY UNAN CONSENT
04/06/82	14	0805	THIRD READING
04/06/82	15	0806	PASSED BY DIV 20-00-00
04/06/82	16	0806	EFFECTIVE DATE VOTE SAME AS PASSAGE
****	**	**	*** *** ***

DATE	SEQ	PAGE	LEGISLATIVE ACTION
04/07/82	17	1165	FIRST READING -- COMMITTEE REPORTS
04/21/82	18	1487	S.A. -- DP02, NR01
			LABOR & COMMERCE
			RULES
****	**	**	*** *** ***

LABOR & COMMERCE COMMITTEE

DAILY COMMITTEE HEARING

Date: 4/23/82 Place: _____

Members	Present	Absent	Time Arrived	Time Left
Rep. B. Bylsma, V. Chair	✓ ~~1:00~~		1:00	
Rep. D. Randolph		✓		
Rep. B. Rogers	✓		1:04	
Rep. T. Gardiner	✓		1:04	
Rep. T. Martin, Chair	✓		1:04	

Subject Matter:

House Bill No. _____

Senate Bill No. 630

Special Orders:

Please prepare House Committee substitute (Labor & Commerce), incorporating changes indicated.

Original sponsor: Sturgulewski

Offered: 2/25/82
Referred: Labor & Commerce

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 630 (State Affairs) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the legislative oversight procedures relating to state agencies, boards, and commissions under AS 08.03 and AS 44.66; and providing for an effective date."

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

* Section 1. AS 44.66.010 is amended to read:

Sec. 44.66.010. TERMINATION OF STATE AGENCIES, BOARDS, AND COMMISSIONS. (a) A state agency, board, or commission [BOARDS AND COMMISSIONS] listed in this subsection is terminated on the date established by this subsection [EXPIRE ON THE DATE SET OUT AFTER EACH]:

(1) Alcoholic Beverage Control Board (AS 04.06.010) -- June 30, 1985; [1983]

(2) Alaska Transportation Commission (AS 42.07.011) -- June 30, 1984 ~~1983~~;

(3) State Board of Parole (AS 33.15.010) -- June 30, 1984 ~~1982~~;

(4) Alaska Public Utilities Commission (AS 42.05.010) -- June 30, 1985;

(5) (repealed)

(6) Alaska Council on Science and Technology (AS 44.21.241 - 44.21.255) -- June 30, 1983;

(7) Alaska Renewable Resources Corporation (AS 37.12.010) -- June 30, 1982;

(8) Alaska Code Revision Commission (AS 24.20.075) -- June 30, 1984 ~~1982~~;

(9) Rural Development Council (AS 44.47.160 - 44.47.190) -- June 30, 1987;

(10) Older Alaskans Commission (AS 44.21.200 - 44.21.240) -- June 30, 1985;

(11) Council on Domestic Violence and Sexual Assault (AS 18.-66.010) -- June 30, 1985.

(b) Upon termination, a state agency, board, or commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or limit the powers or authority of the state agency, board, or commission.

(c) A state agency, board, or commission scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years. ~~unless the state agency, board, or commission is continued or reestablished for a longer period under AS 44.66.050(c).~~

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

SIGN-IN SHEET CSSSSB -630

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
MARGO WARING	aide to Sen. Sturgulewski			

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 4-23-82

Original sponsor: Sturgulewski

Offered: 2/25/82
Referred: Labor & Commerce

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 630 (State Affairs) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the legislative oversight procedures relating to state agencies, boards, and commissions under AS 08.03 and AS 44.66; and providing for an effective date."

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(2) Alaska Transportation Commission (AS 42.07.011) -- June 30, 1983;

(3) State Board of Parole (AS 33.15.010) -- June 30, 1982;

(4) Alaska Public Utilities Commission (AS 42.05.010) -- June 30, 1985;

(5) (repealed)

(6) Alaska Council on Science and Technology (AS 44.21.241 - 44.21.255) -- June 30, 1983;

(7) Alaska Renewable Resources Corporation (AS 37.12.010) -- June 30, 1982;

(8) Alaska Code Revision Commission (AS 24.20.075) -- June 30, 1982;

(9) Rural Development Council (AS 44.47.160 - 44.47.190) -- June 30, 1987;

(10) Older Alaskans Commission (AS 44.21.200 - 44.21.240) -- June 30, 1985;

(11) Council on Domestic Violence and Sexual Assault (AS 18.-66.010) -- June 30, 1985.

(b) Upon termination, a state agency, board, or commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or limit the powers or authority of the state agency, board, or commission.

(c) A state agency, board, or commission scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years unless the state agency, board, or commission is continued or reestablished for a longer period under AS 44.66.050(e).

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Absent: Randolph

4/23/82 H. Labor & Commerce Tape # 62

SB 630

1:04

000 Call to order CSSS SB 630 (SA)

005 Rogers moved p.2, l. 14-16 delete underlined lang.
Objection by Bylsma; Rogers explained.

015 Sen Sturgulewski's aide explained ~~that legislation~~ why language was ~~put in~~ included. Said Sturg supports lang as it accomplishes their purpose. Want to avoid free conference.
Discussion of timeframe.

049 Rogers, p.1, l. 17, asked abt continuing ABC Board.
~~She said~~ ~~She~~ Discussion.

058 ~~Motion~~: Discussion of Rogers' motion. Aide suggested deleting all of (c). Rogers explained his
Q stn. no obj, passed.

073 Rogers, p. 1, l. ~~18~~ 19 delete 1983, insert 1982
Aide said there had been no sunset audit yet.
Rogers said there had been a sunset audit, & decision was made to sunset in 1983; he felt this was a mistake & shd be sooner. Discussion of motion & need to sunset AT Commission.

114 Question: no obj, passed.

117 Gardiner asked if ~~the~~ audit had been done on ABC Board.
Aide said audit had been done 980, extended Bd to 1983 w/ recommendns to make changs. Discussion of Board.

142 Martin, p. 1, l. 20, State Parole Bd — said Sen Parr sent over bill to extend to 1986 — moved to extend Bd to 1986. Rogers asked him to extend to 1984. Martin changd motion to 1984 — ~~to~~ no obj, passed.

161 Gard, p. 1, l. 27 – ~~moved to~~ discussed extending date.
Discussed AK Code Revision Commission.

180 Gardiner 29
p. 1 l. ~~25~~ extend to 1986. Martin asked to change no
to 1984. Chngd to 1984. No obj, passed.

195 Rogers moved to inc charge into L&C CS.
no obj passed.

198 Rogers moved to report bill. No obj, passed.

203 Gardiner asked abt having a "free bill day" He
explained this tradition. Discussion.

218 Rogers, moved to report out
SB 757 w/drew mo

225 Rogers moved to report
HB 795. Discussion of various bills.

244 Barry reported on HB 159

1:22 253 adjourned.

E.0.52

COMMITTEE REPORT

HOUSE

(5) FURTHER: FINANCE

1/12/82

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had Executive Order No. 52

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

_____

_____

_____

_____

_____

_____

_____

_____

_____

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

_____

_____

_____

_____

_____

_____

CHAIRMAN

H 60 (Rev. 12/78)

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

To: Speaker Joe Hayes

From: Terry Martin, Chairman
Labor & Commerce Committee

Date: February 25, 1982

Subject: Executive Order 52

This committee has reviewed Executive Order 52. We find this order to be of benefit to the administration.

Please note that a correction was made to page 2, line 15, where a statute was incorrectly cited: the first statutory reference on that line should read "AS 18.60.010..."

Contact me if you have any questions.

Terry Martin - Chairman

Brian Rogers

Terry Gardiner

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

To: Speaker Joe Hayes

From: Terry Martin, Chairman
Labor & Commerce Committee

Date: February 25, 1982

Subject: Executive Order 52

This committee has reviewed Executive Order 52. We find this order to be of benefit to the administration.

Please note that a correction was made to page 2, line 15, where a statute was incorrectly cited: the first statutory reference on that line should read "AS 18.60.010..."

Contact me if you have any questions.

January 28, 1982

Re: Executive Order No. 52
(Division of Labor
Standards and Safety)

The Honorable Joe L. Hayes
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

This letter is to inform you of two typographical errors in Executive Order No. 52 -- both on the same line.

On page 2, line 15, the first statutory citation reads "AS 18.06.010 -- 18.60.150." The correct citation should be AS 18.60.010 -- 18.60.105" (without the underlining, of course).

I believe that this error can be corrected by the co-revisors of statutes, but I would appreciate your entering this letter in the legislative journals to make the record clear.

Sincerely,

Jay S. Hammond
Governor

bcc: The Honorable Bob Mulcahy
The Honorable Terry Martin
The Honorable Edmund N. Orbeck
Donna Spragg Pegues
David Walker

HB

23

COMMITTEE REPORT

HOUSE

4/23

FURTHER: FINANCE

2/18/81

(5)

Date: 4

Mr. Speaker:

The Committee on LABOR & COMMERCE has had SSHB 23

"An Act establishing a personal loan program for Alaska residents; and providing for an effective date."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[X] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martin - No Rec

Tony Hawkins - No Rec

_____
CHAIRMAN

H 60 (Rev. 12/78)

LIBERTARIAN
REPRESENTATIVE
RICHARD (DICK) L. RANDOLPH
1103 CUSHMAN ST.
FAIRBANKS, ALASKA 99701
Phone (907) 452-2206

465-4821

Alaska State Legislature

House of Representatives

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99811
Phone (907) 465-4956

April 14, 1981

Vern Hurlbert
Pouch V
Juneau, Alaska 99811

Capitol Building, Room 409

Dear Vern:

Enclosed are copies of items of support which I have received from supporters of HB 23. I thought you might find them of interest and value.

I also would appreciate an indication of your intentions concerning this matter.

Most sincerely,

Dick Randolph

Enclosures

Certificate

OF LOAN AGREEMENT

For

Edward A Hoch

(Citizen of the State of Alaska)

This certification, when endorsed by the Commissioner of the Department of Commerce and Economic Development, and the above citizen of the state, shall constitute approval for a personal loan in the amount of -

$10,000.00

(Ten Thousand Dollars and 00/100 Cents)

Pursuant to the provisions of House Bill No.2J, 2/18/81, sponsored by Alaska Representatives R. Randolph, K. Fanning and M. Beirne, with a rec mended effective date of 1 July, 1981

The undersigned applicant claims entitlement under proposed AS 45.85.010, and hereby affirms proper eligibility as specified by proposed AS 45.8..040:

As a resident of the State of Alaska for more than one year, having established residency at least one year prior to the date of this application, specifically Dec 1980, 1937.

As being at least Eighteen years of age as of the date of this application, having been born on July 16, 1932.

TERMS: It is agreed by the undersigned parties, that terms and conditions of this loan are as follows -

- No interest of any kind whatsoever may be charged,
- Repayment shall begin within Five years of the date approved,
- Repayment in full shall be completed within Fifteen years from the date of approval,
- Security is not required; the word of the citizen considered his bond,
- No credit investigation shall be considered necessary for approval of this loan.

Undersigned and affirmed this ____ of _____, 1981, by:

APPROVED:

(Printed)_____

_____Commissioner. (Address)_____

Certificate

OF LOAN AGREEMENT

For

Boyd L. Blue III

(Citizen of the State of Alaska)

This certification, when endorsed by the Commissioner of the Department of Commerce and Economic Development, and the above citizen of the state, shall constitute approval for a personal loan in the amount of -

$10,000.00

(Ten Thousand Dollars and 00/100 Cents)

Pursuant to the provisions of House Bill No.23, 2/18/81, sponsored by Alaska Representatives R. Randolph, K. Fanning and M. Beirne, with a recommended effective date of 1 July, 1981

The undersigned applicant claims entitlement under proposed AS 45.85.010, and hereby affirms proper eligibility as specified by proposed AS 45.85.040:

As a resident of the State of Alaska for more than one year, having established residency at least one year prior to the date of this application, specifically April 8, 1981.

As being at least Eighteen years of age as of the date of this application, having been born on Oct. 4, 1957.

TERMS: It is agreed by the undersigned parties, that terms and conditions of this loan are as follows -

- No interest of any kind whatsoever may be charged,
- Repayment shall begin within Five years of the date approved,
- Repayment in full shall be completed within Fifteen years from the date of approval,
- Security is not required; the word of the citizen considered his bond,
- No credit investigation shall be considered necessary for approval of this loan.

Undersigned and affirmed this 8 of April, 1981, by:

APPROVED:

(Printed) _____

_____ Commissioner.

(Address) _____

Certificate

OF LOAN AGREEMENT

For

Linda M. Blair

(Citizen of the State of Alaska)

This certification, when endorsed by the Commissioner of the Department of Commerce and Economic Development, and the above citizen of the state, shall constitute approval for a personal loan in the amount of -

$10,000.00

(Ten Thousand Dollars and 00/100 Cents)

Pursuant to the provisions of House Bill No.23, 2/18/8.. sponsored by Alaska Representatives R. Randolph, K. Fanning and M. Beirne, with a recommended effective date of 1 July, 1981

The undersigned applicant claims entitlement under proposed AS 45.85.010, and hereby affirms proper eligibility as specified by proposed AS 45.85.040:

As a resident of the State of Alaska for more than one year, having established residency at least one year prior to the date of this application, specifically April 8, 19[illegible].

As being at least Eighteen years of age as of the date of this application, having been born on [illegible], 1948.

TERMS: It is agreed by the undersigned parties, that terms and conditions of this loan are as follows -

- No interest of any kind whatsoever may be charged,
- Repayment shall begin within Five years of the date approved,
- Repayment in full shall be completed within Fifteen years from the date of approval,
- Security is not required; the word of the citizen considered his bond,
- No credit investigation shall be considered necessary for approval of this loan.

Undersigned and affirmed this ____ of _____, 1981, by:

APPROVED:

_____ Commissioner.

(Printed)_____

(Address)_____

Certificate

OF LOAN AGREEMENT

For

RANDALL CAVERLY

(Citizen of the State of Alaska)

This certification, when endorsed by the Commissioner of the Department of Commerce and Economic Development, and the above citizen of the state, shall constitute approval for a personal loan in the amount of -

$10,000.00

(Ten Thousand Dollars and 00/100 Cents)

Pursuant to the provisions of House Bill No.23, 2/18/81, sponsored by Alaska Representatives R. Randolph, K. Fanning and M. Beirne, with a recommended effective date of 1 July, 1981

The undersigned applicant claims entitlement under proposed AS 45.85.010, and hereby affirms proper eligibility as specified by proposed AS 45.85.040:

As a resident of the State of Alaska for more than one year, having established residency at least one year prior to the date of this application, specifically DECEMBER, 1975.

As being at least Eighteen years of age as of the date of this application, having been born on MARCH 14, 1952.

TERMS: It is agreed by the undersigned parties, that terms and conditions of this loan are as follows -

- No interest of any kind whatsoever may be charged,
- Repayment shall begin within Five years of the date approved,
- Repayment in full shall be completed within Fifteen years from the date of approval,
- Security is not required; the word of the citizen considered his bond,
- No credit investigation shall be considered necessary for approval of this loan.

Undersigned and affirmed this 6th of APRIL, 1981, by: Randall Caverly

(Printed) RANDALL CAVERLY

APPROVED:

Commissioner.

(Address) SR Box 80717 FAIRBANKS ALASKA 99

Certificate

OF LOAN AGREEMENT

For

RONALD R TARRANT

(Citizen of the State of Alaska)

This certification, when endorsed by the Commissioner of the Department of Commerce and Economic Development, and the above citizen of the state, shall constitute approval for a personal loan in the amount of -

$10,000.00

(Ten Thousand Dollars and 00/100 Cents)

Pursuant to the provisions of House Bill No.23, 2/18/81, sponsored by Alaska Representatives R. Randolph, K. Fanning and M. Beirne, with a recommended effective date of 1 July, 1981

The undersigned applicant claims entitlement under proposed AS 45.85.010, and hereby affirms proper eligibility as specified by proposed AS 45.85.040:

As a resident of the State of Alaska for more than one year, having established residency at least one year prior to the date of this application, specifically JAN 21, 1975

As being at least Eighteen years of age as of the date of this application, having been born on FEB 5, 1941.

TERMS: It is agreed by the undersigned parties, that terms and conditions of this loan are as follows -

- No interest of any kind whatsoever may be charged,
- Repayment shall begin within Five years of the date approved,
- Repayment in full shall be completed within Fifteen years from the date of approval,
- Security is not required; the word of the citizen considered his bond,
- No credit investigation shall be considered necessary for approval of this loan.

Undersigned and affirmed this 8 of April, 1981, by:

(Printed) Ronald R Tarrant

APPROVED:

Commissioner. (Address)

OVER

Certificate

OF LOAN AGREEMENT

For

Corbett K. Upton

(Citizen of the State of Alaska)

This certification, when endorsed by the Commissioner of the Department of Commerce and Economic Development, and the above citizen of the state, shall constitute approval for a personal loan in the amount of -

$10,000.00

(Ten Thousand Dollars and 00/100 Cents)

Pursuant to the provisions of House Bill No.23, 2/18/81, sponsored by Alaska Representatives R. Randolph, K. Fanning and M. Beirne, with a recommended effective date of 1 July, 1981

The undersigned applicant claims entitlement under proposed AS 45.85.010, and hereby affirms proper eligibility as specified by proposed AS 45.85.040:

As a resident of the State of Alaska for more than one year, having established residency at least one year prior to the date of this application, specifically MAY 15, 1969.

As being at least Eighteen years of age as of the date of this application, having been born on DEC. 27, 1949.

TERMS: It is agreed by the undersigned parties, that terms and conditions of this loan are as follows -

- No interest of any kind whatsoever may be charged,
- Repayment shall begin within Five years of the date approved,
- Repayment in full shall be completed within Fifteen years from the date of approval,
- Security is not required; the word of the citizen considered his bond,
- No credit investigation shall be considered necessary for approval of this loan.

Undersigned and affirmed this 8th of April, 1981, by:

(Printed) Corbett K Upton

APPROVED:

Commissioner.

(Address) Box 80551 College, AK 99708

Certificate

OF LOAN AGREEMENT

For

Esther M. Undereiner

(Citizen of the State of Alaska)

This certification, when endorsed by the Commissioner of the Department of Commerce and Economic Development, and the above citizen of the state, shall constitute approval for a personal loan in the amount of

$10,000.00

(Ten Thousand Dollars and 00/100 Cents)

Pursuant to the provisions of House Bill No.23, 2/18/81, sponsored by Alaska Representatives R. Randolph, K. Fanning and M. Beirne, with a recommended effective date of 1 July, 1981

The undersigned applicant claims entitlement under proposed AS 45.85.010, and hereby affirms proper eligibility as specified by proposed AS 45.85.040:

As a resident of the State of Alaska for more than one year, having established residency at least one year prior to the date of this application, specifically April 23, 1963.

As being at least Eighteen years of age as of the date of this application, having been born on March 28, 1959.

TERMS: It is agreed by the undersigned parties, that terms and conditions of this loan are as follows -

- No interest of any kind whatsoever may be charged,
- Repayment shall begin within Five years of the date approved,
- Repayment in full shall be completed within Fifteen years from the date of approval,
- Security is not required; the word of the citizen considered his bond,
- No credit investigation shall be considered necessary for approval of this loan.

Undersigned and affirmed this 23 of March, 1981, by:

APPROVED:

Commissioner.

NAME - (Printed) ESTHER UNDEREINER

(Address) 1901 Pioneer Way FBKS AK

Certificate

OF LOAN AGREEMENT

For

Raymond A. Undereiner

(Citizen of the State of Alaska)

This certification, when endorsed by the Commissioner of the Department of Commerce and Economic Development, and the above citizen of the state, shall constitute approval for a personal loan in the amount of -

$10,000.00

(Ten Thousand Dollars and 00/100 Cents)

Pursuant to the provisions of House Bill No. 23, 2/18/81, sponsored by Alaska Representative R. Randolph, K. Fanning and M. Beirne, with a recommended effective date of 1 July, 1981

The undersigned applicant claims entitlement under proposed AS 45.85.010, and hereby affirms proper eligibility as specified by proposed AS 45.85.040:

As a resident of the State of Alaska for more than one year, having established residency at least one year prior to the date of this application, specifically April 23, 1973.

As being at least Eighteen years of age as of the date of this application, having been born on Aug. 9, 1922.

TERMS: It is agreed by the undersigned parties, that terms and conditions of this loan are as follows -

- No interest of any kind whatsoever may be charged,
- Repayment shall begin within Five years of the date approved,
- Repayment in full shall be completed within Fifteen years from the date of approval,
- Security is not required; the word of the citizen considered his bond,
- No credit investigation shall be considered necessary for approval of this loan.

Undersigned and affirmed this 23 of March, 1981, by:

APPROVED:

Commissioner.

NAME - (Printed) RAYMOND A. UNDEREINER

(Address) 1908 Pioneer Way Fbks Ak.

Certificate

OF LOAN AGREEMENT

For

Otis Wm. Frazier

(Citizen of the State of Alaska)

This certification, when endorsed by the Commissioner of the Department of Commerce and Economic Development, and the above citizen of the state, shall constitute approval for a personal loan in the amount of -

$10,000.00

(Ten Thousand Dollars and 00/100 Cents)

Pursuant to the provisions of House Bill No.23, 2/18/81, sponsored by Alaska Representatives R. Randolph, K. Fanning and M. Beirne, with a recommended effective date of 1 July, 1981

The undersigned applicant claims entitlement under proposed AS 45.85.010, and hereby affirms proper eligibility as specified by proposed AS 45.85.040:

As a resident of the State of Alaska for more than one year, having established residency at least one year prior to the date of this application, specifically Febr. 1, 1975.

As being at least Eighteen years of age as of the date of this application, having been born on Febr. 8, 1939.

TERMS: It is agreed by the undersigned parties, that terms and conditions of this loan are as follows -

- No interest of any kind whatsoever may be charged,
- Repayment shall begin within Five years of the date approved,
- Repayment in full shall be completed within Fifteen years from the date of approval,
- Security is not required; the word of the citizen considered his bond,
- No credit investigation shall be considered necessary for approval of this loan.

Undersigned and affirmed this 15th of March, 1981, by:

APPROVED:

Commissioner.

NAME - (Printed) Otis Wm. Frazier

(Address) P.O. Box 642 Fairbanks, AK. 99707

Certificate

OF LOAN AGREEMENT

For

FRANK W. BOSCH

(Citizen of the State of Alaska)

This certification, when endorsed by the Commissioner of the Department of Commerce and Economic Development, and the above citizen of the state, shall constitute approval for a personal loan in the amount of -

$10,000.00

(Ten Thousand Dollars and 00/100 Cents)

Pursuant to the provisions of House Bill No.23, 2/18/81, sponsored by Alaska Representatives R. Randolph, K. Fanning and M. Beirne, with a recommended effective date of 1 July, 1981

The undersigned applicant claims entitlement under proposed AS 45.85.010, and hereby affirms proper eligibility as specified by proposed AS 45.85.040:

As a resident of the State of Alaska for more than one year, having established residency at least one year prior to the date of this application, specifically 8-4, 1978

As being at least Eighteen years of age as of the date of this application, having been born on 10-21-, 1945.

TERMS: It is agreed by the undersigned parties, that terms and conditions of this loan are as follows -

- No interest of any kind whatsoever may be charged,
- Repayment shall begin within Five years of the date approved,
- Repayment in full shall be completed within Fifteen years from the date of approval,
- Security is not required; the word of the citizen considered his bond,
- No credit investigation shall be considered necessary for approval of this loan.

Undersigned and affirmed this 16 of March, 1981, by:

APPROVED: _____ 1981

Commissioner.

NAME - (Printed) Frank W. Bosch

(Address) 95 Glacier Hwy Rt. Hill

Certificate

OF LOAN AGREEMENT

For

Alice W. Johnnie

(Citizen of the State of Alaska)

This certification, when endorsed by the Commissioner of the Department of Commerce and Economic Development, and the above citizen of the state, shall constitute approval for a personal loan in the amount of -

$10,000.00

(Ten Thousand Dollars and 00/100 Cents)

Pursuant to the provisions of House Bill No.23, 2/18/81, sponsored by Alaska Representatives R. Randolph, K. Fanning and M. Beirne, with a recommended effective date of 1 July, 1981

The undersigned applicant claims entitlement under proposed AS 45.85.010, and hereby affirms proper eligibility as specified by proposed AS 45.85.040:

As a resident of the State of Alaska for more than one year, having established residency at least one year prior to the date of this application, specifically April 24, 1926.

As being at least Eighteen years of age as of the date of this application, having been born on April 24, 1926.

TERMS: It is agreed by the undersigned parties, that terms and conditions of this loan are as follows -

- No interest of any kind whatsoever may be charged,
- Repayment shall begin within Five years of the date approved,
- Repayment in full shall be completed within Fifteen years from the date of approval,
- Security is not required; the word of the citizen considered his bond,
- No credit investigation shall be considered necessary for approval of this loan.

Undersigned and affirmed this 21 of March, 1981, by:

(Printed) Alice W. JOHNNIE

APPROVED:

_____ Commissioner. (Address) _____

3-19-81

MAR 2 4 1981

Dear Legislatures
We Support Dick Randolph plan
To give every Alaskan $10,000 to Loan
Interest free personal loan (SSHB23)
We Alaskans need the money either
To pay off our debit, or buy a boat to
Fish with. Thank you.

Mrs. Agnes M. Williams
288 Village St
Juneau, Alaska
99801

Certificate

OF LOAN AGREEMENT

For

Mrs. Agnes M. Williams

(Citizen of the State of Alaska)

This certification, when endorsed by the Commissioner of the Department of Commerce and Economic Development, and the above citizen of the state, shall constitute approval for a personal loan in the amount of -

$10,000.00

(Ten Thousand Dollars and 00/100 Cents)

Pursuant to the provisions of House Bill No.23, 2/18/81, sponsored by Alaska Representatives R. Randolph, K. Fanning and M. Beirne, with a recommended effective date of 1 July, 1981

The undersigned applicant claims entitlement under proposed AS 45.85.010, and hereby affirms proper eligibility as specified by proposed AS 45.85.040:

An a resident of the State of Alaska for more than one year, having established residency at least one year prior to the date of this application, specifically 1918, 1981

As being at least Eighteen years of age as of the date of this application, having been born on June 12, 1918.

TERMS: It is agreed by the undersigned parties, that terms and conditions of this loan are as follows -

- No interest of any kind whatsoever may be charged,
- Repayment shall begin within Five years of the date approved,
- Repayment in full shall be completed within Fifteen years from the date of approval,
- Security is not required; the word of the citizen considered his bond,
- No credit investigation shall be considered necessary for approval of this loan.

Undersigned and affirmed this 19 of Mar, 1981, by:

APPROVED:

(Printed) Agnes M Williams

Commissioner.

(Address) 288 Willow St. Juneau Alaska

Certificate

OF LOAN AGREEMENT

For

Dick Randolph
Senate
Juneau Ak
99811

Mr + Mrs James A Finch
(Citizen of the State of Alaska)

This certification, when endorsed by the Commissioner of the Department of Commerce and Economic Development, and the above citizen of the state, shall constitute approval for a personal loan in the amount of -

$10,000.00
(Ten Thousand Dollars and 00/100 Cents)

Pursuant to the provisions of House Bill No.23, 2/18/81, sponsored by Alaska Representatives R. Randolph, K. Fanning and M. Beirne, with a recommended effective date of 1 July, 1981

The undersigned applicant claims entitlement under proposed AS 45.85.010, and hereby affirms proper eligibility as specified by proposed AS 45.85.040:

As a resident of the State of Alaska for more than one year, having established residency at least one year prior to the date of this application, specifically Aug 15th, 1961.

As being at least Eighteen years of age as of the date of this application, having been born on May 25, 1935.

TERMS: It is agreed by the undersigned parties, that terms and conditions of this loan are as follows -

- No interest of any kind whatsoever may be charged,
- Repayment shall begin within Five years of the date approved,
- Repayment in full shall be completed within Fifteen years from the date of approval,
- Security is not required; the word of the citizen considered his bond,
- No credit investigation shall be considered necessary for approval of this loan.

Undersigned and affirmed this 2 of april, 1981, by:

APPROVED:

Commissioner.

NAME - (Printed) DOROTHY M. FINCH

(Address) 1320 - 6th AVE

PETITION FOR EQUITABLE DISTRIBUTION OF STATE SURPLUS REVENUES

WHEREAS, huge surpluses in the State Treasury endanger the Liberties of all Alaskan Citizens by encouraging the unchecked growth of Socialist Government; and

WHEREAS, the Legislature and the Executive have endeavored to maintain high rates of taxation which create huge surpluses and discourage mineral development, thus insuring high rates of unemployment; and

WHEREAS, it is in the best interest of the People to disburse State surplus wealth equitably among the Citizens of Alaska, rather than to leave it in the hands of the State;

NOW THEREFORE, WE THE PEOPLE undersigned, and each of us, PETITION the Alaska Legislature and the Governor to approve and pass SSHB23 to establish an interest free personal loan program for all Alaskan Citizens.

	Signature	Printed Name	Residence Address	Mailing Address	Date
1.	Catherine Hanzie	Catharine Hanzia	1041 B St #23	FBKS	3/13/81
2.	Doug McCallen		6-MILE STEESE HWY	SR 40737 FBKS ALAS.	
3.	Don Stickman		Star Route #2	NENANA	
4.	John Thomson		741 Caffrey	FBKS, AK	3/13/81
5.	Albert Alfred	Alfred ALBERT	Gen. Del.	Tanana, AK	99777 3-13-81
6.	Georgie Joseph		SR#71105-A	FBK AK	3/13/81
7.	Caroline A. Big Jake		Birch Creek Village Via Ft Yukon		99740
8.	Debbie Felix		I-4 Birch Park	FBKS, Alaska	99701
9.	[illegible]		[illegible]	Fairbanks	99707
10.	Lemuel M. Burns		S.R. Box 71207	Fairbanks AK	99701 3/14/81
11.	Patricia Walls		Po Box	Ft Yukon AK	99740 -

TRISH Walls

Return completed petitions to: Fairbanks Libertarian Party Headquarters
1105 Cushman St.
Fairbanks, AK 99701 Phone: 456-3812

10

PETITION FOR EQUITABLE DISTRIBUTION OF STATE SURPLUS REVENUES

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	Signature	Printed Name	Residence Address	Mailing Address	Date
1.	[signature]	LEE M. DANIELS	5.9 MI CHENA RIDGE	BOX 81623 FAIRBANKS	3-15-81
2.	[signature]	TIMOTHY A. DOVE	5.0 Chena Pump	Box 60083 FBKS AK	3-16-81
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					

Return completed petitions to: Fairbanks Libertarian Party Headquarters
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Fairbanks, AK 99701 Phone: 456-3812

PETITION FOR EQUITABLE DISTRIBUTION OF STATE SURPLUS REVENUES

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	Signature	Printed Name	Residence Address	Mailing Address	Date
1.	Margaret U Bryson	Margaret U Bryson	1506 Evergreen St	Fairbanks	3/15/81
2.	Shirley A. Cruikshank		1506 Evergreen St	same	3/15/81
3.	John H Bryson Sr.		1506 Evergreen St	same	3-15-81
4.	[illegible]		Mile 328 Alk Hy	Nenana	3-15-81
5.	Walter J Carlo		SR 50969	FBKS	3-15-81
6.	Marian E. Doolittle		756-A NBHS UofA	Fairbanks,	3-15-81
7.	Barbara Freese	BARBARA FREESE	1546 Eielson St.	Fairbanks, Ak	3/15/81
8.	Marty D. Smoke		Gen Del	Stevens V.L.G.	
9.	Wayne Smoke		Gen Del	Stevens Village	
10.	Willie Smoke		2008 SANVIK Rd. Apt. 205	FBKS. AK. 99701	
11.	Elecia Andrews	Elecia Andrews	2008 Sanvik Apt 205	FBKS AK. 99701	
12.	John M George		Stevens Village AK		

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PETITION FOR EQUITABLE DISTRIBUTION OF STATE SURPLUS REVENUES

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	Signature	Printed Name	Residence Address	Mailing Address	Date
1.	Robert J Walke	Robert J Walke	754 G NMSH U of A Fbks AK 99701	same	3/15/81
2.	Kerry E Walker	KERRY E WALKER	754 g-NMSH U of A Fbx AK 99701	same	3/15/81
3.	Otis W. Frazier	Otis W. Frazier	10.5 mi. Badger Rd. N.F.	P.O. Box 642 FBKS. AK. 99707	3/15/81
4.	Sandra E Rose	SANDRA E. ROSER	14 mi Brock.	SR #6 B030 Fbks AK	3/15/81
5.	Wendell Hall	WENDALL HALL	141 Ridgetop Loop	FAIRBANKS	3/15/81
6.	Beryl Hall	BERYL HALL	141 Ridgetop Loop	FBKS.	3/15/81
7.	Richard Lopinow	Richard Lopinow	SR#20164 1½mi Goldstream	SR#20164	3/15/81
8.	Charlotte Eardley	Charlotte Eardley	173 Goldrush Est	FBKS 99701	3/15/81
9.	George C Mullen	George Mullen	302 Cowles	FBKS 99701	3/15/81 now
10.	Thomas G Newman	THOMAS, GREG	R. 3300 College Rd	FBKS 9970[illegible]	3-15-81
11.	Julie Fergel	JULIE FERGEL	CHENA PUMP RD	SR 20162-D 99701	3/15/81

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Fairbanks, AK 99701 Phone: 456-3812

PETITION FOR EQUITABLE DISTRIBUTION OF STATE SURPLUS REVENUES

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	Signature	Printed Name	Residence Address	Mailing Address	Date
1.	Robert Pederson	Robert Pederson	505 Halverson	Same	3/14/81
2.	Judith R. Thomson	JUDITH R. THOMSON	1546 Turner #1	Same	3/14/81
3.	Shannon & Co	Shannon & Co	St. Box 70026	Same	3-14-81
4.	Sharon R. Nuttall	SHARON R. NUTTALL	POBox 55002	16 mi Rich	3/14/81
5.	Fern M. Jolliff	FERN M. JOLLIFF	1 Mile Peridot Rd	SR. 61159	3/14/81
6.	Elaine Thompson	ELAINE THOMPSON	2196 T11	#10	3/14/81
7.	Anthony D Thacker	ANTHONY D THACKER	3907	Geist	3/14/81
8.	E. Diane Ross	E. Diane Ross	3905	Geist	3/14/81
9.	Leona Allridge	Leona Allridge	4716	Glasgow	3-14-81
10.	Dorothy Hench	Dorothy Hench	3190 apt 8		3-14-81
11.	Lynette Stenson	Lynette Stenson	P.O. Box 10492	Fbks. AK 99701	3/14/81

Return completed potitions to: Fairbanks Libertarian Party Headquarters
1105 Cushman St.
Fairbanks, AK 99701 Phone: 456-3812

PETITION FOR EQUITABLE DISTRIBUTION OF STATE SURPLUS REVENUES

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	Signature	Printed Name	Residence Address	Mailing Address	Date
1.	Deborah Millington	Deborah Millington	2509 Alston Rd.	FBKS AK.	3/14/81
2.	[illegible]	[illegible]	[illegible]	[illegible]	3/14/81
3.	Billie Jean Johnson	Billie Jean Johnson	1667 Pioneer Way	FAI, AK	3-14-81
4.	Paul N. Isachsen	Paul N. Isachsen	2 mi. College Rd.	FAirBanks Ak	3-14-81
5.	Wendy Joy Isachsen	WENDY JOY ISACHSEN	2 mile College Rd.	Fairbanks Ak	3-14-81
6.	Betty Hartley	BETTY HARTLEY	4½ mi BADGER SR 70251	FBKS 99701	3-14-81
7.	Henry G. Staves MD	Henry G. Staves MD	3½ mi College Rd	Box 993 FBKS	3/14/81
8.	Robert L Morris	Robert L Morris	322 Lakeview Ct	FBX 99701-456-7589	
9.	Linda Undereiner	Linda Undereiner	¼ mi. CHSR.	SR Box 50169 FBKS AK. 99701	3-14-81
10.	Esther Undereiner	ESTHER UNDEREINER	1908 Pioneer Way	FBKS. AK 99701	
11.	Ray Undereiner	RAY UNDEREINER	1908 Pioneer Way	FBKS	

Return completed petitions to: Fairbanks Libertarian Party Headquarters
1105 Cushman St.
Fairbanks, AK 99701 Phone: 456-3812

PETITION FOR EQUITABLE DISTRIBUTION OF STATE SURPLUS REVENUES

(4)

WHEREAS, huge surpluses in the State Treasury endanger the Liberties of all Alaskan Citizens by encouraging the unchecked growth of Socialist Government; and

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	Signature	Printed Name	Residence Address	Mailing Address	Date
1.	Bill Ellis	Bill Ellis	7.7mi Chena Ridge	P.O.B. 2749 Fai	3-14-81
2.	Dennis Haugen	Dennis Haugen	105 W Turnaround	SR Box 16 FBKS	3-14-81
3.	LeRoy Booth	LeRoy Booth	2509 Aleton Rd.	FBKS	3/14/81
4.	Pete Payton	Pete Payton	1132 Ivy	46 Ln	3-14-81
5.	Gregory McQuerk	Gregory McQuerk	ASCE YAK ESTATES	PO Box 81370 College	3-14-81
6.	Helen Shipley	Helen Shipley	SR Box 6827 Badger	SR Box 6827-T	3-14-81
7.	Claudia Rasmus	Claudia Rasmus	Yemi Holmes Rd.	SR 70878	3-14-81
8.	Gloria Poole	Gloria Poole	529 I Gray	Fbks	3-14-81
9.	Harold Rice	Harold Rice	92 Dunbar	Foks	3-14-81
10.	Regina LeGoullon	Regina LeGoullon	772 5th Ave.	Foks	3-14-81
11.	Renee Richmond	Renee Richmond	1004 Lakeview	POB 73672	3/11/81

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Fairbanks, AK 99701 Phone: 456-3812

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	Signature	Printed Name	Residence Address	Mailing Address	Date
1.	T J Ferrell	Tim Ferrell	401 5th Ave	Same	3-14-81
2.	Jimmy B Jones	Jimmy B. Jones	Box 55539 N.P.	SAME	3.14.81
3.	Marianne Kittredge	Marianne Kittredge	3289 Davis Rd.	Same	3-14-81
4.	Michael Kennedy	MICHAEL A KENNEDY	561 mi McGrath	PO Box 73178	3-14-81
5.	Doug Walton	Doug Walton	SRA 20199-A	Fbks AK	3-14-81
6.	John J. Burns IV	John J. Burns IV	1502 Turner St.	Fairbanks, AK 99701	3-15-81
7.	Sharon L. Stephens	Sharon L. Stephens	S.R. Box 4U344	Fairbanks AK 99701	3 15 81
8.	Ned Trowbridge	Ned P. Trowbridge	1127 Columbia B.K.	Box 55532 NP 99705	3-15-81
9.	G.L. D'Innocente	G.L. D'INNOCENTE	3288 Jefferson	FBKS 99701	3-15-81
10.	Frank W. Bosch	Frank W. Bosch	95 Glacier Ave Bldg	Fairbanks Ak	3-15-81
11.	Suzanne Pasch	Suzanne Pasch	95 Glacier Ave B-6	Fairbanks AK	3-15-81

Return completed petitions to: Fairbanks Libertarian Party Headquarters
1105 Cushman St.
Fairbanks, AK 99701 Phone: 456-3812

HB

94

COMMITTEE REPORT

HOUSE

2/4/81 FURTHER: FINANCE

(5)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 94

"An Act relating to the Alaska Workers' Compensation Board, and the second injury fund established under the Alaska Workers' Compensation Act; and providing for an effective date."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for H/B 94 (L&C) [ ] same title [X] new title

and recommends D. P. Pass

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martin

CHAIRMAN

H 60 (Rev. 12/78)

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

May 5, 1981

TO: Representative Sam Cotten, Chairman
House Finance Committee

FROM: Representative Vern Hurlbert, Chairman
House Labor and Commerce

RE: HB 94 - Worker's Compensation

The House Labor and Commerce Committee has just passed HB 94 - Worker's Compensation. The bill has a Finance referral and I would appreciate a hearing on the bill just as soon as possible.

Thank you.

Vern

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Committee Substitute for House Bill No. 94
Title "An Act relating to Workers' Compensation . . ."
Requested by House Labor & Commerce Committee Date April 27, 1981

II. FISCAL DETAIL
Agency Affected Labor
Program Category Affected Worker Protection
BRU, Program, or Subprogram(s) Affected Second Injury 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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	0	87.1	97.6	109.3	122.4	137.1
TOTAL	0	87.1	97.6	109.3	122.4	137.1

FUNDING (Thousands of Dollars)

GENERAL FUND		1) 799.4	215.4	232.6	251.2	271.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Second Injury Fund		(799.4	(215.4)	(232.6)	(251.2)	(271.3)
Second Injury Fund 2)	0	87.1	97.6	109.3	122.4	137.1

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
1) The FY '82 General Fund request will allow the Fund to meet its outstanding obligations. Because of a shortfall in revenues the Fund has accumulated approximately $600.0 in unpaid obligations. Failure to pay these obligations as they become due is in violation of AS 23.30.205, which requires the Fund to reimburse the employer/carrier in full for compensation paid to injured workers under certain prescribed conditions. Since enactment of the Second Injury Fund statutes in 1959, total operating costs of the program have been paid from revenues contributed by employers/carriers. During recent hearings held by the Workers' Compensation Study Commission, employers and their carriers voiced strong concern as to why administrative costs of the program are being paid from the Second Injury Fund rather than out of the State General Fund. Present Second Injury Fund statutes provide for payments to be made to the Fund and disbursements to be made from the Fund under certain prescribed conditions. There is no provision however, that addresses the payment of administrative costs.

IV. DATE April 27, 1981 PREPARED BY Nico Bus, Finance Officer
AGENCY Labor
PHONE 465-2720

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

33-001 (Rev. 12/80)

CONTINUED ON PAGE 2

This fiscal note reflects the impact on the General Fund and the Second Injury Fund when administrative cost will be paid out of General Funds for FY 1982 through FY 1986.

Assumes an inflation factor of 8%.

Assumes an effective date of July 1, 1981.

2) Assumes an annual increase of 20% as a result of the raise in the maximum from $5,000 to $10,000 for vocational retraining and rehabilitation benefits.

In the department's estimation, the proposed bill will provide adequate revenue for the Second Injury Fund to meet its statutory obligations to the Alaskan worker, employer and insurance carrier and preclude the use of State General Funds in future years.

I. REQUEST

Bill/Resolution No. Committee Substitute for House Bill 94

Title An Act Relating to Workers' Compensation and providing for an effective date.

Requested by House Labor and Commerce Committee Date 4/27/81

II. FISCAL DETAIL

Agency Affected Workers' Compensation Division, Department of Labor

Program Category Affected Worker Protection

BRU, Program, or Subprogram(s) Affected Workers' Compensation

(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		43.5	47.0	50.8	54.9	59.3
200	TRAVEL		0	0	0	0	0
300	CONTRACTUAL		9.8	10.6	11.5	12.4	13.4
400	COMMODITIES		1.0	1.1	1.2	1.3	1.4
500	EQUIPMENT		1.4				
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	0	55.7	58.7	63.5	68.6	74.1

FUNDING (Thousands of Dollars)

GENERAL FUND	0	55.7	58.7	63.5	68.6	74.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	0	2	2	2	2	2
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III) (see attached form 13's)

1.) Personal Services Cost at current salary and benefit cost (1/1/81).
2.) Contractual Services - includes Indirect Cost (Administrative Services), rental space and other.
3.) Equipment - one time items to set up the new employees with desk, chair, cabinets and partitions.
4.) Assumes effective date July 1, 1981.
5.) Inflation factor used 8%, all items.

IV. DATE 4/27/81 PREPARED BY Michael W. Reed, Finance Officer II

AGENCY 12-3801

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80)

1. Position Title			Range/Step	Barg. Unit	Location	Approv.	Disapp.
Clerk I			6 A	G	Juneau	Gov.	
2. Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line	Leg.	
PFT	12						

3. Type of Expenditure	1	2	Amount 3
Personal Services:			
4. Salary 1249 x 12		14,988	
5. Benefits 15.87		2,379	
6. FICA .0613		919	
7. Health Ins.		1,800	
8. Total Personal Services	01		20,086
9. Travel	02		
10. Contractual	03		4,161
11. Commodities	04		500
12. Equipment	05		700
13. Other			
14. Total Cost			25,447

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.		GEN. FUND 1004	25,447
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The 4.2 contractual consists of 2.7 space rental and 1.5 indirect (Administrative Services). The .5 commodities is for office supplies; the .7 equipment is a desk and chair.

This position will provide full-time filing and general clerical assistance to the Division. The additional reports required of employers insurance carriers will be distributed and filed by this position. A full-time filing position will allow the filing to be kept current and avoid delays in searching for unfiled reports.

AGENCY Labor

PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Workers' Compensation

REVISED DATE _____

PAGE 1 OF FY 82

13 REQUEST FOR NEW POSITION.

	Position Title			Range/Step	Barg. Unit	Location		Approv. Comp.
1.	Data Control Clerk I			9 A	G	Juneau	Gov.	
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line		
2.	PFT	12					Leg.	

3.	Type of Expenditure		Amount
	1	2	3
	Personal Services:		
4.	Salary 1475 x 12	17,700	
5.	Benefits 15.87	2,809	
6.	FICA .0613	1,085	
7.	Health Ins.	1,800	
8.	Total Personal Services 01		23,394
9.	Travel 02		-0-
10.	Contractual 03		5,626
11.	Commodities 04		500
12.	Equipment 05		700
13.	Other		
14.	Total Cost		30,220

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.		GEN. FUND 1004	30,220
18.		I-A RCPTS. 1007	
19.		PGM RCPTS 1026	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The 5.6 contractual consists of 2.7 space rental, 1.7 indirect (Administrative Services) and 1.2 for computer terminal leasing. The .5 commodities is for office supplies. The .7 equipment is a desk and chair.

This position will handle part of the increased workload in the filing and coding units due to the increased reporting requirements of employers' insurance carriers. The information from the additional reports will be entered via computer terminal into our new information handling system. This data will give the Division accurate statistics on all costs of every claim as well as precise computations as to the carrier's change in any claimant payment.

AGENCY Labor

PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Workers' Compensation

REVISED DATE _____

PAGE 3 OF FY 82

13 REQUEST FOR NEW POSITION.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811
Ph: 465-2700

April 28, 1981

Ken Spray, Administrative Assistant
House Labor and Commerce Committee
Pouch V
Juneau, AK 99811

Dear Mr. Spray.

Enclosed is our proposed committee substitute for House Bill 94.

Sections 1, 2, 3, 4, 5, 6, 7, and 8 of the proposed committee substitute for House Bill 94 correspond to sections 8, 15, 46, 66, 67, 68, 69 and 70, respectively, of House Bill No. 159.

A section by section analysis of the proposed committee substitute is also enclosed, along with the corresponding fiscal notes.

Jacquelyn McClintock, Director of the Workers' Compensation Division, will attend the April 30 hearing to testify on our proposal.

If you have any questions, please call.

Sincerely,

Judy Knight

Judy Knight
Legislative Liaison

07-G9LH

PROPOSED COMMITTEE SUBSTITUTE FOR HB 94

Section by Section Analysis

Section 1. This section adds an additional panel to the Alaska Workers' Compensation Board which may sit in any judicial district in the event regular panel members are unable to attend scheduled hearings. Members of the board, except the Chairman or his designees, are citizens appointed pursuant to AS 23.30.005 and at times have scheduling conflicts with their own occupational duties. The amendment will insure that disputed claims are heard expeditiously by full board panel and will provide the resour to conduct additional board hearings when the workload requires.

Section 2. The repeal and reenactment of AS 23.30.040 is necessary if the second injury fund is to continue to meet its statutory obligations to rehabilitate the injured and disabled worker and to reimburse employers/carriers on subsequent injury claims.

This section expands the base for contributions to the second injury fund and incorporates a contribution schedule which will insure the solvency of the fund. It changes the base for payments to the fund from permanent partial disability to permanent total, permanent partial, temporary total and temporary partial disabilities. Under Section 7, an initial contribution rate of 6 percent is established, which will build reserves before a sliding rate scale takes effect in 1983. It also allows a more realistic maintenance allowance of $200 a month and total maximum expenditures for retraining to $10,000 in order to adequately cover the inflationary rise in expenses encountered for rehabilitation or retraining. The section also transfers the administrative expenses of the state from the resources of the second injury fund to the general fund.

Section 3. The amendments in AS 23.30.155 are administrative "housekeeping" changes to enable the Division and Board to streamline the prompt processing of claims and provide current and accurate claim status information and injury statistical data to the public and private sectors. This section 1) clarifies a controverted claim and the requirements under which a notice of controversion must be filed; 2) requires notice be filed with the board whenever payment of compensation has begun, terminated or changed and provides penalties for failure to file such notice; and 3) requires periodic reporting of all payments made on claims which will be used to provide the public and private sectors with current and accurate injury statistical data.

Section 4. This section is amended to include a definition for the term "reserve rate" as used in Section 2.

Section 5. This section repeals provision AS 23.30.155(g) due to proposed legislation.

Section 6. This section clarifies that the amount of payment to the second injury fund and the conditions under which payment is required, is in accordance with the version of AS 23.30.040(b) that was in effect on the date of injury to the employee.

Section 7. This section establishes an initial contribution rate of 6 percent beginning July 1, 1981 and ending December 31, 1982, which will build reserves before a sliding rate scale takes effect in 1983.

Section 8. This section provides for an effective date for the bill of July 1, 1981.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for House Bill No. 94
Title "An Act relating to Workers' Compensation . . ."
Requested by House Labor & Commerce Committee Date April 27, 1981

II. FISCAL DETAIL

Agency Affected Labor
Program Category Affected Worker Protection
BRU, Program, or Subprogram(s) Affected Second Injury 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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	0	87.1	97.6	109.3	122.4	137.1
TOTAL	0	87.1	97.6	109.3	122.4	137.1

FUNDING (Thousands of Dollars)

GENERAL FUND	1) 600.0	2) 199.4	215.4	232.6	251.2	271.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Second Injury Fund	(600.0)	(199.4)	(215.4)	(232.6)	(251.2)	(271.3)
Second Injury Fund 3)		87.1	97.6	109.3	122.4	137.1

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

1) The FY '81 General Fund request will allow the Fund to meet its outstanding obligations for the fiscal year. Because of a shortfall in revenues the Fund has accumulated approximately $600.0 in unpaid obligations. Failure to pay these obligations as they become due is in violation of AS 23.30.205, which requires the Fund to reimburse the employer/carrier in full for compensation paid to injured workers under certain prescribed conditions.

2) Since enactment of the Second Injury Fund statutes in 1959, total operating costs of the program have been paid from revenues contributed by employers/carriers. During recent hearings held by the Workers' Compensation Study Commission, employers and their carriers voiced strong concern as to why administrative costs of the program are being paid from the Second Injury Fund rather than out of the State General Fund. Present Second Injury Fund statutes provide for payments to be made to the Fund and disbursements to be made from the Fund under certain prescribed conditions. There is no provision however, that addresses the payment of administrative costs.

IV. DATE April 27, 1981 PREPARED BY Nico Bus, Finance Officer
AGENCY Labor
PHONE 465-2720

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

33-001 (Rev. 12/80)

CONTINUED ON PAGE 2

This fiscal note reflects the impact on the General Fund and the Second Injury Fund when administrative cost will be paid out of General Funds for FY 1982 through FY 1986.

Assumes an inflation factor of 8%.

3) Assumes an annual increase of 20% as a result of the raise in the maximum from $5,000 to $10,000 for vocational retraining and rehabilitation benefits.

In the department's estimation, the proposed bill will provide adequate revenue for the Second Injury Fund to meet its statutory obligations to the Alaskan worker, employer and insurance carrier and preclude the use of State General Funds in future years.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for House Bill 94
Title An Act Relating to Workers' Compensation and providing for an effective date.
Requested by House Labor and Commerce Committee Date 4/27/81

II. FISCAL DETAIL

Agency Affected Workers' Compensation Division, Department of Labor
Program Category Affected Worker Protection
BRU, Program, or Subprogram(s) Affected Workers' Compensation
(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		43.5	47.0	50.8	54.9	59.3
200	TRAVEL		0	0	0	0	0
300	CONTRACTUAL		9.8	10.6	11.5	12.4	13.4
400	COMMODITIES		1.0	1.1	1.2	1.3	1.4
500	EQUIPMENT		1.4				
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	0	55.7	58.7	63.5	68.6	74.1

FUNDING (Thousands of Dollars)

GENERAL FUND	0	55.7	58.7	63.5	68.6	74.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	0	2	2	2	2	2
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III) (see attached form 13's)

1.) Personal Services Cost at current salary and benefit cost (1/1/81).
2.) Contractual Services - includes Indirect Cost (Administrative Services), rental space and other.
3.) Equipment - one time items to set up the new employees with desk, chair, cabinets and partitions.
4.) Assumes effective date July 1, 1981.
5.) Inflation factor used 8%, all items.

IV. DATE 4/27/81 PREPARED BY Michael W. Bas, Finance Officer
AGENCY LABOR
PHONE 465-2720

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

33-001 (Rev. 12/80)

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Clerk I			6 A	G	Juneau	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	12					Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 1249 x 12		14,988	
5.	Benefits	15.87	2,379	
6.	FICA	.0613	919	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		20,086
9.	Travel	02		
10.	Contractual	03		4,161
11.	Commodities	04		500
12.	Equipment	05		700
13.	Other			
14.	Total Cost			25,447

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.		GEN. FUND 1004	25,447
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The 4.2 contractual consists of 2.7 space rental and 1.5 indirect (Administrative Services). The .5 commodities is for office supplies; the .7 equipment is a desk and chair.

This position will provide full-time filing and genera clerical assistance to the Division. The additional reports required of employers insurance carriers will be distributed and filed by this position. A full-time filing position will allow the filing to be kept current and avoid delays in searching for unfiled reports.

AGENCY Labor

PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Workers' Compensation

REVISED DATE _____

PAGE 1 OF 2 FY 82

13 REQUEST FOR NEW POSITION.

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Data Control Clerk I			9 A	G	Juneau	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	12					Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 1475 x 12		17,700	
5.	Benefits	15.87	2,809	
6.	FICA	.0613	1,085	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		23,394
9.	Travel	02		-0-
10.	Contractual	03		5,626
11.	Commodities	04		500
12.	Equipment	05		700
13.	Other			
14.	Total Cost			30,220

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.		GEN. FUND 1004	30,220
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The 5.6 contractual consists of 2.7 space rental, 1.7 indirect (Administrative Services) and 1.2 for computer terminal leasing. The .5 commodities is for office supplies. The .7 equipment is a desk and chair.

This position will handle part of the increased workload in the filing and coding units due to the increased reporting requirements of employers' insurance carriers. The information from the additional reports will be entered via computer terminal into our new information handling system. This data will give the Division accurate statistics on all costs of every claim as well as precise computations as to the carrier's change in any claimant payment.

AGENCY Labor

PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Workers' Compensation

REVISED DATE _____

PAGE 2 OF 2 FY 82

13 REQUEST FOR NEW POSITION.

HB
115

COMMITTEE REPORT

HOUSE

2/4/81

(5)

FURTHER:

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 115

"An Act relating to boilers and pressure vessels."

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

Terry Gardiner - DoRec

MEMBERS HAVING
OTHER RECOMMENDATIONS:

John D Bell

CHAIRMAN

H 60 (Rev. 12/78)

February 2, 1981

Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill on boiler and pressure vessel safety standards (AS 18.60). The bill would adapt the Alaska Statutes to the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers and make some alterations in the procedure of qualification for boiler and pressure vessel safety inspectors. A section-by-section description is attached for your convenience.

Sincerely,

S/SSH

Jay S. Hammond
Governor

Attachment

HB115

SECTION-BY-SECTION DESCRIPTION

Section 1 exempts from inspection requirements pressure vessels of five cubic feet or less in places of public assembly and those having an inside diameter of six inches or less. Unfired pressure vessels and hot water supply boilers or domestic water heaters will also be exempted from the inspection requirements where their BTU capacities and water temperature do not exceed the limits specified by the Boiler and Pressure Vessel Code.

Sections 2 and 3 require that both deputy inspectors, who are employed by the Department of Labor, and special inspectors, who are employed by owner-users or insurance companies and certified by the state, pass a national examination. The bill also specifies that companies authorized by the Department of Commerce and Economic Development to insure against certain types of losses may employ special inspectors.

Section 4 requires inspectors to use reporting forms adopted by the Department of Labor rather than by the American Society of Mechanical Engineers for certification inspection. It also specifies the kind of dangerous condition which a special inspector must report to the department.

Section 5 specifies that the examination for both special and deputy inspectors will be the standard National Board of Boiler and Pressure Vessels Inspectors examination.

Section 6 spells out grounds for revocation or suspension of a state commission for either a special or deputy inspector. "Untrustworthiness" is removed as a ground for suspension or revocation. "Incompetence" remains. Conviction of specified crimes -- bribery and perjury -- in connection with official duties is inserted as a ground for revocation or suspension, and falsification is expanded and clarified to permit the penalty only for intentional falsification of any material matter in connection with an inspection report or an administrative or judicial proceeding. Substituting "intentional" for "wilful" in AS 18.60.200(a)(3) is intended to conform this terminology to that in the new criminal code.

Section 7 specifies the types of internal and external examination required for specific types of boilers, depending upon construction. The period of time within which certificates of inspection are required is also clarified.

Section 8 requires that each inspection be made by a deputy or special inspector.

Section 9 changes the recipient of fees from the deputy inspector to the Department of Labor. The section also repeals time limits on the validity of the inspection certificates; those limits are unnecessary because of the amendments to AS 18.60.320.

Section 10 requires any company authorized by the Department of Commerce and Economic Development to insure boilers or unfired pressure vessels to notify the Department of Labor each time it discontinues the insurance for a boiler or pressure vessel in Alaska. Reinspection is then required only if the insurance was terminated because of a condition dangerous to life or property.

Section 11 requires the owner or user of the boiler or unfired pressure vessel inspected by a deputy inspector to pay the inspection fee to the department rather than to the deputy inspector.

Sections 12 and 13 change the definitions of boilers covered by second and third class boiler operators' licenses to clarify the maximum capacity for the steam boiler and the maximum heat output for the high temperature or high pressure water boiler.

HB

146

COMMITTEE REPORT

HOUSE

3/11/81

FURTHER:

(5)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had SSHB 146

"An Act relating to payment procedures on certain public contracts."

under consideration and reports it back as follows:

[ ] 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:

Rogers No Rec

_____

_____

_____

_____

_____

_____

Terry Martin
CHAIRMAN

H 60 (Rev. 3/81)

HB 146 - prompt payment on certain public contracts

H. Labor & Commerce - 1981-1982

all notified → Bureau offices
- D.O.T
- Natural Resources Administration
- Pete Adelfield Dept.

Date Filed
" Rec'd.
Referrals —

Comm. Hearing 1-20-82 - held - Sent to Tom Arfo & drop into bill amendments to be pd 1-19-82
2-1-82 - Pass & members & prep out of comm. with amendments they wanted.
Comm. action - pass with amendments as outlined by Jeff & on committee tape.
Tom - pick & CAA & redraw with another set of amendments !! Signed out of committee
2-3-82 - Terry Tork & Clerk Office

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SC SS HB 146 - Relating to payment procedures on
Title certain public contracts
Requested by Labor & Commerce Committee Date 2/3/82

II. FISCAL DETAIL
Agency Affected Department of Transportation & Public Facilities
Program Category Affected Design and Construction
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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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 Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

36.90.001 (a) Direct Cost is loss of interest on 20% of contract amount for 73 days. 20% of $300 million = $60 million. Assume State earns 12% on its money. Then, $60 million (0.12) $(\frac{73}{365})$ = $1.44 million.

Indirect Cost is increased cost of bonding (assume 0.5% of contract) $300 million (.005) -- $1.50 million.

(b) Interest on retainage is calculated at $135,000.

Estimated total annual cost of this bill is $3,075,000.

IV. DATE February 11, 1982 PREPARED BY Jerome A. Murphy JM
AGENCY DOT/PF
PHONE 465-3900

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

33-001 (Rev. 12/81)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

P.O. BOX 3-1000
JUNEAU, ALASKA 99811
(TELEX 099-45 337)

February 18, 1982

Re: CS SS HB 146(L&C)
Relating to Payment Procedures
on Certain Public Contracts

Honorable John Fuller, Chairman
House Rules Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Fuller:

We have reviewed the referenced version of House Bill 146(L&C) and believe that this proposed legislation is both unnecessary, as it applies to this Department, and not in the best interest of the State, in general. Should it be determined, however, that it should be pursued, the following comments and recommendations are hereby offered for your consideration.

It is recommended that subsection 36.90.001(a) be deleted. The payment, to the contractor, of 20% of the contract amount prior to beginning work is not only fiscally unsound but also would increase the risk of contractors not performing the work in a timely manner.

This Department already operates under policies which minimize the requirements of interim financing by Contractors without increasing the risk to the bondsmen or increasing the premium. In most contracts, a mobilization pay item allows the contractor to recover move-in and set-up costs very early in the job. Contractor payments are made monthly or semi-monthly at the Contractor's request. Retainage is held to a bare minimum on lump sum contracts and is not held at all on most highways, airports and harbors contracts. Provisions are made which pay for stockpiled materials on the job site prior to incorporation into the project and on buildings contracts bonding, insurance and bidding expenses are paid immediately after the notice to proceed is issued. These policies were developed through cooperative efforts with the contracting industry in an effort to minimize financial problems while still maintaining a competitive bidding atmosphere.

Regarding subsection (b), the language "Initiate Payment" is unclear. The initiation of the payment process may be interpreted to mean anything from the approval of a Contractors invoice or the signing of a monthly pay estimate to the actual mailing of the warrant to the Contractor, a process which could entail from three to ten days (or more), depending on the remoteness of the project site or its distance from the finance office.

It is suggested that the term "Intitate payment" be replaced with "Issue Payment", in which case the period of time allowed should be changed to 30 days in order to allow for the time necessary to transmit pay estimates or bills from a remote project site and to allow for the review and approval of complex pay estimates such as those involving multi-million dollar contracts with a multitude of pay items which must all be verified and approved prior to issuing a warrant.

It should also be pointed out that where subsection (b) uses the language ".. the contractor submits... a bill for materials or services...", this terminology is not applicable to most all of the construction contracts administered by DOT/PF. Firstly, payment for public works contracts is not made directly for materials or services but for items of work for which unit prices are bid. Secondly, in most cases the contractor does not submit a bill. Instead, a pay estimate is prepared by the State and approved by the Contractor.

It is also unclear whether the Contractor under (b) would be paid on the regular basis as set up in the contract (monthly or semi-monthly), or whether he/she could submit weekly or even daily bills.

Subsection (b) is silent concerning the consequences of the Contractor's failure to submit the sworn statement regarding prevailing wages.

The following language is suggested for subsection (b) in order to clarify the above points:

(b) The State shall issue payment to the Contractor, for the amount due under the public construction or public works contract, within 30 days following the end of the pay period for which payment is being made. The Contractor shall submit a sworn statement, to the State at the end of the pay period, certifying that all employees employed on the project during the pay period by the Contractor and all subcontractors have been paid not less that the established prevailing rate of pay as determined and published by the Department of Labor. Failure, by the Contractor, to submit the above sworn statement shall be cause for the State to delay payment, without interest or penalty, until such a sworn statement is submitted.

In reference to subsection (c), it must be stated that this Department strongly opposes the principle of a penalty, other than interest on late payments. This Department has, we believe, an excellent record for making timely payments to Contractors and it is not anticipated that such a penalty provision would ever

be used, were it inacted. Our general contract provisions, in every construction contract, contain an administrative claims clause which provides the vehicle to remedy inequities or disputes whenever they may occur. Such an avenue has always been available to our Contractors and is believed to be much more equitable than an automatic penalty for an event, regardless of its causation or circumstance.

It is recommended that the interest payment provision in (c) be retained, but that the 10 percent penalty provision be deleted.

Regarding subsection (d), interest on retainage, the following language is suggested for the second sentence in order to clarify the beginning of accrual of interest:

> Interest on retainage accrues from the thirtieth day following the end of the pay period from which the retainage is withheld until the date of payment to the Contractor.

Under definitions, Section 36.95.010, the term Contractor must apply only to the prime Contractor as the contract is only between the prime Contractor and the State. The term "unskilled" in (2) should not be used to describe a mechanic or a surveyor but could apply to a laborer. In (3), "Public Construction" or "Public Works", the terms "onsite" and "real property" would not apply to State ferries constructed under contract with this Department. It is suggested that "on-site" be deleted and the term "real Property" be changed to "public Property". (Reference Blacks Law Dictionary for these terms.) The definition of "retainage", (6), would be improved by re-wording as follows:

> (6) "Retainage" means money, or other contingency which the Contractor has earned as evidenced by approval of the applicable pay estimate, which is withheld from the Contractor until the completion of the contract.

The above comments are made in the interest of making the proposed legislation a more meaningful and concise document, as it would apply to the Department of Transportation and Public Facilities, which will hopefully accomplish its intended purpose without unduly increasing the cost or adversely affecting the quality of construction projects built with public funds.

Sincerely,

R.D. Shumway, P.E.
Deputy Commissioner

Enclosure: Copy of CS SS HB 146(L&C)

AMENDMENT TO CSSSHB 146(L&C)

* Sec. 2. AS 36.95.010 is amended by adding a new section to read:

(8) "retainage" means money withheld from a contractor until completion of a contract or other contingency which the contractor has earned as evidenced by approval of the applicable pay estimate.

~~HB 319~~

Proposed Amendment #2

HB146

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 20, 1982
1:10 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph
Rep. Gardiner
Rep. Rogers

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 146 — Re payment procedures/public contracts

HB 595 — An act continuing the existence of the Board of Welding Examiners; and providing for an effective date.

WITNESS REGISTER

Representative Brown
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-3744
Position Statement: Gave background on both bills.

Nick Coti, Management Analyst
Division of Occupational Licensing
Department of Commerce & Economic Development
Juneau, Alaska 99811
465-2534
Position Statement: Supported HB 595.

Donald Lockman
Testing Institute of Alaska and
State Board of Welding Examiners
Anchorage, Alaska
276-3440
Position Statement: Supported HB 595.

Ken Lomax
ARCO Oil and Gas Company
Anchorage, Alaska
338-1271
Position Statement: Supported HB 595.

Louie Rousseau
Welding Application-Methods

Anchorage, Alaska
272-3543
Position Statement: Opposed HB 595.

Erwin Long
Arctic Foundations, Inc.
Anchorage, Alaska
276-5575
Position Statement: Opposed HB 595.

PREVIOUS ACTION

HB 146	Referred to committee 3/11/81; no previous action. No action taken by committee this date.
HB 595	Referred to committee 5/26/81; no previous action. No action taken by committee this date.

ACTION NARRATIVE

Tape #003 Recording Number 1190	The meeting was called to order by Chairman Martin at 1:10 p.m. All members were present. The committee schedule called for the consideration of HB 595 and HB 146. Testifying before the committee regarding both bills was Representative Fred Brown, prime sponsor.
Number 1201	Rep. Brown, sponsor of HB 595 and HB 146, gave background on both bills. Chairman Martin limited further testimony and committee consideration to HB 595.
Number 1259	Nick Coti, Division of Occupational Licensing, Department of Commerce and Economic Development, spoke from prepared testimony in favor of continuing the Board of Welding Examiners.
Number 1371	Donald Lockman, of the Testing Institute of Alaska and the State Board of Welding Examiners, testified in favor of HB 595. Rep. Rogers questioned Lockman about his testimony.
Number 1634	Ken Lomax, of ARCO Oil and Gas Company, testified in favor of the bill, and presented written statements and letters to

the committee.

Number 1710 — Louie Rousseau, of Welding Application-Methods, a technical services business in Anchorage, testified against the bill.

Number 0136, Side B — Erwin Long, of Arctic Foundations, Inc., a manufacturer of pressure vessels and geo-tech equipment, also testified against the bill. He said he does contract work for the Corps of Engineers, and finds the State Board of Welding examinations and certifications to be in conflict with federal requirements that certification must be done according to the American Society of Mechanical Engineers (ASME) code.

Number 0312 — Donald Lockman gave rebuttal testimony in favor of the State Board of Welding Examiners.

Number 0348 — No action was taken on HB 595, and the Chairman adjourned the meeting at 3:00 p.m. Hearing on HB 595 will be continued in February.

AG's-OK
other contractors-OK
Dept. of Labor-OK
need fiscal note
$135,000 contractors

Office Copy
finalized CSSSHB 146

Original sponsor: Brown by request

IN THE HOUSE BY THE LABOR AND COMMERCE COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 146 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to payment procedures on certain public contracts."

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

* Section 1. AS 36 is amended by adding a new chapter to read:

CHAPTER 90. MISCELLANEOUS PROVISIONS.

Sec. 36.90.001. PUBLIC CONSTRUCTION CONTRACT PAYMENTS. (a) At the request of a contractor the state shall pay the contractor 20 percent of the amount of the contract on or before the date the state gives the contractor notice to proceed with the public construction or public work covered by the contract.

(b) The state shall initiate payment to the contractor for the amount due under the public construction or public work contract within 15 days after the contractor submits a bill with a certified payroll to the state for materials or services.

(c) If the state fails to make a payment due under this section, it shall pay interest to the contractor under AS 45.45.010(a) on the amount due. If a failure to make a payment due under this section continues for 60 days or more, the state shall pay the contractor a penalty of 10 percent of the amount due plus interest.

(d) In this section, title, "state" means a department, office, agency, or other organizational unit of the executive branch, except one expressly excluded by law, but does not include an agency in the judicial or legislative branches of the state government.

delete $

(e) The state or political subdivision of the state is liable to a contractor registered under AS 08.18

for interest at the rate provided in AS 45.45.010(a) on retainage on a contract for public works or public construction. Interest on retainage accrues from the date of approval of a pay estimate until the date of payment to the contractor or application toward the obligation of the contractor under the contract. A contract provision purporting to waive the interest provisions of this subsection is void as contrary to public policy.

* Sec. 2. AS 36.95.010 is amended to read:

Sec. 36.95.010. DEFINITIONS. In <u>this title</u> [AS 36.05 - 36.25] unless the context requires otherwise

(1) "contractor" means the contractor including subcontractors performing work necessary to facilitate public construction;

(2) "laborer, mechanic, or field surveyor" means a person who engages in work which is basically physical or unskilled in nature; or who engages in work, requiring the use of tools or machines, which basically consists of the shaping and working of materials into some type of structure, machine or other object; or who engages in outdoor tasks related to the operation of finding and delineating contour, dimensions, position, topography, as of any part of the earth's surface, by preparation of measured plan or description of any area or other portion of country or of road or line through any area or other portion of country;

(3) "public construction" or "public works" means the onsite field surveying, erection, rehabilitation, alteration, extension or repair, including painting or redecorating of buildings, highways or other inprovements to real property under contract for the state, a political subdivision of the state, or a regional school board with respect to an educational facility under AS 14.08.161;

(4) "qualified" means one who, except for apprentices, is a

journeyman mechanic in his particular trade;

(5) "resident" means a person who maintains his domicile in the state: domicile is the true and permanent home of a person from which he has no present intention of removing and to which he intends to return whenever he is away;

(6) "retainage" means money withheld from a contractor until completion of a contract or other contingency which the contractor has earned as evidenced by approval of the applicable pay estimate;

(7) "state or a political subdivision of the state" means any state department, state agency, state university, borough, city, village, school district or other state subdivision;

(8) "wages" includes fringe benefits.

Original sponsor: Brown by Request

IN THE HOUSE Not gov fra all Dept.

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 146 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to payment procedures on certain public contracts."

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

* Section 1. AS 36 is amended by adding a new chapter to read:

Dept of Natural Resource

CHAPTER 90. MISCELLANEOUS PROVISIONS.

Sec. 36.90.001. CONTRACT PAYMENTS. (a) At the request of a contractor the state shall pay the contractor 20 percent of the amount of the contract on or before the date the state gives the contractor notice to proceed with the work covered by the contract.

(b) The state shall initiate payment to the contractor for the amount due under the contract within 15 days after the contractor submits a bill to the state for materials or services.

(c) If the state fails to make a payment due under this section, it shall pay interest to the contractor under AS 45.45.010(a) on the amount due. If a failure to make a payment due under this section continues for 60 days or more, the state shall pay the contractor a penalty of 10 percent of the amount due plus interest.

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or who engages in work, requiring the use of tools or machines, which basically consists of the shaping and working of materials into some type of structure, machine or other object; or who engages in outdoor tasks related to the operation of finding and delineating contour, dimensions, position, topography, as of any part of the earth's surface, by preparation of measured plan or description of any area or other portion of country or of road or line through any area or other portion of country; are these new definitions?

(3) "public construction" or "public works" means the onsite field surveying, erection, rehabilitation, alteration, extension or repair, including painting or redecorating of buildings, highways or other inprovements to real property under contract for the state, a political subdivision of the state, or a regional school board with respect to an educational facility under AS 14.08.161;

(4) "qualified" means one who, except for apprentices, is a journeyman mechanic in his particular trade;

(5) "resident" means a person who maintains his domicile in the state: domicile is the true and permanent home of a person from which he has no present intention of removing and to which he intends to return whenever he is away;

(6) "state or a political subdivision of the state" means any state department, state agency, state university, borough, city, village, school district or other state subdivision;

(7) "wages" includes fringe benefits.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811
Ph: 465-2700

HB146

May 19, 1981

Mr. Ken Spray
House Labor & Commerce Committee
Alaska House of Representative
Pouch V
Juneau, Alaska 99811

Dear Mr. ~~Spray~~ Ken:

My apologies for the confusion that has resulted from the hearings and conversations concerning a proposed committee substitute for House Bill 146, "An Act relating to payment procedures on certain public contracts." The confusion seems to relate to "certified" payroll as opposed to "certification." The following amendment is proposed to address the concerns expressed by members of the Department to provide security for the payment of wages to employees on public works projects.

Preferred Amendment: Delete subsection (b), lines 16-19, page 1. Insert the following.

(b) The state shall initiate payment to the contractor for the amount due under the public construction or public works contract within 15 days after the contractor submits to the state a bill for materials and services with a certification issued by the Department of Labor that all employees employed on the project by the contractor and by all subcontractors have been paid not less than the established prevailing rate of pay as determined and published by the Department of Labor.

Alternative Amendment: Delete section (b), lines 16-19, page 1. Insert the following.

(b) The state shall initiate payment to the contractor for the amount due under the public construction or public works contract within 15 days after the contractor submits to the state a bill for materials and services and a sworn certification that all employees employed on the project by the contractor and by all subcontractors have been paid not less than the established prevailing rate of pay as determined and published by the Department of Labor.

07-G8LH

Please contact Dale Cheek or me if you have any questions.

Sincerely,

Judy

Judy G. Knight
Legislative Liaison

Enclosure

Labor Position

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811
Ph: 465-2700

HB146

Terry These concerns are taken care of in CSSSHB146(L,VC)

May 19, 1981

Mr. Ken Spray
House Labor & Commerce Committee
Alaska House of Representative
Pouch V
Juneau, Alaska 99811

Dear Mr. ~~Spray~~ Ken:

My apologies for the confusion that has resulted from the hearings and conversations concerning a proposed committee substitute for House Bill 146, "An Act relating to payment procedures on certain public contracts." The confusion seems to relate to "certified" payroll as opposed to "certification." The following amendment is proposed to address the concerns expressed by members of the Department to provide security for the payment of wages to employees on public works projects.

Preferred Amendment: Delete subsection (b), lines 16-19, page 1. Insert the following.

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Most likely amendment.

Alternative Amendment: Delete section (b), lines 16-19, page 1. Insert the following.

(b) The state shall initiate payment to the contractor for the amount due under the public construction or public works contract within 15 days after the contractor submits to the state a bill for materials and services and a sworn certification that all employees employed on the project by the contractor and by all subcontractors have been paid not less than the established prevailing rate of pay as determined and published by the Department of Labor.

07-G8LH

Please contact Dale Cheek or me if you have any questions.

Sincerely,

Judy

Judy G. Knight
Legislative Liaison

Enclosure

1-27-82

ALASKA

STATE LEGISLATURE

MEMORANDUM

Division of Legal Services
attn: Tom Boyd

Please add the (2) attd'd amendments into CSSSHB 146 (L&C) per our committee meeting. Kindly expedite as committee desires to pass out of committee. THANKS.

Rep. Terry Martin
M. Torres

HB 518

AMENDMENT TO CSSSHB 146(L&C)

* Section 1. AS 36 is amended by adding a new section to read:

CHAPTER 90. MISCELLANEOUS PROVISIONS.

Sec. 36.90.001. (e) INTEREST ON PUBLIC CONSTRUCTION CONTRACTS. (1) A person who contracts with a contractor registered under AS 08.18 for public works or public construction is liable to the contractor for interest at the rate provided in AS 45.45.010(a) on retainage.

(2) Interest accrues from the date of approval of a pay estimate until the date of payment to the contractor ar application toward the obligation of the contractor under the contract.

(3) A contract provision purporting to waive the interest provisions of this section is void as contrary to public policy.

Proposed Amendment #1

To be enrolled with proper amendments.

Jan 20, 1982

1) Motion to delete sub sec. (b) as now in CS and add new wording.

2) Delete sub-(d) —

3) pg 1 - (e) line 29 add.

HB

148

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

2/12/81

(5)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had H.B 148

"An Act making a supplemental appropriation to the Department of Commerce and Economic Development for the Real Estate Commission; and providing for an effective date."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

_____

John Fuller

_____

_____

_____

_____

_____

_____

_____

_____

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

_____

_____

_____

_____

_____

_____

_____

_____

CHAIRMAN

H 60 (Rev. 12/78)

Coalition for Economic Justice

204 E. 5th Avenue, Anchorage, Alaska 99501
907-27_-5113

Mr. Vernon L. Hurlbert
Chairman
House Labor & Commerce Committee
Pouch V
Juneau, Alaska

March 11, 1981

Transmitted by Anchorage
Legislative Affairs Office

Dear Chairman Hurlbert,

In a recent meeting with the Executive Director of the Alaska Real Estate Commission (AREC) I was advised that there are presently 13 outstanding claims against the Real Estate Surety Fund. These claims range in amounts from $1,250 to $10,000 dollars. The total amount is over $75,000 dollars. I was also advised in this meeting that the AREC could not hold any hearings to determine if these claims are valid until SB-212 (Chapter 169 SLA 1980) which was passed during the last session is amended.

I have been advised that Mr. Lance Youngquist, Chairman of the Real Estate Commission will be meeting with you today to discuss the legislative changes that are need so that the commission can proceed with the hearings on these claims.

It was my understanding that one of the primary objectives of SB-212 was to streamline the Surety Fund Hearing process so that it could serve both the consumer and the industry in a more equitable and possitive fashion. I have been advised that conflicts between SB-212 and the Administrative Procedures Act have created the problem. In any case we have not achieved the goal of SB-212.

As a Public Member of the Real Estate Commission I urge you to support the necessary action to correct this situation.

Sincerely,

Frank Austin, Public Member
Alaska Real Estate Commission

Member, Board of Directors
Coalition for Economic Justice

cc: House Labor & Commerce Committee Members
Senate Labor & Commerce Committee Members
Jessie Dodson, Spec. Asst. Office of Governor
Lance Youngquist (586-1325)

HB
159

COMMITTEE REPORT

HOUSE

2/13/81 FURTHER: FINANCE

(5)

Date: 3-2-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 159

"An Act relating to workers' compensation; and providing for an effective date."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Terry Gardiner

Bert Kogan

Terry Martin

Bob Loomis

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martin
CHAIRMAN

H 60 (Rev. 12/78)

HB 1579 – Workers Comp.
H. Labor & Commerce 1981-1982

Date Filed & Read.

Work draft rec'd. 1-19-82
CS being worked

Referrals

Common Law – 1-25-82 thru 1-28-82 – 3-2-82 – CS adopted – Notified Legal & Fiscal
action held 8:30th 3-3-82 pck CS – Print & Chief Clerk's office @ 8:30 A.M.

[redacted] Notify 2-4-82 Tom Finley – 586-3811
when next scheduled.

PLEASE NOTE: THE FOLLOWING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT

YELLOW ☐ SAME (1)

BLUE ☐ DELETED (2)

RED ☐ NEW (3)

THE ABOVE COLOR CODE WAS USED ON THE ORIGINAL TWO DOCUMENTS OF CSHB 159 (L & C).

DOCUMENT #1 pages 1 thru end (page 10)

DOCUMENT # 2 pages 1 thru end (page 46)

THE CIRCLED NUMBERS (1, 2, and 3) ARE PLACED IN FRONT OF THEIR RESPECTIVE COLOR CODED LINES IN THE ORIGINAL DOCUMENTS.

IF CLARIFICATION IS NEEDED, THE ORIGINAL DOCUMENTS MAY BE REVIEWED AT THE ALASKA STATE ARCHIVES.

Sofo ✓✓✓✓

1–

Original sponsor: Rules/Legislative Council

IN THE HOUSE BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 159 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to workers' compensation; and providing for an effective date."

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

(3) * Section 1. AS 18.80.220(a)(4) is amended to read: Sec 66 P 44

We do not have built in insurance 2nd injury Fd. ok.

(4) an employer, labor organization or employment agency to discharge, expel or otherwise discriminate against a person because he has Consider Fed tie ins. peril. Offer of Fed Contract Compliance To Fed. Laws. [Keeps handicapped + prev-injured]

(A) opposed any practices forbidden under AS 18.80.200 - 18.80.280; [OR BECAUSE HE HAS]

(B) filed a complaint, testified or assisted in a proceeding under this chapter; or

(C) filed a claim for workers' compensation benefits under AS 23.30; Sec 13 P 13

(1) * Sec. 2. AS 23.30.025 is amended by adding a new subsection to read:

(c) An insurer may issue a policy of insurance insuring the payment of benefits under this chapter which provides for a deductible amount to be paid by the employer. A policy with a deductible provision must be approved by the director of insurance and must provide that the deductible amount be paid by the insurer to the employee on behalf of the employer. After payment of the deductible by the insurer, the insurer may recover the deductible amount from the employer. The failure of an employer to reimburse an insurer for the deductible amount does not relieve the insurer from any other obligation it may have under the policy of insurance. An insurer is not required to apply for a deviation

under AS 21.39.070 in order to issue a policy under this subsection. This subsection does not apply to a policy of excess insurance purchased by a self-insurer.

Sec 17 P17

(1) * Sec. 3. AS 23.30.045(c) is amended to read:

(c) For a person eligible for vocational rehabilitation service under this chapter or AS 23.15.080 [AND] who is placed with an employer for service [WITHOUT WAGES] at the request of the board or the division [OFFICE] of vocational rehabilitation to give him on the job training, work readiness, [OR] work therapy experience [,] or work sampling, the liability set out in (a) of this section applies to the state rather than to the employer.

Sec 26 P22

(1) * Sec. 4. AS 23.30.080 is amended by adding a new subsection to read:

(d) If an employer fails to insure or provide security as required by AS 23.30.075, the board may issue a stop order prohibiting the use of employee labor by the employer until the employer insures or provides security as required by AS 23.30.075. If an employer fails to comply with a stop order issued under this section, the board shall assess a civil penalty of at least $1,000 per day. The employer may not obtain a public contract with the state or any of its political subdivisions for one year following the violation of the stop order.

Sec 30 P 23

(1) * Sec. 5. AS 23.30.095(a) is amended to read:

(a) The employer shall furnish medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires [, NOT EXCEEDING TWO YEARS FROM AND AFTER THE DATE OF INJURY TO THE EMPLOYEE. HOWEVER, IF THE CONDITION REQUIRING THE TREATMENT, APPARATUS, OR MEDICINE IS A LATENT ONE, THE TWO-YEAR PERIOD RUNS FROM THE TIME THE EMPLOYEE HAS KNOWLEDGE OF THE NATURE OF HIS DISABILITY AND ITS RELATIONSHIP TO HIS EMPLOYMENT AND AFTER-DISABLEMENT.

IT SHALL BE ADDITIONALLY PROVIDED THAT, IF CONTINUED TREATMENT OR CARE OR BOTH BEYOND THE TWO-YEAR PERIOD IS INDICATED, THE INJURED EMPLOYEE HAS THE RIGHT OF REVIEW BY THE BOARD. THE BOARD MAY AUTHORIZE CONTINUED TREATMENT OR CARE OR BOTH AS THE PROCESS OF RECOVERY MAY REQUIRE]. When medical care is required, the injured employee may designate a health care provider [LICENSED PHYSICIAN] inside the state to render the care except in cases where, in the judgment of the board, care or treatment or both can best be administered by the selection of another health care provider [PHYSICIAN]. Upon procuring the services of a health care provider [PHYSICIAN], the injured employee shall give proper notification of his selection to the employer within a reasonable time after first being treated. [IF FOR ANY REASON DURING THE PERIOD WHEN MEDICAL CARE IS REQUIRED THE EMPLOYEE WISHES TO CHANGE TO ANOTHER PHYSICIAN, HE MAY DO SO IN ACCORDANCE WITH RULES PRESCRIBED BY THE BOARD.]

(3) * Sec. 6. AS 23.30.095(b) is amended to read:

(b) If the employee is unable to designate a health care provider [PHYSICIAN] and the emergency nature of the injury requires immediate medical care, or if he does not desire to designate a health care provider [PHYSICIAN] and so advises the employer, the employer shall designate the health care provider [PHYSICIAN]. Designation under this subsection, however, does not prevent the employee from subsequently designating a health care provider [PHYSICIAN] for continuance of required medical care.

Sec 31 P24,25

(1) * Sec. 7. AS 23.30.095(c) is amended to read:

(c) No claim for medical or surgical treatment is valid and enforceable as against the employer unless, within 20 [TWENTY] days following the first treatment (3) and following the time set by the board for (3) notice of subsequent treatments, the health care provider [PHYSICIAN] giving the treatment or the employee receiving it furnishes to the

employer and the board notice of the injury and treatment, preferably on a form prescribed by the board. The board shall [MAY], however, excuse the failure to furnish notice within 20 days when it finds it to be in the interest of justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of the medical or surgical treatment so obtained by the employee.

Sec 32 P24

(1) * Sec. 8. AS 23.30.095(e) is amended to read:

(e) The employee shall, after an injury, at reasonable times during the continuance of his disability if requested by his employer or, when ordered by the board, submit himself to an examination by a health care provider [PHYSICIAN OR SURGEON] authorized to practice [MEDICINE] under the laws of the state in which the employee may be found, furnished and paid for by the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR EXAMINATIONS.] No fact relative to the injury or claim communicated to or otherwise learned by a health care provider [PHYSICIAN OR SURGEON] who may have attended or examined the employee, or who may have been present at an examination is privileged, either in the hearings provided for in this chapter or an action to recover damages against an employer who is subject to the benefits [COMPENSATION] provisions of this chapter. If an employee refuses to submit himself to any examination provided for in this section [HEREIN], his rights to compensation shall be suspended until the obstruction or refusal ceases, and his compensation during the period of suspension may, in the discretion of the board or the court determining an action brought for the recovery of damages under this chapter [HEREUNDER], be forfeited. The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. No autopsy may be held without notice first being given to the widow or widower or next of kin if they reside in the

state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If no adequate notice is given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

Sec 36 P26

(1) * Sec. 9. AS 23.30.105(a) is amended to read:

(a) The right to benefits [COMPENSATION FOR DISABILITY] under this chapter is barred unless a claim for them [IT] is filed within two years after the employee has knowledge of the nature of his disability and its relation to his employment and after disablement. The [HOWEVER, THE MAXIMUM TIME FOR FILING THE CLAIM IN ANY EVENT OTHER THAN ARISING OUT OF AN OCCUPATIONAL DISEASE SHALL BE FOUR YEARS FROM THE DATE OF INJURY, AND THE] right to benefits [COMPENSATION] for death is barred unless a claim for benefits [THEREFORE] is filed within one year after the death. If [, EXCEPT THAT IF] payment of compensation has been made without an award on account of the injury or death, a claim may be filed within two years after the date of the last payment. It is additionally provided that, in the case of a latent injury [DEFECTS PERTINENT TO AND CAUSING COMPENSABLE DISABILITY], the injured employee has full right to claim as shall be determined by the board, time limitations notwithstanding.

Sec 40 P30

(1) * Sec. 10. AS 23.30.110(c) is amended to read:

(c) The board shall make the investigation which it considers necessary in respect of the claim, and upon application of an interested party shall order a hearing on it. If a hearing on a claim is ordered, the board shall give the claimant and other interested parties at least 10 days' notice of the hearing, served personally upon the claimant and other interested parties or sent by registered mail, and shall, within 30 [20] days after the hearing is held [HAD], by order, reject the claim

or make an award in respect to it. (3) If a hearing is continued by the board, additional notice under this subsection is not required. [IF NO HEARING IS ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN RESPECT TO IT.]

Sec 45 P33

(1)* Sec. 11. AS 23.30.155(j) is amended to read:

(j) If an employer has made advance payments or overpayments of compensation, he is entitled to be reimbursed, after approval by the board, out of any unpaid installment or installments of compensation due.

Sec 46 P33

(1)* Sec. 12. AS 23.30.155 is amended by adding new subsections to read:

(n) Compensation owed to an injured employee in the state shall be paid by a check or draft that may be cashed on the first banking day after it is received by the employee and on any succeeding banking day.

(o) If the board determines that it is in the interest of an injured employee and that a substantial hardship will not be imposed on the employer, the liability of the employer for all or part of compensation payable under AS 23.30.190 may be discharged by the payment of a lump sum.

Sec 51 P36

(1)* Sec. 13. AS 23.30.175(b) is repealed and reenacted to read:

(b) After June 30 and before December 1 of each year, the commissioner shall adopt and publish the average weekly wage for each jurisdiction for the preceding calendar year as published by the United States Secretary of Labor for the purposes of unemployment insurance. In determining the rate of compensation the commissioner shall use the average weekly wage figure for each jurisdiction, including Alaska, for which the Secretary of Labor computes an average weekly wage. These figures are the applicable average weekly wages for those jurisdictions for the following calendar year.

Sec 52 P 36,37

(1) * Sec. 14. AS 23.30.175(c) is repealed and reenacted to read:

(c) The following rules apply to recipients who do not reside in Alaska:

(1) The weekly rate of compensation shall be calculated by multiplying the recipient's average weekly wage times the ratio of the average weekly wage of the jurisdiction in which the recipient resides to the average weekly wage of Alaska. The rate is based on the average weekly wages in effect when the recipient leaves Alaska and shall be adjusted annually upon publication of the average weekly wages for all jurisdictions.

(2) The calculation required by this subsection does not apply if the recipient is absent from Alaska for medical or rehabilitation services not reasonably available in Alaska.

(3) If the average weekly wage of the recipient and the resulting compensation rate is determined under AS 23.30.220(2) the calculation required by this subsection applies to only those wages earned in Alaska.

(4) Application of this subsection may not result in a reduction of the weekly compensation rate to less than $65 a week except as provided in (a) of this section.

(1) Sec 53 P 37

* Sec. 15. AS 23.30.175(d) is repealed and reenacted to read:

(d) In a jurisdiction for which no average weekly wage is computed by the United States Secretary of Labor for the purposes of unemployment insurance, the average weekly wage shall be as determined by the commissioner.

Sec 55 P 38,39,40

(1) * Sec. 16. AS 23.30.190(a)(20) is amended to read:

(20) in all other cases in this class of disability the compensation is 66-2/3 percent of the difference between his average weekly wages and his wage-earning capacity after the injury in the same

employment or otherwise, payable during the continuance of the partial disability, but subject to reconsideration of the degree of the impairment by the board on its own motion or upon application of a party in interest; [WHENEVER THE BOARD DETERMINES THAT IT IS IN THE INTEREST OF JUSTICE, THE LIABILITY OF THE EMPLOYER FOR COMPENSATION, OR ANY PART OF IT AS DETERMINED BY THE BOARD, MAY BE DISCHARGED BY THE PAYMENT OF A LUMP SUM;]

Sec 56 P40

(1) * Sec. 17. AS 23.30.191 is repealed and reenacted to read:

Sec. 23.30.191. EXPENSES FOR REHABILITATING INJURED EMPLOYEES. An employee, who, as a result of injury, is or may be expected to be totally or partially incapacitated for his normal occupation and who, under the direction of the board, is being rehabilitated to engage in a remunerative occupation, may receive compensation necessary for his rehabilitation of 66-2/3 percent of his average weekly wage subject to the maximum payable under AS 23.30.175.

Sec 58 P41

(1) * Sec. 18. AS 23.30.215(a)(1) is amended to read:

(1) reasonable and necessary funeral expenses not exceeding

(3) ~~$2,500~~ [$1,000];

(3) * Sec. 19. AS 23.30.220(2) is amended to read:

(2) the average weekly wage is [THAT MOST FAVORABLE TO THE EMPLOYEE] calculated by dividing 456 [52] into the total wages earned, including self-employment, in the highest paid three consecutive years out of [ANY ONE OF] the five [THREE] calendar years immediately preceding the injury;

Sec 63 P43

(1) * Sec. 20. AS 23.30.250 is amended to read:

Sec. 23.30.250. PENALTY FOR MISREPRESENTATION. A person who wilfully makes a false or misleading statement or representation for the purpose of obtaining a benefit or payment under this chapter is guilty of theft as defined in AS 11.46.100(3) and is punishable as provided in

AS 11.46.120 - 11.46.150 [A MISDEMEANOR, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $1,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH].

Sec 68 P45

(I) * Sec. 21. AS 23.30.265(16) is amended to read:

(16) "medical and related benefits" includes but is not limited to physicians' fees, nurses' charges, pain clinic services, hospital services, hospital supplies, medicine and prosthetic devices, physical rehabilitation, and treatment for the fitting and training for use of such devices as may reasonably be required which arises out of or is necessitated by an injury, and transportation charges to the nearest point where adequate medical facilities are available;

Sec 70 P45

(I) * Sec. 22. AS 23.30.265(20) is amended to read:

(20) "wages" means the money rate at which the service rendered is recompensed under the contract of hiring [IN FORCE AT THE TIME OF THE INJURY,] and includes the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer, and gratuities received in the course of employment from other [OTHERS] than the employer;

Sec 71 P45,46

(I) * Sec. 23. AS 23.30.265 is amended by adding new paragraphs to read:

(29) "benefits" means compensation and medical and related benefits;

(30) "health care provider" means a chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a physical therapist licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a psychologist and a psychological associate licensed under AS 08.86; and a hospital as defined in AS 18.20.130, including a governmentally owned

or operated hospital; a corporate entity covered under AS 21.88.050-(b)(12); an employee of a health care provider acting within the course and scope of his employment; and persons comparably licensed in other jurisdictions to provide health care;

(3) (31) "in the course of employment" includes travel to and from a remote job site but does not include activities outside of working hours off a site provided by the employer that are not under the supervision or control of the employer.

(1) * Sec. 24. AS 23.30.095(g), 23.30.125(b), 23.30.175(e) and (f), and 23.30.225(b) are repealed.

(1) * Sec. 25. This Act takes effect July 1, 1982.

Original sponsor: Rules/Legislative Council (for the Workers' Compensation Study Commission)

office copy

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 159 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to workers' compensation; and providing for an effective date."

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

* Section 1. The purpose of sec. 3 of this Act is to provide both protection for injured employees and flexibility for employers in making the alternative of self-insurance available to those employers required under AS 23.30 to provide workers' compensation insurance coverage for their employees.

(2) * Sec. 2. AS 21.39.030(a)(4) is amended to read:

(4) risks may be grouped by classifications for the establishment of rates and minimum premiums <u>and shall be segregated and developed separately for workers' compensation insurance on construction projects that are extraordinary in scope or nature</u>; classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both; the standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses;

(2) * Sec. 3. AS 21 is amended by adding a new chapter to read:

CHAPTER 62. WORKERS' COMPENSATION SELF-INSURANCE.

Sec. 21.62.010. SELF-INSURANCE. An employer or two or more employers having a common management or two or more employers having a common interest may elect to pay directly the compensation required in AS 23.30 after providing satisfactory proof of financial ability to

make direct payments and receiving a self-insurance certificate from the director.

(2) Sec. 21.62.020. SELF-INSURANCE FUND. (a) A workers' compensation self-insurance group formed by two or more employers having a common interest shall establish and keep a self-insurance fund with a minimum balance to be determined by the director, but not less than $250,000. The director may adopt regulations to maintain the solvency of the fund.

(b) The fund shall be administered by a board of trustees selected by members of the common interest self-insurance group.

(c) A majority of the trustees of the fund must be members of the self-insurance group.

(d) A trustee of a fund may not be an owner, officer, or employee of the service company used by the common interest self-insurance group which established the fund.

(e) The common interest self-insurance group shall adopt bylaws governing the operation of the fund.

Sec. 21.62.030. APPLICATION. (a) An employer desiring to become an individual self-insurer or two or more employers having common management desiring to become a group self-insurer shall submit an application to the division on a form prescribed by the director.

(b) The trustees of the fund of a common interest group desiring to become a group self-insurer shall submit an application to the division on a form prescribed by the director.

(c) An applicant for self-insurance shall answer all questions on the application. The answers shall be sworn to and notarized. The application shall be submitted at least 90 days before the proposed effective date or renewal date of the self-insurance certificate.

Sec. 21.62.040. CONTENTS OF APPLICATION. An applicant for self-

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insurance shall submit the following with the application for self-insurance:

(1) evidence of working capital of an amount which establishes the financial strength and liquidity to pay normal compensation claims promptly;

(2) the proposed amount of retention per loss and retention in the aggregate;

(3) the proposed program of excess insurance coverage;

(4) proof that the applicant has ample facilities and competent personnel to service the self-insurance plan or a copy of a signed service agreement with an approved service company to provide that service;

(5) the location in this state where all records of self-insured loss will be maintained;

(6) a description of any loss control or safety programs to be used by the applicant;

(7) Any further evidence which the director may require to establish the ability of the applicant to meet its obligations under AS 23.30.

Sec. 21.62.050. DOCUMENTS REQUIRED OF INDIVIDUAL SELF-INSURER. In addition to the information required under AS 21.62.040, an application for individual self-insurance shall be accompanied by

(1) a financial statement not more than three months old at the time of the application showing a net worth of not less than $500,000;

(2) an agreement to fully discharge by cash payment all amounts required to be paid under AS 23.30.

Sec. 21.62.060. DOCUMENTS REQUIRED OF COMMON MANAGEMENT SELF-INSURANCE GROUP. In addition to the information required under AS 21.-

(2)

62.040, an application for group self-insurance by a common management group shall be accompanied by

(1) a financial statement not more than three months old at the time of application for each member of the group showing a combined net worth of all members of the group to be not less than $500,000;

(2) an indemnity agreement jointly and severally binding each member of the common management self-insurance group to fully discharge by cash payment all amounts required to be paid under AS 23.-30.

Sec. 21.62.070. DOCUMENTS REQUIRED OF COMMON INTEREST SELF-INSURANCE GROUP. In addition to the information required under AS 21.-62.040, an application for group self-insurance by the trustees of the fund of a common interest group shall be accompanied by

(1) a financial statement not more than three months old at the time of the application for each member applying for coverage on the inception date of the fund showing a combined net worth of all members of the common interest self-insurance group of not less than $1,000,000;

(2) an indemnity agreement jointly and severally binding the fund and each member of the common interest self-insurance group to fully discharge by cash payment all amounts required to be paid under AS 23.30;

(3) An individual application for each member of the common interest self-insurance group applying for coverage under the fund;

(4) a set of bylaws or a trust agreement which shall govern the operation of the fund;

(5) proof of the existence of the minimum balance in the fund as required under AS 21.62.020(a);

(6) an estimate of all administrative expenses of the fund

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for the period for which the self-insurance certificate is to be issued.

Sec. 21.62.080. REVIEW AND DECISION OF DIRECTOR. (a) The director shall review the contents of an application for self-insurance and determine whether the applicant has the financial ability to meet its obligations under AS 23.30.

(b) The director shall determine the amount of excess insurance coverage necessary for the discharge of the obligations of the employer under AS 23.30 and the protection of the applicant.

(c) The director may require a surety bond under AS 21.62.100 as a condition to issuance of a self-insurance certificate.

(d) The director shall give written notice to the applicant not later than 30 days before the proposed effective date of his approval or denial of an application for self-insurance. If the application is approved, the notice shall list the conditions which must be met before the self-insurance certificate is issued. If the application is denied, the notice shall state the specific reasons for the denial.

(e) A decision of the director is subject to the hearing and appeal procedure under AS 21.06.180 - 21.06.230.

Sec. 21.62.090. SELF-INSURANCE CERTIFICATE. Upon approval of an application and receipt of proof of any conditions established under AS 21.62.080(d), the director shall issue a self-insurance certificate to the applicant. The self-insurance certificate shall be on a form prescribed by the director and shall be issued for a period of one year.

Sec. 21.62.100. BOND. (a) With each application for self-insurance or application for renewal of a self-insurance certificate the director may require a corporate surety bond to secure the payment of obligations under AS 23.30 as they are incurred. The bond shall be on a form prescribed by the director and shall be issued by a corporate

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surety authorized under AS 21.09 to do business in this state. The amount of the bond for each year shall be equal to or greater than the aggregate retention of the self-insurer but not less than $25,000.

(b) A bond secured in compliance with this section may not be cancelled, exchanged, or replaced unless 60 days written notice is given to the director and to the self-insurer.

Sec. 21.62.110. EXCESS INSURANCE. (a) The director shall determine the amount and kind of excess insurance required of an applicant for self-insurance based on the financial strength, past history of loss, and degree of hazard in the operations of the applicant and any other factors he considers appropriate.

(b) Excess insurance coverage shall be written by a casualty insurer authorized under AS 21.09 to do business in this state, except that the director may approve a policy of excess insurance with coverage starting at $1,000,000 with an insurer writing insurance in this state under AS 21.33.

(c) A policy of excess insurance issued under this chapter may not be cancelled unless the excess insurer gives 60 days written notice by certified mail to the director and to the self-insurer.

(d) The policy of excess insurance shall contain a provision that the director may order the payment of obligations due under the terms of the policy to a party other than the employer if necessary to assure the prompt payment of benefits to injured employees.

(e) A policy of excess insurance under this chapter shall cover each employer named in the application for self-insurance under AS 21.-62.030 and no other employers.

Sec. 21.62.120. SERVICING FOR SELF-INSURERS. (a) It is the sole responsibility of a self-insurer to provide competent persons to service its programs for claims adjusting, underwriting, and loss control.

Original sponsor: Rules/Legislative Council (for the Workers' Compensation Study Commission)

office copy

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 159 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to workers' compensation; and providing for an effective date."

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

* Section 1. The purpose of sec. 3 of this Act is to provide both protection for injured employees and flexibility for employers in making the alternative of self-insurance available to those employers required under AS 23.30 to provide workers' compensation insurance coverage for their employees.

(2) * Sec. 2. AS 21.39.030(a)(4) is amended to read:

(4) risks may be grouped by classifications for the establishment of rates and minimum premiums <u>and shall be segregated and developed separately for workers' compensation insurance on construction projects that are extraordinary in scope or nature</u>; classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both; the standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses;

(2) * Sec. 3. AS 21 is amended by adding a new chapter to read:

CHAPTER 62. WORKERS' COMPENSATION SELF-INSURANCE.

Sec. 21.62.010. SELF-INSURANCE. An employer or two or more employers having a common management or two or more employers having a common interest may elect to pay directly the compensation required in AS 23.30 after providing satisfactory proof of financial ability to

make direct payments and receiving a self-insurance certificate from the director.

(2) Sec. 21.62.020. SELF-INSURANCE FUND. (a) A workers' compensation self-insurance group formed by two or more employers having a common interest shall establish and keep a self-insurance fund with a minimum balance to be determined by the director, but not less than $250,000. The director may adopt regulations to maintain the solvency of the fund.

(b) The fund shall be administered by a board of trustees selected by members of the common interest self-insurance group.

(c) A majority of the trustees of the fund must be members of the self-insurance group.

(d) A trustee of a fund may not be an owner, officer, or employee of the service company used by the common interest self-insurance group which established the fund.

(e) The common interest self-insurance group shall adopt bylaws governing the operation of the fund.

Sec. 21.62.030. APPLICATION. (a) An employer desiring to become an individual self-insurer or two or more employers having common management desiring to become a group self-insurer shall submit an application to the division on a form prescribed by the director.

(b) The trustees of the fund of a common interest group desiring to become a group self-insurer shall submit an application to the division on a form prescribed by the director.

(c) An applicant for self-insurance shall answer all questions on the application. The answers shall be sworn to and notarized. The application shall be submitted at least 90 days before the proposed effective date or renewal date of the self-insurance certificate.

Sec. 21.62.040. CONTENTS OF APPLICATION. An applicant for self-

-L 20A (2)

insurance shall submit the following with the application for self-insurance:

(1) evidence of working capital of an amount which establishes the financial strength and liquidity to pay normal compensation claims promptly;

(2) the proposed amount of retention per loss and retention in the aggregate;

(3) the proposed program of excess insurance coverage;

(4) proof that the applicant has ample facilities and competent personnel to service the self-insurance plan or a copy of a signed service agreement with an approved service company to provide that service;

(5) the location in this state where all records of self-insured loss will be maintained;

(6) a description of any loss control or safety programs to be used by the applicant;

(7) Any further evidence which the director may require to establish the ability of the applicant to meet its obligations under AS 23.30.

Sec. 21.62.050. DOCUMENTS REQUIRED OF INDIVIDUAL SELF-INSURER. In addition to the information required under AS 21.62.040, an application for individual self-insurance shall be accompanied by

(1) a financial statement not more than three months old at the time of the application showing a net worth of not less than $500,000;

(2) an agreement to full, discharge by cash payment all amounts required to be paid under AS 23.30.

Sec. 21.62.060. DOCUMENTS REQUIRED OF COMMON MANAGEMENT SELF-INSURANCE GROUP. In addition to the information required under AS 21.-

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(2)

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(1) a financial statement not more than three months old at the time of application for each member of the group showing a combined net worth of all members of the group to be not less than $500,000;

(2) an indemnity agreement jointly and severally binding each member of the common management self-insurance group to fully discharge by cash payment all amounts required to be paid under AS 23.-30.

Sec. 21.62.070. DOCUMENTS REQUIRED OF COMMON INTEREST SELF-INSURANCE GROUP. In addition to the information required under AS 21.-62.040, an application for group self-insurance by the trustees of the fund of a common interest group shall be accompanied by

(1) a financial statement not more than three months old at the time of the application for each member applying for coverage on the inception date of the fund showing a combined net worth of all members of the common interest self-insurance group of not less than $1,000,000;

(2) an indemnity agreement jointly and severally binding the fund and each member of the common interest self-insurance group to fully discharge by cash payment all amounts required to be paid under AS 23.30;

(3) An individual application for each member of the common interest self-insurance group applying for coverage under the fund;

(4) a set of bylaws or a trust agreement which shall govern the operation of the fund;

(5) proof of the existence of the minimum balance in the fund as required under AS 21.62.020(a);

(6) an estimate of all administrative expenses of the fund

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for the period for which the self-insurance certificate is to be issued.

Sec. 21.62.080. REVIEW AND DECISION OF DIRECTOR. (a) The director shall review the contents of an application for self-insurance and determine whether the applicant has the financial ability to meet its obligations under AS 23.30.

(b) The director shall determine the amount of excess insurance coverage necessary for the discharge of the obligations of the employer under AS 23.30 and the protection of the applicant.

(c) The director may require a surety bond under AS 21.62.100 as a condition to issuance of a self-insurance certificate.

(d) The director shall give written notice to the applicant not later than 30 days before the proposed effective date of his approval or denial of an application for self-insurance. If the application is approved, the notice shall list the conditions which must be met before the self-insurance certificate is issued. If the application is denied, the notice shall state the specific reasons for the denial.

(e) A decision of the director is subject to the hearing and appeal procedure under AS 21.06.180 - 21.06.230.

Sec. 21.62.090. SELF-INSURANCE CERTIFICATE. Upon approval of an application and receipt of proof of any conditions established under AS 21.62.080(d), the director shall issue a self-insurance certificate to the applicant. The self-insurance certificate shall be on a form prescribed by the director and shall be issued for a period of one year.

Sec. 21.62.100. BOND. (a) With each application for self-insurance, or application for renewal of a self-insurance certificate the director may require a corporate surety bond to secure the payment of obligations under AS 23.30 as they are incurred. The bond shall be on a form prescribed by the director, and shall be issued by a corporate

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(2)

surety authorized under AS 21.09 to do business in this state. The amount of the bond for each year shall be equal to or greater than the aggregate retention of the self-insurer but not less than $25,000.

(b) A bond secured in compliance with this section may not be cancelled, exchanged, or replaced unless 60 days written notice is given to the director and to the self-insurer.

Sec. 21.62.110. EXCESS INSURANCE. (a) The director shall determine the amount and kind of excess insurance required of an applicant for self-insurance based on the financial strength, past history of loss, and degree of hazard in the operations of the applicant and any other factors he considers appropriate.

(b) Excess insurance coverage shall be written by a casualty insurer authorized under AS 21.09 to do business in this state, except that the director may approve a policy of excess insurance with coverage starting at $1,000,000 with an insurer writing insurance in this state under AS 21.33.

(c) A policy of excess insurance issued under this chapter may not be cancelled unless the excess insurer gives 60 days written notice by certified mail to the director and to the self-insurer.

(d) The policy of excess insurance shall contain a provision that the director may order the payment of obligations due under the terms of the policy to a party other than the employer if necessary to assure the prompt payment of benefits to injured employees.

(e) A policy of excess insurance under this chapter shall cover each employer named in the application for self-insurance under AS 21.62.030 and no other employers.

Sec. 21.62.120. SERVICING FOR SELF-INSURERS. (a) It is the sole responsibility of a self-insurer to provide competent persons to service its programs for claims adjusting, underwriting, and loss control.

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(2)

(b) A self-insurer may contract with one or more approved service companies to provide these services on a full-time basis.

(c) The department shall adopt regulations for approving service companies under this section.

Sec. 21.62.130. RECORDS. (a) A self-insurer or a service company on behalf of a self-insurer shall maintain all claims records at a location in the state.

(b) The records of a self-insurer which relate to self-insurance under this chapter are subject to guidelines established by the director concerning their retention and the review of those records by the director.

(c) All claims files of a self-insurer are subject to review by the director during normal business hours at a location in the state as stated in the application for self-insurance.

Sec. 21.62.140. REPORTS. The director may by regulation require reports concerning payroll, losses, reserves, financial condition, and other matters reasonably related to the ability of a self-insurer to meet its obligations under AS 23.30. Failure to comply with these regulations is cause for revocation of a self-insurance certificate.

Sec. 21.62.150. INDEMNITY AGREEMENT. The director may by regulation establish the provisions of the indemnity agreement required under AS 21.62.060(2) and 21.62.070(2). An indemnity agreement may contain other provisions that are consistent with the provisions adopted by regulation.

Sec. 21.62.160. REVOCATION OF A SELF-INSURANCE CERTIFICATE. (a) Failure to comply with the provisions of this chapter or AS 23.30 is grounds for revocation of a self-insurance certificate.

(b) The director shall give a self-insurer 30 days written notice of a proposed revocation of a self-insurance certificate. The notice

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(2)

of proposed revocation shall contain a statement of the reasons for revocation. Revocation is effective 30 days after a self-insurer receives a notice of proposed revocation unless the self-insurer requests a hearing within 15 days after receiving notice of proposed revocation. Revocation shall be stayed until the hearing process is completed.

(c) A self-insurer may appeal an order under this section as provided in AS 21.06.230.

Sec. 21.62.170. INDEXING. The director may adopt regulations to provide for a revision of the dollar amounts in AS 21.62.020(a), 21.62.050(1), 21.62.060(1), 21.62.070(1), 21.62.100(a), and 21.62.110(f) to reflect devaluation of those amounts due to inflation.

Sec. 21.62.200. DEFINITIONS. In this chapter

(1) "common interest self-insurance group" means a group of employers that are in the same or similar type of business and includes unrelated businesses which are owned or controlled by the same person or persons if one of the unrelated businesses is the same or similar type of business as the other businesses in the group;

(2) "common management self-insurance group" means a group of employers which have businesses that are owned or controlled by the same persons;

(3) "fund" means a self-insurance fund;

(4) "trustee" means a person elected by a common interest self-insurance group for a stated term to direct the administration of a fund.

* Sec. 4. AS 18.80.220(a)(4) is amended to read:

(4) an employer, labor organization or employment agency to discharge, expel or otherwise discriminate against a person because he has

(A) opposed any practices forbidden under AS 18.80.-

200 - 18.80.280; [OR BECAUSE HE HAS]

(B) filed a complaint, testified or assisted in a proceeding under this chapter; or

(C) filed a claim for workers' compensation benefits under AS 23.30;

(2)

* Sec. 5. AS 21.36.190(d) is amended to read:

(d) This section does not apply to workers' compensation insurance when issued to an association of employers in the same rating classification [FORMED FOR PURPOSES OTHER THAN THE PURCHASE OF INSURANCE] and which as a group

(1) has a constitution and bylaws;

(2) incorporates a safety program;

[(3) AS A GROUP HAS PREFERRED CHARACTERISTICS OVER SIMILAR RISKS WRITTEN ON AN INDIVIDUAL BASIS;] and

(4) has filed and received approval from the director for the rating program to be applied to the group.

(2)

* Sec. 6. AS 21.39.040(d) is amended to read:

(d) Subject to the exceptions [EXCEPTION] specified in (e) of this section and AS 21.39.045, each filing shall be on file for a waiting period of 15 days before it becomes effective, which period may be extended by the director for an additional period not to exceed 15 days if he gives written notice within the waiting period to the insurer or rating organization which made the filing stating that he needs additional time for the consideration of the filing. Upon written application by the insurer or rating organization, the director may authorize a filing which he has reviewed to become effective before the expiration of the waiting period. A filing shall be considered to meet the requirements of this chapter unless disapproved by the director within the waiting period.

(2)

* Sec. 7. AS 21.39 is amended by adding a new section to read:

Sec. 21.39.045. WORKERS' COMPENSATION RATE FILINGS. (a) A filing of workers' compensation rates by a rating organization shall be limited to provisions for claim payment and may not include allowances for expenses, taxes, or profit, except as necessary for full rate development for an assigned risk pool under AS 21.39.155.

(b) If each rate in a schedule of workers' compensation rates for a specific classification of risks filed by an insurer is not lower than the rate for each respective classification filed by a rating organization in accordance with (a) of this section and approved by the director, the schedule of rates filed by the insurer is effective immediately and the waiting period in AS 21.39.040(d) is not required.

(c) Notwithstanding (b) of this section, the director may require an insurer to comply with the waiting period in AS 21.39.040(d) for a rate filing or part of a rate filing if he determines that the rate filing or part of the rate filing is excessive, inadequate, or unfairly discriminatory.

(2)

* Sec. 8. AS 21.39.070 is amended by adding new subsections to read:

(c) Notwithstanding (a) of this section, a filing by an insurer of an independent deductible or loss reimbursement plan is not considered a deviation under this section.

(d) Notwithstanding (a) of this section, a filing of workers' compensation rates under AS 21.39.045(b) is not a deviation under this section.

(2)

* Sec. 9. AS 23.30.010 is amended to read:

Sec. 23.30.010. COVERAGE. Benefits are [COMPENSATION IS] payable under this chapter in respect of disability or death of an employee.

(2)

* Sec. 10. AS 23.30.015 is amended to read:

Sec. 23.30.015. BENEFITS [COMPENSATION] WHERE THIRD PERSONS ARE

(2)

LIABLE. (a) If on account of disability or death for which benefits [COMPENSATION IS] payable under this chapter the person entitled to the benefits [COMPENSATION] believes that a third person other than the employer or a fellow employee is liable for damages, he need not elect whether to receive benefits [COMPENSATION] or to recover damages from the third person.

(b) Acceptance of benefits [COMPENSATION] under an award in a compensation order filed by the board operates as an assignment to the employer of all rights of the person entitled to benefits [COMPENSATION] and the personal representative of a deceased employee to recover damages from the third person unless the person or representative entitled to benefits [COMPENSATION] commences an action against the third person within one year after an award.

(c) Payment of compensation into the second-injury fund as a result of death operates as an assignment to the employer of all rights of the representative of the deceased to recover damages from the third person.

(d) An employer under an assignment may either institute proceedings for the recovery of damages or may compromise with a third person, either without or after instituting an action.

(e) An amount recovered by the employer under an assignment, whether by action or compromise, shall be distributed as follows:

(1) The employer shall retain an amount equal to

(A) the expenses incurred by him in respect to the action or compromise, including a reasonable attorney fee determined by the board;

(B) the cost of all benefits actually furnished by him under this chapter;

(C) all amounts paid as compensation and second-injury

(2)

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fund payments;

(D) the present value of all amounts payable later as compensation (present value to be computed from a schedule prepared by the board), and the present value of the cost of all benefits to be furnished later under AS 23.30.095 (as estimated by the board), the amounts so computed and estimated to be retained by the employer as a trust fund to pay compensation and cost of benefits as they become due and to pay any finally remaining excess sum to the person entitled to benefits [COMPENSATION] or to the representative; and

(2) the employer shall pay any excess to the person entitled to benefits [COMPENSATION] or to his representative.

(f) Even if an employee, his representative, or his employer brings an action or settles a claim against the third person, the employer shall pay the benefits [AND COMPENSATION] required by this chapter.

(g) If the employee or his representative recovers damages from the third person, the employee or representative shall promptly pay to the employer the total amounts paid by the employer under (e)(1)(A), (B), and (C) of this section, insofar as the recovery is sufficient after deducting all litigation costs and expenses. Any excess recovery by the employee or representative shall be credited against any amount payable by the employer thereafter.

(h) If compromise with a third person is made by the person entitled to benefits [COMPENSATION] or his representative of an amount less than the benefits [COMPENSATION] to which the person or representative would be entitled, the employer is liable for benefits [COMPENSATION] stated in (f) of this section only if the compromise is made with his written approval.

(2)

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(i) If the employer is insured and the carrier has assumed the payment of benefits [COMPENSATION] the carrier shall be subrogated to all the rights of the employer.

(j) Notice of the commencement of an action against a third party shall be given to the board and to all interested parties within 30 days.

(2) * Sec. 11. AS 23.30.020 is amended to read:

Sec. 23.30.020. CHAPTER PART OF CONTRACT OF HIRE. This chapter constitutes part of every contract of hire, express or implied, and every contract of hire shall be construed as an agreement on the part of the employer to pay and on the part of the employee to accept benefits [COMPENSATION] in the manner provided in this chapter for all personal injuries sustained.

(2) * Sec. 12. AS 23.30.025(b) is amended to read:

(b) All policies of insurance companies insuring the payment of benefits [COMPENSATION] under this chapter are conclusively presumed to cover all the employees and the entire benefits [COMPENSATION] liability of the insured employer employed at or in connection with the business of the employer carried on, maintained, or operated at the location or locations set out [FORTH] in that [SUCH] policy or agreement. A provision in a policy attempting to limit or modify the liability of the company issuing it is wholly void except as provided in (c) of this section.

(2) Sec 2 Page 1

(1) * Sec. 13. AS 23.30.025 is amended by adding a new subsection to read:

(c) An insurer may issue a policy of insurance insuring the payment of benefits under this chapter which provides for a deductible amount to be paid by the employer. A policy with a deductible provision

must be approved by the director of insurance and must provide that the

-L 20A

deductible amount be paid by the insurer to the employee on behalf of the employer. After payment of the deductible by the insurer, the insurer may recover the deductible amount from the employer. The failure of an employer to reimburse an insurer for the deductible amount does not relieve the insurer from any other obligation it may have under the policy of insurance. An insurer is not required to apply for a deviation under AS 21.39.070 in order to issue a policy under this subsection. This subsection does not apply to a policy of excess insurance purchased by a self-insurer.

(2) * Sec. 14. AS 23.30.030 is amended to read:

Sec. 23.30.030. REQUIRED POLICY PROVISIONS. A policy of a company insuring the payment of <u>benefits</u> [COMPENSATION] under this chapter is considered to contain the provisions set out in (1) - (7) of this section.

(1) The insurer assumes in full all the obligations to pay physician's fees, nurse's charges, hospital services, hospital supplies, medicine, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, and compensation or death benefits imposed upon the insured under the provisions of this chapter.

(2) The policy is made subject to the provisions of this chapter and its provisions relative to the liability of the insured employer to pay physician's fees, nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, compensation or death benefits to and for [SAID] employees or beneficiaries, the acceptance of the liability by the insured employer, the adjustment, trial and adjudication of claims for the physician's fees, nurse's charges, hospital services, hospital

(2)

supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, compensation or death benefits and the liability of the insurer to pay the same are considered a part of this policy contract.

(3) As between the insurer and the employee or his beneficiaries, notice to or knowledge of the occurrence of the injury on the part of the insured employer is notice or knowledge on the part of the insurer; jurisdiction of the insured employer for the purpose of this chapter is jurisdiction of the insurer; and the insurer, in all things, is bound by and subject to the orders, awards, judgments and decrees made against the insured employer under this chapter.

(4) The insurer will promptly pay to the person entitled to them the benefits conferred by this chapter, including physician's fees, nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, and all installments of compensation or death benefits awarded or agreed upon under this chapter. The obligation of the insurer is not affected by a default of the insured employer after the injury, or by default in giving a notice required by this policy. The policy is a direct promise by the insurer to the person entitled to physician's fees, nurse's charges, fees for hospital services, charges for medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, and hospital supplies, charges for burial, compensation or death benefits, and is enforceable in the name of that person. The insurer shall provide claims facilities through its own staffed adjusting facilities located within the state, or by independent, licensed, resident adjusters with power to effect settlement within the state.

(2)

-L 20A

(2)

(5) A termination of the policy by cancellation is not effective as to the employees of the insured employer covered by it until 20 days after written notice of the termination has been received by the board. If the employer has a contract with the state or a home rule or other political subdivision of the state, and his policy is cancelled due to nonpayment of a premium, the termination of the policy is not effective as to the employees of the insured employer covered by it until 20 days after written notice of the termination has been received by the contracting agency, and the agency has the option of continuing the payments on behalf of the employer in order to keep the policy in force. If, however, the employer has secured insurance with another insurance carrier, cancellation is effective as of the date of the new coverage.

(6) All claims for compensation, death benefits, physician's fees, nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, and burial expenses, may be made directly against either the employer or the insurer, or both, and the order or award of the board may be made against either the employer or the insurer or both.

(7) If the insurer fails or refuses to pay a final award or judgment (except during the pendency of an appeal) made against it, or its insured, or if it fails or refuses to comply with a provision of this chapter, the director of insurance [COMMISSIONER] shall revoke the approval of the policy form, and may not accept further proofs of insurance from it until it has paid the award or judgment or has complied with the violated provision of this chapter, and has resubmitted its policy form and received the approval of the form by the insurance commissioner.

(2) * Sec. 15. AS 23.30.045(a) is amended to read:

Sec. 23.30.045. EMPLOYER'S LIABILITY FOR BENEFITS [COMPENSATION]. (a) An employer is liable for and shall secure the payment to his employees of the benefits [COMPENSATION] payable under AS 23.30.050, 23.30.095, 23.30.145, and 23.30.185 - 23.30.215. If the employer is a subcontractor, the contractor is liable for and shall secure the payment of the benefits [COMPENSATION] to employees of the subcontractor unless the subcontractor secures the payment.

(2) * Sec. 16. AS 23.30.045(b) is amended to read:

(b) Benefits are [COMPENSATION IS] payable irrespective of fault as a cause for the injury.

(1) → Sec 3 P2

* Sec. 17. AS 23.30.045(c) is amended to read:

(c) For a person eligible for vocational rehabilitation service under this chapter (3) or AS 23.15.080 [AND] who is placed with an employer for service [WITHOUT WAGES] at the request of the board or the division [OFFICE] of vocational rehabilitation to give him on the job training, work readiness, [OR] work therapy experience [,] or work sampling, the liability set out in (a) of this section applies to the state rather than to the employer.

(2) * Sec. 18. AS 23.30.045(d) is amended to read:

(d) No contract may be awarded by the state or a home rule or other political subdivision of the state to an employer unless the employer [PERSON] to whom the contract is to be awarded has submitted to the contracting agency proof, furnished by the insurance carrier, of current coverage by workers' compensation insurance from an insurance company or association authorized to transact the business of workers' compensation insurance in this state or proof, furnished by the director of insurance [BOARD], of a current certificate of self-insurance from the director of insurance [BOARD]. The employer [PERSON] to whom

the contract is awarded shall keep his workers' compensation insurance policy in effect during the life of the contract with the state or political subdivision. If the state or the political subdivision of the state fails to obtain proof of coverage or self-insurance or to protect itself under (e) of this section, and an employee of the contractor is injured during the term of the contract, the state or the political subdivision is liable for workers' compensation to the employee if the employee is unable to recover from the employer because of the employer's lack of financial assets. The state or the political subdivision is not liable, however, to the employee for workers' compensation if the employee can recover from the employer under (a) and (b) of this section.

(2)

* Sec. 19. AS 23.30.045(e) is amended to read:

(e) When a contracting agency of the state or a political subdivision receives notice that the workers' compensation insurance policy of an employer to whom the agency has awarded a contract has been cancelled due to nonpayment of a premium, without being replaced by a comparable policy, the agency may either terminate the contract with the employer or continue the premium payments on his behalf in order to keep the policy in force during the life of the agency's contract. If the agency chooses to keep the policy in force, it may deduct its payments from the contract price or bring an action against the employer to recover the amount of the payments. When the contracting agency receives notice that the <u>director of insurance</u> [BOARD] has revoked a certificate of self-insurance held by a person to whom a contract has been awarded, the agency may terminate the contract. This subsection does not limit the causes of action or remedies which the state or political subdivision may have against the employer.

(2)

* Sec. 20. AS 23.30.055 is amended to read:

Sec. 23.30.055. EXCLUSIVENESS OF LIABILITY. The liability of an employer prescribed in AS 23.30.045 is exclusive and in place of all other liability of the employer and any fellow employee to the employee, his legal representative, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from the employer or fellow employee at law or in admiralty on account of the injury or death. However, if an employer fails to secure payment of benefits [COMPENSATION] as required by this chapter, an injured employee or his legal representative in case death results from the injury may elect to claim benefits [COMPENSATION] under this chapter, or to maintain an action against the employer at law or in admiralty for damages on account of the injury or death. In that action the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, or that the employee assumed the risk of his employment, or that the injury was due to the contributory negligence of the employee.

(2)

* Sec. 21. AS 23.30.060 is amended to read:

Sec. 23.30.060. ELECTION OF DIRECT PAYMENT PRESUMED. (a) An employer is conclusively presumed to have elected to pay benefits [COMPENSATION] directly to employees for injuries sustained arising out of and in the course of the employment according to the provisions of this chapter, until notice in writing of insurance, stating the name and address of the insurance company and the period of insurance, is given to the employee.

(b) The notice shall be posted and kept on the premises of the employer or on the premises where the employer's operations are being carried on in three conspicuous places, at the office of the employer, at the mess house or boarding house if there is one, and in some conspicuous place on the premises or works. The notice shall be sub-

stantially in the following form, and the signature shall be witnessed by two witnesses:

EMPLOYER'S NOTICE OF INSURANCE

To the employees of the undersigned:

You and each of you are hereby notified that the undersigned is insured in the.....Insurance Company, whose address is.....and that the period covered by the insurance.....in accordance with the terms, conditions and provisions to pay benefits [COMPENSATION] to employees of the undersigned for injuries received as provided in the Act of the State of Alaska, known as the "Alaska Workers' Compensation Act"

Signed.....

.....

Witness:

.....

(2) * Sec. 22. AS 23.30.070(e) is amended to read:

(e) If the employer or the carrier has been given notice, or the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier has knowledge of an injury or death of an employee and fails, neglects, or refuses to file a report of it as required by the provisions of (a) of this section, the limitations in AS 23.30.105(a) do not begin to run against the claim of the injured employee or his dependents entitled to benefits [COMPENSATION,] or in favor of either the employer or the carrier, until the report has been furnished as required by the provisions of (a) of this section.

(2) * Sec. 23. AS 23.30.070(f) is amended to read:

(f) An employer who fails or refuses to send a report required of him by this section or who fails or refuses to send the report required

by (a) of this section within the time required shall, if so required by the board, pay the employee or his legal representative or other person entitled to benefits [COMPENSATION] by reason of the employee's injury or death an additional award equal to 20 percent of the compensation [AMOUNTS] which was [WERE] unpaid when due. The award shall be against either the employer or his insurance carrier, or both.

(2) * Sec. 24. AS 23.30.075(a) is amended to read:

(a) An employer under this chapter, unless exempted, shall either [,] insure and keep insured for his liability under this chapter in an insurance company or association duly authorized to transact the business of workers' compensation insurance in this state, or shall furnish the director of insurance [BOARD] satisfactory proof of his financial ability to pay directly the benefits [COMPENSATION] provided for. If an employer elects to pay directly, the director of insurance [BOARD] may, in his [ITS] discretion, require

(1) the deposit of an acceptable security, indemnity or bond to secure the payment of benefit [COMPENSATION] liabilities as they are incurred; and

(2) proof of excess insurance.

(2) * Sec. 25. AS 23.30.075(b) is amended to read:

(b) An employer who fails to insure and keep insured employees subject to this chapter or fails to obtain a certificate of self-insurance from the board, upon conviction, is punishable by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both. If an employer is a corporation, all persons who, at the time of the injury or death, had authority to insure the [SAID] corporation or apply for a certificate of self-insurance, and the person actively in charge of the business of the [SUCH] corporation shall be subject to the penalties prescribed in this subsection [HEREIN] and shall be

-L 20A

personally, jointly, and severally liable together with the corporation for the payment of all [COMPENSATION OR OTHER] benefits for which the corporation is liable under this chapter if the [SAID] corporation at the [SUCH] time is not insured or qualified as a self-insurer.

(1)

→ Sec 4 P2

* Sec. 26. AS 23.30.080 is amended by adding a new subsection to read:

(d) If an employer fails to insure or provide security as required by AS 23.30.075, the board may issue a stop order prohibiting the use of employee labor by the employer until the employer insures or provides security as required by AS 23.30.075. If an employer fails to comply with a stop order issued under this section, the board shall assess a civil penalty of at least $1,000 per day. The employer may not obtain a public contract with the state or any of its political subdivisions for one year following the violation of the stop order.

(2)

* Sec. 27. AS 23.30.085(a) is amended to read:

(a) An employer subject to this chapter, unless exempted, shall initially file evidence of his compliance with the insurance provisions of this chapter with the board, in the form prescribed by it. The employer shall also give evidence of compliance within 10 days after the termination of his insurance by expiration or cancellation. These requirements do not apply to an employer who has certification from the director of insurance [BOARD] of his financial ability to pay benefits [COMPENSATION] directly without insurance.

(2)

* Sec. 28. AS 23.30.090 is amended to read:

Sec. 23.30.090. SELF-INSURANCE CERTIFICATES. If an employer has complied with the provisions of this chapter relating to self-insurance, the director of insurance [BOARD] shall issue him a certificate which shall remain in force for a period fixed by the director of insurance [BOARD]. The director of insurance [BOARD] may, upon at least 10 days' notice and a hearing, revoke a self-insurance certificate upon satis-

factory proof that an employer is no longer entitled to it. After revocation the director of insurance [BOARD] may grant a new certificate to an employer, upon his petition and satisfactory proof of his financial ability as provided in this chapter. The director of insurance shall notify the contracting agency of the state or of a political subdivision of the state when it revokes the self-insurance certificate of an employer holding a contract with the state or a political subdivision of the state. An employer authorized as a self-insurer shall provide claims facilities through its own staffed adjusting facilities located within the state, or independent, licensed, resident adjustors with power to effect settlement within the state.

(2)

* Sec. 29. AS 23.30.092 is amended to read:

Sec. 23.30.092. VOLUNTEER AMBULANCE ATTENDANTS, POLICEMEN AND FIREMEN INSURANCE. A political subdivision may elect to provide benefits [AND COMPENSATION] to its volunteer ambulance attendants, policemen or firemen by obtaining insurance which would provide its volunteer ambulance attendants, policemen or firemen with benefits [AND COMPENSATION] at least equivalent to those conferred upon volunteer ambulance attendants, policemen or firemen by this chapter, and the election shall be considered compliance with the coverage and insurance provisions of this chapter. The election shall be made by filing copies of the insurance policy or policies with the commissioner.

(1)

→ Sec 5 P 2+3

* Sec. 30. AS 23.30.095(a) is amended to read:

(a) The employer shall furnish medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires [, NOT EXCEEDING TWO YEARS FROM AND AFTER THE DATE OF INJURY TO THE EMPLOYEE. HOWEVER, IF THE CONDITION REQUIRING THE TREATMENT, APPARATUS, OR MEDICINE IS A LATENT ONE, THE TWO-YEAR

PERIOD RUNS FROM THE TIME THE EMPLOYEE HAS KNOWLEDGE OF THE NATURE OF HIS DISABILITY AND ITS RELATIONSHIP TO HIS EMPL(MENT AND AFTER-DISABLEMENT. IT SHALL BE ADDITIONALLY PROVIDED ' IAT, IF CONTINUED TREATMENT OR CARE OR BOTH BEYOND THE TWO-YEAR PERIOD IS INDICATED, THE INJURED EMPLOYEE HAS THE RIGHT OF REVIEW BY THE BOARD. THE BOARD MAY AUTHORIZE CONTINUED TREATMENT OR CARE OR BOTH AS THE PROCESS OF RECOVERY MAY REQUIRE]. When medical care is required, the injured employee may designate a (3) [illegible] physician inside the state to render the care except in cases where, in the judgment of the board, care or treatment or both can best be administered by the selection of another (3) licensed physician. Upon procuring the services of a (3) licensed physician, the injured employee shall give proper notification of his selection to the employer within a reasonable time after first being treated. [IF FOR ANY REASON DURING THE PERIOD WHEN MEDICAL CARE IS REQUIRED THE EMPLOYEE WISHES TO CHANGE TO ANOTHER PHYSICIAN, HE MAY DO SO IN ACCORDANCE WITH RULES PRESCRIBED BY THE BOARD.]

Sec 7 P 3+4

(1) * Sec. 31. AS 23.30.095(c) is amended to read:

(c) No claim for medical or surgical treatment is valid and enforceable as against the employer unless, within 20 [TWENTY] days following each visit for [THE FIRST] treatment, the physician giving the treatment or the employee receiving it furnishes to the employer and the board notice of the injury and treatment, preferably on a form prescribed by the board. The board shall [MAY], however, excuse the failure to furnish notice within 20 days when it finds it to be in the interest of justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of the medical or surgical treatment so obtained by the employee.

(1) Sec 8 P 4

* Sec. 32. AS 23.30.095(e) is amended to read:

(e) The employee shall, after an injury, at reasonable times

during the continuance of his disability if requested by his employer or, when ordered by the board, submit himself to an examination by a physician or surgeon authorized to practice medicine under the laws of the state in which the employee may be found, furnished and paid for by the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR EXAMINATIONS.] No fact relative to the injury or claim communicated to or otherwise learned by a physician or surgeon who may have attended or examined the employee, or who may have been present at an examination is privileged, either in the hearings provided for in this chapter or an action to recover damages against an employer who is subject to the benefits [COMPENSATION] provisions of this chapter. If an employee refuses to submit himself to any examination provided for in this section [HEREIN], his rights to compensation shall be suspended until the obstruction or refusal ceases, and his compensation during the period of suspension may, in the discretion of the board or the court determining an action brought for the recovery of damages under this chapter [HEREUNDER], be forfeited. The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. No autopsy may be held without notice first being given to the widow or widower or next of kin if they reside in the state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If no adequate notice is given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

(2) * Sec. 33. AS 23.30.100(a) is amended to read:

Sec. 23.30.100. NOTICE OF INJURY OR DEATH. (a) Notice of an injury or death in respect to which benefits are [COMPENSATION IS]

payable under this chapter shall be given within 30 days after the date of the [SUCH] injury or death to the board and to the employer.

(2) * Sec. 34. AS 23.30.100(b) is amended to read:

(b) The notice shall be in writing, contain the name and address of the employee and a statement of the time, place, nature, and cause of the injury or death, and be signed by the employee or by a person on his behalf, or in case of death, by a person claiming to be entitled to benefits [COMPENSATION] for the death or by a person on his behalf.

(2) * Sec. 35. AS 23.30.100(d) is amended to read:

(d) Failure to give notice does not bar a claim under this chapter

(1) if the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier had knowledge of the injury or death and the board determines that the employer or carrier has not been prejudiced by failure to give notice;

(2) if the board excuses the failure on the ground that for some satisfactory reason notice could not be given;

(3) unless objection to the failure is raised before the board at the first hearing of a claim for benefits [COMPENSATION] in respect to the injury or death.

Sec 9 pg 5

(1) * Sec. 36. AS 23.30.105 is amended to read:

Sec. 23.30.105. TIME FOR FILING OF CLAIMS. (1) (a) The right to benefits [COMPENSATION FOR DISABILITY] under this chapter is barred unless a claim for them [IT] is filed within two years after the employee has knowledge of the nature of his disability and its relation to his employment and after disablement. The [HOWEVER, THE MAXIMUM TIME FOR FILING THE CLAIM IN ANY EVENT OTHER THAN ARISING OUT OF AN OCCUPATIONAL DISEASE SHALL BE FOUR YEARS FROM THE DATE OF INJURY, AND THE] right to benefits [COMPENSATION] for death is barred unless a

claim for benefits [THEREFORE] is filed within one year after the death. If [, EXCEPT THAT IF] payment of benefits [COMPENSATION] has been made without an award on account of the injury or death, a claim may be filed within one year [TWO YEARS] after the date of the last payment. It is additionally provided that, in the case of a latent injury [DEFECTS PERTINENT TO AND CAUSING COMPENSABLE DISABILITY], the injured employee has full right to claim as shall be determined by the board, time limitations notwithstanding.

(2) (b) Failure to file a claim within the period prescribed in (a) of this section is not a bar to benefits [COMPENSATION] unless objection to the failure is made at the first hearing of the claim in which all parties in interest are given reasonable notice and opportunity to be heard.

(2) (c) If a person who is entitled to benefits [COMPENSATION] under this chapter is mentally incompetent or a minor, the provisions of (a) of this section are not applicable so long as he has no guardian or other authorized representative, but are applicable in the case of a person who is mentally incompetent or a minor from the date of appointment (guardian or other representative, or in the case of a minor, if no guardian is appointed before he becomes of age, from the date he becomes of age.

(2) (d) If recovery is denied to a person, in a suit brought at law or in admiralty to recover damages in respect to injury or death, on the ground that he was an employee and that the defendant is an employer within the meaning of this chapter and that the employer has secured benefits [COMPENSATION] to the employee under this chapter, the limitation of time prescribed in (a) of this section begins to run only from the date of termination of the suit.

* Sec. 37. AS 23.30.106(b) is amended to read:

(2)

-L 20A

(b) The payment or award of benefits under the workers' compensation law of another state, territory, province, or foreign nation to an employee or his dependents otherwise entitled on account of the injury or death to the benefits under this chapter is not a bar to a claim for benefits under this chapter; however, a claim under this chapter must be filed within the time limits set out in this chapter. If benefits are [COMPENSATION IS] paid or awarded under this section:

(1) the medical and related benefits furnished or paid for by the employer under another workers' compensation law on account of the injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this chapter had claim been made solely under this chapter;

(2) the amount of all income benefits paid or awarded the employee under another workers' compensation law shall be credited against the total amount of income benefits which would have been due the employee under this chapter had claim been made solely under this chapter;

(3) the total amount of death benefits paid or awarded under another workers' compensation law shall be credited against the total amount of death benefits due under this chapter.

(2) * Sec. 38. AS 23.30.106(c) is amended to read:

(c) If an employee is entitled to the benefits of this chapter by reason of an injury sustained in this state in employment by an employer who is domiciled in another state and who has not secured the payment of benefits [COMPENSATION] as required by this chapter, the employer or his carrier may file with the board a certificate, issued by the commission or agency of the other state having jurisdiction over workers' compensation claims, certifying that the employer has secured the payment of benefits [COMPENSATION] under the workers' compensation law

of the other state and that with respect to that injury the employee is entitled to the benefits provided under that law. In that event

(1) the filing of the certificate shall constitute an appointment by the employer or his carrier of the board as his agent for acceptance of the service of process in a proceeding brought by the employee or his dependents to enforce his or their rights under this chapter on account of the injury;

(2) the board shall send to the employer or carrier, by registered or certified mail to the address shown on the certificate, a true copy of any notice of claim or other process served on the director by the employee or his dependents in any proceeding brought to enforce his or their rights under this chapter;

(3) if the employer is a qualified self-insurer under the workers' compensation law of the other state, the employer, upon submission of evidence satisfactory to the board of his ability to meet his liability to the employee under this chapter, shall be considered to be a qualified self-insurer under this chapter;

(4) if the employer's liability under the workers' compensation law of another state is insured, the employer's carrier, as to the employee or his dependents only, shall be considered to be an insurer authorized to write insurance under and be subject to this chapter; however, unless its contract with the employer requires it to pay an amount equivalent to the [COMPENSATION] benefits provided by this chapter, its liability for income benefits or medical and related benefits may not exceed the amounts of the benefits for which the insurer would have been liable under the workers' compensation law of the other state;

(5) if the amount for which the employer's insurance is liable under (3) and (4) of this subsection is less than the total [OF

THE COMPENSATION] benefits to which the employee is entitled under this chapter, the board may, if it considers it necessary, require the employer to file security satisfactory to the board to secure the payment of benefits due the employee or his dependents under this chapter; and

(6) upon compliance with the preceding requirements of (c) of this section, the employer, as to the employee only, shall be considered to have secured the payment of benefits [COMPENSATION] under this chapter.

* Sec. 39. AS 23.30.110(a) is amended to read:

(a) Subject to the provisions of AS 23.30.105, a claim for benefits [COMPENSATION] may be filed with the board in accordance with its regulations at any time after the first seven days of disability following an injury, or at any time after death, and the board may hear and determine all questions in respect to the claim.

Sec 10 P5+6

* Sec. 40. AS 23.30.110(c) is amended to read:

(c) The board shall make the investigation which it considers necessary in respect of the claim, and upon application of an interested party shall order a hearing on it. If a hearing on a claim is ordered, the board shall give the claimant and other interested parties at least 10 days' notice of the hearing, served personally upon the claimant and other interested parties or sent by registered mail, and shall, within 30 [20] days after the hearing is held [HAD], by order, reject the claim or make an award in respect to it. [IF NO HEARING IS ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN RESPECT TO IT.]

* Sec. 41. AS 23.30.120 is amended to read:

Sec. 23.30.120. PRESUMPTIONS. In a proceeding for the enforce-

ment of a claim for benefits [COMPENSATION] under this chapter it is presumed, in the absence of substantial evidence to the contrary, that

(1) the claim comes within the provisions of this chapter;

(2) sufficient notice of the claim has been given;

(3) the injury was not occasioned solely by the intoxication of the injured employee;

(4) the injury was not occasioned by the wilful intention of the injured employee to injure or kill himself or another.

(2) * Sec. 42. AS 23.30.130 is amended to read:

Sec. 23.30.130. MODIFICATION OF AWARDS. (a) Upon its own initiative, or upon the application of any party in interest on the ground of a change in conditions, including, for the purposes of AS 23.30.175, a change in residence, or because of a mistake in its determination of a fact, the board may, before one year after the date of the last payment of benefits [COMPENSATION,] whether or not a compensation order has been issued, or before one year after the rejection of a claim, review a compensation case in accordance with the procedure prescribed in respect of claims in AS 23.30.110. In accordance with AS 23.30.110 the board may issue a new compensation order which terminates, continues, reinstates, increases, or decreases the compensation, or award benefits [COMPENSATION].

(b) A new order does not affect benefits [COMPENSATION] previously paid, except that an award increasing the compensation rate may be made effective from the date of the injury, and if part of the compensation due or to become due is unpaid, an award decreasing the compensation rate may be made effective from the date of the injury, and payment made earlier in excess of the decreased rate shall be deducted from the unpaid compensation, in the manner the board determines.

(2) * Sec. 43. AS 23.30.140 is amended to read:

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Sec. 23.30.140. APPOINTMENT OF GUARDIAN BY COURT. The board may require the appointment of a guardian or other representative by a competent court for any person who is mentally incompetent or a minor to receive benefits [COMPENSATION] payable to the person under this chapter and to exercise the powers granted to or to perform the duties required of the person under this chapter. If the board does not require the appointment of a guardian to receive the compensation of a minor, appointment for this purpose is not necessary.

(2) * Sec. 44. AS 23.30.145 is amended to read:

Sec. 23.30.145. ATTORNEY FEES. (a) Fees for legal services rendered in respect to a claim are not valid unless approved by the board, and the fees may not be less than 25 percent on the first $1,000 of benefits [COMPENSATION] or part of the first $1,000 of benefits [COMPENSATION] and 10 percent of all sums in excess of $1,000 of benefits [COMPENSATION]. When the board advises that a claim has been controverted, in whole or in part, the board may direct that the fees for legal services be paid by the employer or carrier in addition to benefits [COMPENSATION] awarded; the fees may be allowed only on the amount of benefits [COMPENSATION] controverted and awarded. When the board advises that a claim has not been controverted, but further advises that bona fide legal services have been rendered in respect to the claim, then the board shall direct the payment of the fees out of the benefits [COMPENSATION] awarded. In determining the amount of fees the board shall take into consideration the nature, length and complexity of the services performed, transportation charges, and the benefits resulting from the services to the compensation beneficiaries.

(b) If an employer fails to file timely notice of controversy or fails to pay [COMPENSATION OR MEDICAL AND RELATED] benefits within 15 days after it becomes due or otherwise resists the payment of [COMPEN-

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SATION OR MEDICAL AND RELATED] benefits and if the claimant has employed an attorney in the successful prosecution of his claim, the board shall make an award to reimburse the claimant for his costs in the proceedings, including a reasonable attorney fee. The award is in addition to the [COMPENSATION OR MEDICAL AND RELATED] benefits ordered.

(c) If proceedings are had for review of an [A COMPENSATION OR MEDICAL AND RELATED BENEFITS] order before a court, the court may allow or increase an attorney's fees. The fees are in addition to [COMPENSATION OR MEDICAL AND RELATED] benefits ordered and shall be paid as the court may direct.

(1) Sec 11 P6

* Sec. 45. AS 23.30.155(j) is amended to read:

(j) If an employer has made advance payments or overpayments of compensation, he is entitled to be reimbursed, after approval by the board, out of any unpaid installment or installments of compensation due.

(1) Sec 12 P6

* Sec. 46. AS 23.30.155 is amended by adding new subsections to read:

(n) Compensation owed to an injured employee in the state shall be paid by a check or draft that may be cashed on the first banking day after it is received by the employee and on any succeeding banking day.

(o) Whenever the board determines that it is in the interest of an injured employee and that a substantial hardship will not be imposed on the employer, the liability of the employer for all or part of compensation payable under AS 23.30.190 may be discharged by the payment of a lump sum.

(2)

* Sec. 47. AS 23.30 is amended by adding new sections to read:

Sec. 23.30.157. AVAILABILITY FOR EMPLOYMENT. (a) An injured employee who receives compensation or medical and related benefits under this chapter and who is not employed shall register with the employment service operated by the state and shall report to job inter-

views and referrals arranged by the employment service.

(b) An employee described in (a) of this section who is unemployed and has received 10 or more job referrals within the preceding three years may not receive further benefits under this chapter unless the employee is determined to be permanently totally disabled in accordance with AS 23.30.180.

(2) Sec. 23.30.159. OTHER EARNINGS. (a) An injured employee who receives compensation or medical and related benefits shall report monthly any wages earned during the preceding month

(1) to the board; or

(2) if the employer elects to pay benefits directly, to the director of insurance.

(b) An employee who fails to report wages as required under (a) of this section may not receive benefits under this chapter until those reports are made.

(2) * Sec. 48. AS 23.30.160 is amended to read:

Sec. 23.30.160. ASSIGNMENT AND EXEMPTION FROM CLAIMS OF CREDITORS. No assignment, release, or commutation of [COMPENSATION OR] benefits due or payable under this chapter, except as provided by this chapter, is valid, and the [COMPENSATION AND] benefits are exempt from all claims of creditors and from levy, execution, and attachment or other remedy for recovery or collection of a debt. This exemption may not be waived.

(2) * Sec. 49. AS 23.30.165 is amended to read:

Sec. 23.30.165. LIEN. (a) Each employee and beneficiary entitled to <u>benefits</u> [COMPENSATION] under the provisions of this chapter has a lien for the full amount of his <u>benefits</u> [COMPENSATION], including costs and disbursements of suit and attorney fees allowed, upon all of the property in connection with the construction, preservation, mainte-

nance or operation of which the work of the employee was being performed at the time of his injury or death. For example: in the case of an employee injured or killed while engaged in mining or in work connected with mining, the lien extends to the entire mine and all property used in connection with it; and in the case of an employee injured or killed while engaged in fishing or in the packing, canning, or salting of fish, or other branch of the fish industry, the lien extends to the entire packing, fishing, salting or canning plant or establishment and all property used in connection with it; and this is the case with other businesses, industries, works, occupations and employments.

(b) The lien is prior and paramount to any other lien on the property, except a lien for wages or materials as provided by law, and is of equal rank with a lien for wages or materials.

(c) The lien extends to all right, title, interest and claim of the employer in the property affected by the lien.

(d) A person claiming a lien under this chapter shall, within one year after the date of the injury from which the claim of benefits [COMPENSATION] arises, file for record in the office of the recorder of the recording district in which the property affected by the lien is located a notice of lien signed and verified by the claimant or someone on his behalf, and stating in substance, the name of the person injured or killed out of which injury or death the claim of benefits [COMPENSATION] arises, the name of the employer of the injured or deceased person at the time of the injury or death, a description of the property affected or covered by the lien and the name of the owner or reputed owner of the property.

(e) The lien for benefits [COMPENSATION] provided for in this section may be enforced by equitable proceedings as in the enforcement

of other liens upon real or personal property, within 10 months after the cause of action arises. Nothing in this section prevents an attachment of property as security for the payment of benefits [COMPENSATION].

(2) * Sec. 50. AS 23.30.170(a) is amended to read:

(a) In case of default by the employer in the payment of benefits [COMPENSATION] due under an award of benefits [COMPENSATION] for a period of 30 days after the benefits are [COMPENSATION IS] due, the person to whom the benefits are [COMPENSATION IS] payable may, within one year after the default, apply to the board making the compensation order for a supplementary order declaring the amount of the default. After investigation, notice, and hearing, as provided in AS 23.30.110, the board shall make a supplementary order declaring the amount of the default The order shall be filed in the same manner as the compensation order.

(1) Sec 13 P6

* Sec. 51. AS 23.30.175(b) is repealed and reenacted to read:

(b) After June 30 and before December 1 of each year, the commissioner shall adopt and publish the average weekly wage for the preceding calendar year as computed by the United States Secretary of Labor for the purposes of unemployment insurance. In determining the rate of compensation the commissioner shall use the average weekly wage figure for each jurisdiction, including Alaska, for which the Secretary of Labor computes an average weekly wage. These figures are the applicable average weekly wages for those jurisdictions for the following calendar year. The average weekly wage for Alaska is the amount determined by dividing (1) the total wages paid by all employers covered by the Alaska Employment Security Act by (2) the average monthly employment reported by those employers for the same period and dividing the result by 52.

(1) Sec 14 P7

* Sec. 52. AS 23.30.175(c) is repealed and reenacted to read:

(c) The following rules apply to recipients who do not reside in Alaska:

(1) The weekly rate of compensation shall be calculated using the recipient's average weekly wage times the ratio of the average weekly wage of the jurisdiction in which the recipient resides to the average weekly wage of Alaska. The rate is based on the average weekly wages in effect when the recipient leaves Alaska and shall be adjusted annually upon publication of the average weekly wages for all jurisdictions.

(2) The calculation required by this subsection does not apply if

(A) the average weekly wage of the recipient and the resulting compensation rate is determined under AS 23.30.220(2) by use of wages earned in jurisdictions other than Alaska; or

(B) the absence of the recipient is for medical or rehabilitation services not reasonably available in Alaska.

(3) Application of this subsection may not result in a reduction of the weekly compensation rate to less than $65 a week except as provided in (a) of this section.

(1) Sec 15 P 7

* Sec. 53. AS 23.30.175(d) is repealed and reenacted to read:

(d) In a jurisdiction for which no average weekly wage is computed by the United States Secretary of Labor for the purposes of unemployment insurance, the average weekly wage shall be as determined by the commissioner.

(2)

* Sec. 54. AS 23.30.180 is amended to read:

Sec. 23.30.180. PERMANENT TOTAL DISABILITY. In case of total disability adjudged to be permanent 66-2/3 percent of the injured employee's average weekly wages shall be paid to the employee during the continuance of the total disability. Permanent [LOSS OF BOTH

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HANDS, OR BOTH ARMS, OR BOTH FEET, OR BOTH LEGS, OR BOTH EYES, OR OF ANY TWO OF THEM, IN THE ABSENCE OF CONCLUSIVE PROOF TO THE CONTRARY, CONSTITUTES PERMANENT TOTAL DISABILITY. IN ALL OTHER CASES PERMANENT] total disability is determined in accordance with the facts.

(1) * Sec. 55. AS 23.30.190 Sec 16 P7/8 is amended to read:

(2) Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL DISABILITY. (a) In case of disability partial in character but permanent in quality the compensation is 66-2/3 percent of the injured employee's average weekly wages in addition to compensation for temporary total disability or temporary partial disability paid in accordance with AS 23.30.185 or 23.30.200, respectively, and shall be paid to the employee as follows:

(2) (1) arm lost, 156 [280] weeks compensation, not to exceed $43,680;

(2) (2) leg lost, 156 [248] weeks compensation, not to exceed $40,320;

(2) (3) hand lost, 156 [212] weeks compensation, not to exceed $33,600;

(2) (4) foot lost, 156 [173] weeks compensation, not to exceed $28,700;

(2) (5) eye lost, 140 weeks compensation, not to exceed $22,400;

(2) (6) thumb lost, 51 weeks compensation, not to exceed $10,400;

(2) (7) first finger lost, 28 weeks compensation, not to exceed $6,440;

(2) (8) great toe lost, 26 weeks compensation, not to exceed $5,320;

(2) (9) second finger lost, 18 weeks compensation, not to exceed $4,200; third finger lost, 18 weeks compensation, not to exceed $3,500;

(2) (10) toe other than great toe lost, eight weeks compensation, not to exceed $2,240;

(2) (11) fourth finger lost, seven weeks compensation, not to exceed $2,100;

(2) (12) loss of hearing of one ear, 52 weeks compensation, not exceeding $7,280; loss of hearing of both ears, 156 [200] weeks compensation, not to exceed $28,000;

(2) (13) compensation for loss of more than one phalange of a digit shall be the same as for loss of the entire digit; compensation for loss of the first phalange is one-half of the compensation for loss of the entire digit;

(2) (14) amputation between the elbow and the wrist is considered equivalent to the loss of an arm, and amputation between the knee and ankle is considered equivalent to the loss of a leg;

(2) (15) compensation for loss of binocular vision or for 80 percent or more of the vision of an eye is the same as for loss of the eye;

(2) (16) compensation for loss of two or more digits, or one or more phalanges of two or more digits of a hand or foot may be proportioned to the resulting loss of use of the injured hand or foot, but may not exceed the compensation for loss of a hand or foot;

(2) (17) compensation for permanent total loss of use of a member is the same as for loss of the member;

(2) (18) compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member;

(2) (19) in addition to other allowable compensation, the board shall award proper and equitable compensation up to $10,000 for

(2) (A) serious disfigurement of face, head and, when such disfigurement is likely to handicap the employee in securing or holding employment, for serious disfigurement of neck or limbs normally exposed, or

(B) partial or total loss of or loss of use of a part or function of the body not otherwise provided for under this section;

(20) in all other cases in this class of disability the compensation is 66-2/3 percent of the difference between his average weekly wages and his wage-earning capacity after the injury in the same employment or otherwise, payable during the continuance of the partial disability, but subject to reconsideration of the degree of the impairment by the board on its own motion or upon application of a party in interest; [WHENEVER THE BOARD DETERMINES THAT IT IS IN THE INTEREST OF JUSTICE, THE LIABILITY OF THE EMPLOYER FOR COMPENSATION, OR ANY PART OF IT AS DETERMINED BY THE BOARD, MAY BE DISCHARGED BY THE PAYMENT OF A LUMP SUM;]

(21) in a case in which there is a loss of, or loss of use of more than one member or parts of more than one member set out in (1) - (18) of this subsection [SECTION], not amounting to permanent total disability, the award of compensation is for the loss of, or loss of use of, each member or part of the member, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, (16) of this subsection [SECTION] applies.

(b) Total compensation paid under (a)(20) of this section may not continue for more than 156 weeks or exceed $60,000.

Sec 17 P8

* Sec. 56. AS 23.30.191 is repealed and reenacted to read:

Sec. 23.30.191. EXPENSES FOR REHABILITATING INJURED EMPLOYEES. An employee, who, as a result of injury, is or may be expected to be totally or partially incapacitated for his normal occupation and who, under the direction of the board, is being rehabilitated to engage in a remunerative occupation, may receive compensation necessary for his

rehabilitation of 66-2/3 percent of his average weekly wage subject to the maximum payable under AS 23.30.175.

(2) * Sec. 57. AS 23.30.210(b) is amended to read:

(b) At any time after death, or after 30 days subsequent to the date of injury, the employer and the employee or the beneficiary or beneficiaries, as the case may be, have the right to reach an agreement in regard to a claim for injury or death under this chapter [HEREUNDER] in accordance with the applicable schedule [HEREOF], but a memorandum of the agreement in a form prescribed by the board shall be filed with the board. Otherwise, the agreement is void for any purpose. If approved by the board, the agreement is enforceable the same as an order or award of the board and discharges the liability of the employer for the benefits [COMPENSATION] notwithstanding the provisions of [AS 23.30.130,] AS 23.30.160 [,] and AS 23.30.245(b) [AS 23.30.245]. The agreement shall be approved by the board only when the terms conform to the provisions of this chapter and, if it involves or is likely to involve permanent disability, the board may require an impartial medical examination and a hearing in order to determine whether or not to approve the agreement. The board may approve lump-sum settlements when it appears to be to the best interest of the employee or beneficiary or beneficiaries.

(1) SEC 18 P 8

* Sec. 58. AS 23.30.215(a)(1) is amended to read:

(1) reasonable and necessary funeral expenses not exceeding $2,500; the commissioner by regulation shall annually adjust this limit to reflect increased expenses resulting from inflation [$1,000];

(3) SEC 20 P 8

* Sec. 59. AS 23.30.220(2) is amended to read:

(2) the average weekly wage is [THAT MOST FAVORABLE TO THE EMPLOYEE] calculated by dividing 52 into the total wages earned, including self-employment, in [ANY ONE OF] the [THREE] calendar year

[YEARS] immediately preceding the injury;

(2) * Sec. 60. AS 23.30 is amended by adding a new section to read:

Sec. 23.30.227. OTHER BENEFITS. (a) Notwithstanding any other provision of this chapter, an injured employee may not receive compensation for permanent total, permanent partial, temporary total, or temporary partial disability if he receives unemployment benefits (AS 23.20) for the same period of time.

(b) Notwithstanding any other provision of this chapter, an injured employee may not receive compensation for permanent total, permanent partial, temporary total, or temporary partial disability that exceeds 100 percent of his average weekly wage when added to any sick pay to which he is entitled for the same period of time.

(c) Notwithstanding any other provision of this chapter, the amount of compensation received by an injured employee for permanent total, permanent partial, temporary total, or temporary partial disability shall be reduced by the amount of retirement benefits paid to him for the same period of time.

(2) * Sec. 61. AS 23.30.235 is amended to read:

Sec. 23.30.235. CASES IN WHICH NO <u>BENEFITS ARE</u> [COMPENSATION IS] PAYABLE. No <u>benefits</u> [COMPENSATION] may be paid if the injury was occasioned solely by the intoxication of the employee or by the wilful intention of the employee to injure or kill himself or another.

(2) * Sec. 62. AS 23.30.245 is amended to read:

Sec. 23.30.245. INVALID AGREEMENTS. (a) An agreement by an employee to pay a portion of the premium paid by his employer to a carrier or to contribute to a benefit fund or department maintained by the employer for the purpose of providing <u>benefits</u> [COMPENSATION OR MEDICAL SERVICES AND SUPPLIES] as required by this chapter is not valid. An employer who makes a deduction for this purpose from the pay

200 - 18.80.280; [OR BECAUSE HE HAS]

(B) filed a complaint, testified or assisted in a proceeding under this chapter; or

(C) filed a claim for workers' compensation benefits under AS 23.30;

(2) Sec. 5. AS 21.36.190(d) is amended to read:

(d) This section does not apply to workers' compensation insurance when issued to an association of employers in the same rating classification [FORMED FOR PURPOSES OTHER THAN THE PURCHASE OF INSURANCE] and which as a group

(1) has a constitution and bylaws;

(2) incorporates a safety program;

[(3) AS A GROUP HAS PREFERRED CHARACTERISTICS OVER SIMILAR RISKS WRITTEN ON AN INDIVIDUAL BASIS;] and

(4) has filed and received approval from the director for the rating program to be applied to the group.

(2) Sec. 6. AS 21.39.040(d) is amended to read:

(d) Subject to the exceptions [EXCEPTION] specified in (e) of this section and AS 21.39.045, each filing shall be on file for a waiting period of 15 days before it becomes effective, which period may be extended by the director for an additional period not to exceed 15 days if he gives written notice within the waiting period to the insurer or rating organization which made the filing stating that he needs additional time for the consideration of the filing. Upon written application by the insurer or rating organization, the director may authorize a filing which he has reviewed to become effective before the expiration of the waiting period. A filing shall be considered to meet the requirements of this chapter unless disapproved by the director within the waiting period.

* Sec. 7. AS 21.39 is amended by adding a new section to read:

Sec. 21.39.045. WORKERS' COMPENSATION RATE FILINGS. (a) A filing of workers compensation rates by a rating organization shall be limited to provisions for claim payment and may not include allowances for expenses, taxes, or profit, except as necessary for full rate development for an assigned risk pool under AS 21.39.155.

(b) If each rate in a schedule of workers' compensation rates for a specific classification of risks filed by an insurer is not lower than the rate for each respective classification filed by a rating organization in accordance with (a) of this section and approved by the director, the schedule of rates filed by the insurer is effective immediately and the waiting period in AS 21.39.040(d) is not required.

(c) Notwithstanding (b) of this section, the director may require an insurer to comply with the waiting period in AS 21.39.040(d) for a rate filing or part of a rate filing if he determines that the rate filing or part of the rate filing is excessive, inadequate, or unfairly discriminatory.

* Sec. 8. AS 21.39.070 is amended by adding new subsections to read:

(c) Notwithstanding (a) of this section, a filing by an insurer of an independent deductible or loss reimbursement plan is not considered a deviation under this section.

(d) Notwithstanding (a) of this section, a filing of workers' compensation rates under AS 21.39.045(b) is not a deviation under this section.

* Sec. 9. AS 23.30.010 is amended to read:

Sec. 23.30.010. COVERAGE. Benefits are [COMPENSATION IS] payable under this chapter in respect of disability or death of an employee.

* Sec. 10. AS 23.30.015 is amended to read:

Sec. 23.30.015. BENEFITS [COMPENSATION] WHERE THIRD PERSONS ARE

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(2)

LIABLE. (a) If on account of disability or death for which benefits [COMPENSATION IS] payable under this chapter the person entitled to the benefits [COMPENSATION] believes that a third person other than the employer or a fellow employee is liable for damages, he need not elect whether to receive benefits [COMPENSATION] or to recover damages from the third person.

(b) Acceptance of benefits [COMPENSATION] under an award in a compensation order filed by the board operates as an assignment to the employer of all rights of the person entitled to benefits [COMPENSATION] and the personal representative of a deceased employee to recover damages from the third person unless the person or representative entitled to benefits [COMPENSATION] commences an action against the third person within one year after an award.

(c) Payment of compensation into the second-injury fund as a result of death operates as an assignment to the employer of all rights of the representative of the deceased to recover damages from the third person.

(d) An employer under an assignment may either institute proceedings for the recovery of damages or may compromise with a third person, either without or after instituting an action.

(e) An amount recovered by the employer under an assignment, whether by action or compromise, shall be distributed as follows:

(1) The employer shall retain an amount equal to

(A) the expenses incurred by him in respect to the action or compromise, including a reasonable attorney fee determined by the board;

(B) the cost of all benefits actually furnished by him under this chapter;

(C) all amounts paid as compensation and second-injury

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fund payments;

(D) the present value of all amounts payable later as compensation (present value to be computed from a schedule prepared by the board), and the present value of the cost of all benefits to be furnished later under AS 23.30.095 (as estimated by the board), the amounts so computed and estimated to be retained by the employer as a trust fund to pay compensation and cost of benefits as they become due and to pay any finally remaining excess sum to the person entitled to benefits [COMPENSATION] or to the representative; and

(2) the employer shall pay any excess to the person entitled to benefits [COMPENSATION] or to his representative.

(f) Even if an employee, his representative, or his employer brings an action or settles a claim against the third person, the employer shall pay the benefits [AND COMPENSATION] required by this chapter.

(g) If the employee or his representative recovers damages from the third person, the employee or representative shall promptly pay to the employer the total amounts paid by the employer under (e)(1)(A), (B), and (C) of this section, insofar as the recovery is sufficient after deducting all litigation costs and expenses. Any excess recovery by the employee or representative shall be credited against any amount payable by the employer thereafter.

(h) If compromise with a third person is made by the person entitled to benefits [COMPENSATION] or his representative of an amount less than the benefits [COMPENSATION] to which the person or representative would be entitled, the employer is liable for benefits [COMPENSATION] stated in (f) of this section only if the compromise is made with his written approval.

(i) If the employer is insured and the carrier has assumed the payment of benefits [COMPENSATION] the carrier shall be subrogated to all the rights of the employer.

(j) Notice of the commencement of an action against a third party shall be given to the board and to all interested parties within 30 days.

(2) * Sec. 11. AS 23.30.020 is amended to read:

Sec. 23.30.020. CHAPTER PART OF CONTRACT OF HIRE. This chapter constitutes part of every contract of hire, express or implied, and every contract of hire shall be construed as an agreement on the part of the employer to pay and on the part of the employee to accept benefits [COMPENSATION] in the manner provided in this chapter for all personal injuries sustained.

(2) * Sec. 12. AS 23.30.025(b) is amended to read:

(b) All policies of insurance companies insuring the payment of benefits [COMPENSATION] under this chapter are conclusively presumed to cover all the employees and the entire benefits [COMPENSATION] liability of the insured employer employed at or in connection with the business of the employer carried on, maintained, or operated at the location or locations set out [FORTH] in that [SUCH] policy or agreement. A provision in a policy attempting to limit or modify the liability of the company issuing it is wholly void except as provided in (c) of this section.

(2) Sec 2 Page 1

(1) * Sec. 13. AS 23.30.025 is amended by adding a new subsection to read:

(c) An insurer may issue a policy of insurance insuring the payment of benefits under this chapter which provides for a deductible amount to be paid by the employer. A policy with a deductible provision

must be approved by the director of insurance and must provide that the

deductible amount be paid by the insurer to the employee on behalf of the employer. After payment of the deductible by the insurer, the insurer may recover the deductible amount from the employer. The failure of an employer to reimburse an insurer for the deductible amount does not relieve the insurer from any other obligation it may have under the policy of insurance. An insurer is not required to apply for a deviation under AS 21.39.070 in order to issue a policy under this subsection. This subsection does not apply to a policy of excess insurance purchased by a self-insurer.

(2) * Sec. 14. AS 23.30.030 is amended to read:

Sec. 23.30.030. REQUIRED POLICY PROVISIONS. A policy of a company insuring the payment of <u>benefits</u> [COMPENSATION] under this chapter is considered to contain the provisions set out in (1) - (7) of this section.

(1) The insurer assumes in full all the obligations to pay physician's fees, nurse's charges, hospital services, hospital supplies, medicine, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, and compensation or death benefits imposed upon the insured under the provisions of this chapter.

(2) The policy is made subject to the provisions of this chapter and its provisions relative to the liability of the insured employer to pay physician's fees, nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, compensation or death benefits to and for [SAID] employees or beneficiaries, the acceptance of the liability by the insured employer, the adjustment, trial and adjudication of claims for the physician's fees, nurse's charges, hospital services, hospital

supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, compensation or death benefits and the liability of the insurer to pay the same are considered a part of this policy contract.

(3) As between the insurer and the employee or his beneficiaries, notice to or knowledge of the occurrence of the injury on the part of the insured employer is notice or knowledge on the part of the insurer; jurisdiction of the insured employer for the purpose of this chapter is jurisdiction of the insurer; and the insurer, in all things, is bound by and subject to the orders, awards, judgments and decrees made against the insured employer under this chapter.

(4) The insurer will promptly pay to the person entitled to them the benefits conferred by this chapter, including physician's fees, nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, and all installments of compensation or death benefits awarded or agreed upon under this chapter. The obligation of the insurer is not affected by a default of the insured employer after the injury, or by default in giving a notice required by this policy. The policy is a direct promise by the insurer to the person entitled to physician's fees, nurse's charges, fees for hospital services, charges for medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, and hospital supplies, charges for burial, compensation or death benefits, and is enforceable in the name of that person. The insurer shall provide claims facilities through its own staffed adjusting facilities located within the state, or by independent, licensed, resident adjusters with power to effect settlement within the state.

(2) [redacted]

(5) A termination of the policy by cancellation is not effective as to the employees of the insured employer covered by it until 20 days after written notice of the termination has been received by the board. If the employer has a contract with the state or a home rule or other political subdivision of the state, and his policy is cancelled due to nonpayment of a premium, the termination of the policy is not effective as to the employees of the insured employer covered by it until 20 days after written notice of the termination has been received by the contracting agency, and the agency has the option of continuing the payments on behalf of the employer in order to keep the policy in force. If, however, the employer has secured insurance with another insurance carrier, cancellation is effective as of the date of the new coverage.

(6) All claims for compensation, death benefits, physician's fees, nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, and burial expenses, may be made directly against either the employer or the insurer, or both, and the order or award of the board may be made against either the employer or the insurer or both.

(7) If the insurer fails or refuses to pay a final award or judgment (except during the pendency of an appeal) made against it, or its insured, or if it fails or refuses to comply with a provision of this chapter, the director of insurance [COMMISSIONER] shall revoke the approval of the policy form, and may not accept further proofs of insurance from it until it has paid the award or judgment or has complied with the violated provision of this chapter, and has resubmitted its policy form and received the approval of the form by the insurance commissioner.

(2) [redacted]

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(2) * Sec. 15. AS 23.30.045(a) is amended to read:

Sec. 23.30.045. EMPLOYER'S LIABILITY FOR BENEFITS [COMPENSATION]. (a) An employer is liable for and shall secure the payment to his employees of the benefits [COMPENSATION] payable under AS 23.30.050, 23.30.095, 23.30.145, and 23.30.185 - 23.30.215. If the employer is a subcontractor, the contractor is liable for and shall secure the payment of the benefits [COMPENSATION] to employees of the subcontractor unless the subcontractor secures the payment.

(2) Sec. 16. AS 23.30.045(b) is amended to read:

(b) Benefits are [COMPENSATION IS] payable irrespective of fault as a cause for the injury.

(1) → SEC 3 P2

* Sec. 17. AS 23.30.045(c) is amended to read:

(c) For a person eligible for vocational rehabilitation service under this chapter (3) or and AS 23.15.080 [AND] who is placed with an employer for service [WITHOUT WAGES] at the request of the board or the division [OFFICE] of vocational rehabilitation to give him on the job training, work readiness, [OR] work therapy experience [,] or work sampling, the liability set out in (a) of this section applies to the state rather than to the employer.

(2) * Sec. 18. AS 23.30.045(d) is amended to read:

(d) No contract may be awarded by the state or a home rule or other political subdivision of the state to an employer unless the employer [PERSON] to whom the contract is to be awarded has submitted to the contracting agency proof, furnished by the insurance carrier, of current coverage by workers' compensation insurance from an insurance company or association authorized to transact the business of workers' compensation insurance in this state or proof, furnished by the director of insurance [BOARD], of a current certificate of self-insurance from the director of insurance [BOARD]. The employer [PERSON] to whom

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the contract is awarded shall keep his workers' compensation insurance policy in effect during the life of the contract with the state or political subdivision. If the state or the political subdivision of the state fails to obtain proof of coverage or self-insurance or to protect itself under (e) of this section, and an employee of the contractor is injured during the term of the contract, the state or the political subdivision is liable for workers' compensation to the employee if the employee is unable to recover from the employer because of the employer's lack of financial assets. The state or the political subdivision is not liable, however, to the employee for workers' compensation if the employee can recover from the employer under (a) and (b) of this section.

(2)

* Sec. 19. AS 23.30.045(e) is amended to read:

(e) When a contracting agency of the state or a political subdivision receives notice that the workers' compensation insurance policy of an employer to whom the agency has awarded a contract has been cancelled due to nonpayment of a premium, without being replaced by a comparable policy, the agency may either terminate the contract with the employer or continue the premium payments on his behalf in order to keep the policy in force during the life of the agency's contract. If the agency chooses to keep the policy in force, it may deduct its payments from the contract price or bring an action against the employer to recover the amount of the payments. When the contracting agency receives notice that the <u>director of insurance</u> [BOARD] has revoked a certificate of self-insurance held by a person to whom a contract has been awarded, the agency may terminate the contract. This subsection does not limit the causes of action or remedies which the state or political subdivision may have against the employer.

(2)

* Sec. 20. AS 23.30.055 is amended to read:

Sec. 23.30.055. EXCLUSIVENESS OF LIABILITY. The liability of an employer prescribed in AS 23.30.045 is exclusive and in place of all other liability of the employer and any fellow employee to the employee, his legal representative, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from the employer or fellow employee at law or in admiralty on account of the injury or death. However, if an employer fails to secure payment of benefits [COMPENSATION] as required by this chapter, an injured employee or his legal representative in case death results from the injury may elect to claim benefits [COMPENSATION] under this chapter, or to maintain an action against the employer at law or in admiralty for damages on account of the injury or death. In that action the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, or that the employee assumed the risk of his employment, or that the injury was due to the contributory negligence of the employee.

(2) Sec. 21. AS 23.30.060 is amended to read:

Sec. 23.30.060. ELECTION OF DIRECT PAYMENT PRESUMED. (a) An employer is conclusively presumed to have elected to pay benefits [COMPENSATION] directly to employees for injuries sustained arising out of and in the course of the employment according to the provisions of this chapter, until notice in writing of insurance, stating the name and address of the insurance company and the period of insurance, is given to the employee.

(b) The notice shall be posted and kept on the premises of the employer or on the premises where the employer's operations are being carried on in three conspicuous places, at the office of the employer, at the mess house or boarding house if there is one, and in some conspicuous place on the premises or works. The notice shall be sub-

stantially in the following form, and the signature shall be witnessed by two witnesses:

EMPLOYER'S NOTICE OF INSURANCE

To the employees of the undersigned:

You and each of you are hereby notified that the undersigned is insured in the.....Insurance Company, whose address is.....and that the period covered by the insurance.....in accordance with the terms, conditions and provisions to pay benefits [COMPENSATION] to employees of the undersigned for injuries received as provided in the Act of the State of Alaska, known as the "Alaska Workers' Compensation Act"

Signed.....

.....

Witness:

.....

(2) * Sec. 22. AS 23.30.070(e) is amended to read:

(e) If the employer or the carrier has been given notice, or the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier has knowledge of an injury or death of an employee and fails, neglects, or refuses to file a report of it as required by the provisions of (a) of this section, the limitations in AS 23.30.105(a) do not begin to run against the claim of the injured employee or his dependents entitled to benefits [COMPENSATION,] or in favor of either the employer or the carrier, until the report has been furnished as required by the provisions of (a) of this section.

(2) * Sec. 23. AS 23.30.070(f) is amended to read:

(f) An employer who fails or refuses to send a report required of him by this section or who fails or refuses to send the report required

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by (a) of this section within the time required shall, if so required by the board, pay the employee or his legal representative or other person entitled to benefits [COMPENSATION] by reason of the employee's injury or death an additional award equal to 20 percent of the compensation [AMOUNTS] which was [WERE] unpaid when due. The award shall be against either the employer or his insurance carrier, or both.

(2) Sec. 24. AS 23.30.075(a) is amended to read:

(a) An employer under this chapter, unless exempted, shall either [,] insure and keep insured for his liability under this chapter in an insurance company or association duly authorized to transact the business of workers' compensation insurance in this state, or shall furnish the director of insurance [BOARD] satisfactory proof of his financial ability to pay directly the benefits [COMPENSATION] provided for. If an employer elects to pay directly, the director of insurance [BOARD] may, in his [ITS] discretion, require

(1) the deposit of an acceptable security, indemnity or bond to secure the payment of benefit [COMPENSATION] liabilities as they are incurred; and

(2) proof of excess insurance.

(2) Sec. 25. AS 23.30.075(b) is amended to read:

(b) An employer who fails to insure and keep insured employees subject to this chapter or fails to obtain a certificate of self-insurance from the board, upon conviction, is punishable by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both. If an employer is a corporation, all persons who, at the time of the injury or death, had authority to insure the [SAID] corporation or apply for a certificate of self-insurance, and the person actively in charge of the business of the [SUCH] corporation shall be subject to the penalties prescribed in this subsection [HEREIN] and shall be

personally, jointly, and severally liable together with the corporation for the payment of all [COMPENSATION OR OTHER] benefits for which the corporation is liable under this chapter if the [SAID] corporation at the [SUCH] time is not insured or qualified as a self-insurer.

(1) → See 4 P2

* Sec. 26. AS 23.30.080 is amended by adding a new subsection to read:

(d) If an employer fails to insure or provide security as required by AS 23.30.075, the board may issue a stop order prohibiting the use of employee labor by the employer until the employer insures or provides security as required by AS 23.30.075. If an employer fails to comply with a stop order issued under this section, the board shall assess a civil penalty of at least $1,000 per day. The employer may not obtain a public contract with the state or any of its political subdivisions for one year following the violation of the stop order.

(i)

* Sec. 27. AS 23.30.085(a) is amended to read:

(a) An employer subject to this chapter, unless exempted, shall initially file evidence of his compliance with the insurance provisions of this chapter with the board, in the form prescribed by it. The employer shall also give evidence of compliance within 10 days after the termination of his insurance by expiration or cancellation. These requirements do not apply to an employer who has certification from the director of insurance [BOARD] of his financial ability to pay benefits [COMPENSATION] directly without insurance.

(2)

* Sec. 28. AS 23.30.090 is amended to read:

Sec. 23.30.090. SELF-INSURANCE CERTIFICATES. If an employer has complied with the provisions of this chapter relating to self-insurance, the director of insurance [BOARD] shall issue him a certificate which shall remain in force for a period fixed by the director of insurance [BOARD]. The director of insurance [BOARD] may, upon at least 10 days' notice and a hearing, revoke a self-insurance certificate upon satis-

factory proof that an employer is no longer entitled to it. After revocation the director of insurance [BOARD] may grant a new certificate to an employer, upon his petition and satisfactory proof of his financial ability as provided in this chapter. The director of insurance shall notify the contracting agency of the state or of a political subdivision of the state when it revokes the self-insurance certificate of an employer holding a contract with the state or a political subdivision of the state. An employer authorized as a self-insurer shall provide claims facilities through its own staffed adjusting facilities located within the state, or independent, licensed, resident adjustors with power to effect settlement within the state.

(2) Sec. 29. AS 23.30.092 is amended to read:

Sec. 23.30.092. VOLUNTEER AMBULANCE ATTENDANTS, POLICEMEN AND FIREMEN INSURANCE. A political subdivision may elect to provide benefits [AND COMPENSATION] to its volunteer ambulance attendants, policemen or firemen by obtaining insurance which would provide its volunteer ambulance attendants, policemen or firemen with benefits [AND COMPENSATION] at least equivalent to those conferred upon volunteer ambulance attendants, policemen or firemen by this chapter, and the election shall be considered compliance with the coverage and insurance provisions of this chapter. The election shall be made by filing copies of the insurance policy or policies with the commissioner.

(1) → Sec 5 P 2+3

* Sec. 30. AS 23.30.095(a) is amended to read:

(a) The employer shall furnish medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires [, NOT EXCEEDING TWO YEARS FROM AND AFTER THE DATE OF INJURY TO THE EMPLOYEE. HOWEVER, IF THE CONDITION REQUIRING THE TREATMENT, APPARATUS, OR MEDICINE IS A LATENT ONE, THE TWO-YEAR

PERIOD RUNS FROM THE TIME THE EMPLOYEE HAS KNOWLEDGE OF THE NATURE OF HIS DISABILITY AND ITS RELATIONSHIP TO HIS EMPLOYMENT AND AFTER-DISABLEMENT. IT SHALL BE ADDITIONALLY PROVIDED THAT, IF CONTINUED TREATMENT OR CARE OR BOTH BEYOND THE TWO-YEAR PERIOD IS INDICATED, THE INJURED EMPLOYEE HAS THE RIGHT OF REVIEW BY THE BOARD. THE BOARD MAY AUTHORIZE CONTINUED TREATMENT OR CARE OR BOTH AS THE PROCESS OF RECOVERY MAY REQUIRE]. When medical care is required, the injured employee may designate a licensed physician inside the state to render the care except in cases where, in the judgment of the board, care or treatment or both can best be administered by the selection of another licensed physician. Upon procuring the services of a licensed physician, the injured employee shall give proper notification of his selection to the employer within a reasonable time after first being treated. [IF FOR ANY REASON DURING THE PERIOD WHEN MEDICAL CARE IS REQUIRED THE EMPLOYEE WISHES TO CHANGE TO ANOTHER PHYSICIAN, HE MAY DO SO IN ACCORDANCE WITH RULES PRESCRIBED BY THE BOARD.]

Sec 7 P 3+4

* Sec. 31. AS 23.30.095(c) is amended to read:

(c) No claim for medical or surgical treatment is valid and enforceable as against the employer unless, within 20 [TWENTY] days following each visit for [THE FIRST] treatment, the physician giving the treatment or the employee receiving it furnishes to the employer and the board notice of the injury and treatment, preferably on a form prescribed by the board. The board shall [MAY], however, excuse the failure to furnish notice within 20 days when it finds it to be in the interest of justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of the medical or surgical treatment so obtained by the employee.

Sec 8 P 4

* Sec. 32. AS 23.30.095(e) is amended to read:

(e) The employee shall, after an injury, at reasonable times

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during the continuance of his disability if requested by his employer or, when ordered by the board, submit himself to an examination by a physician or surgeon authorized to practice medicine under the laws of the state in which the employee may be found, furnished and paid for by the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR EXAMINATIONS.] No fact relative to the injury or claim communicated to or otherwise learned by a physician or surgeon who may have attended or examined the employee, or who may have been present at an examination is privileged, either in the hearings provided for in this chapter or an action to recover damages against an employer who is subject to the benefits [COMPENSATION] provisions of this chapter. If an employee refuses to submit himself to any examination provided for in this section [HEREIN], his rights to compensation shall be suspended until the obstruction or refusal ceases, and his compensation during the period of suspension may, in the discretion of the board or the court determining an action brought for the recovery of damages under this chapter [HEREUNDER], be forfeited. The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. No autopsy may be held without notice first being given to the widow or widower or next of kin if they reside in the state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If no adequate notice is given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

(2) Sec. 33. AS 23.30.100(a) is amended to read:

Sec. 23.30.100. NOTICE OF INJURY OR DEATH. (a) Notice of an injury or death in respect to which benefits are [COMPENSATION IS]

payable under this chapter shall be given within 30 days after the date of the [SUCH] injury or death to the board and to the employer.

(2) * Sec. 34. AS 23.30.100(b) is amended to read:

(b) The notice shall be in writing, contain the name and address of the employee and a statement of the time, place, nature, and cause of the injury or death, and be signed by the employee or by a person on his behalf, or in case of death, by a person claiming to be entitled to benefits [COMPENSATION] for the death or by a person on his behalf.

(2) * Sec. 35. AS 23.30.100(d) is amended to read:

(d) Failure to give notice does not bar a claim under this chapter

(1) if the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier had knowledge of the injury or death and the board determines that the employer or carrier has not been prejudiced by failure to give notice;

(2) if the board excuses the failure on the ground that for some satisfactory reason notice could not be given;

(3) unless objection to the failure is raised before the board at the first hearing of a claim for benefits [COMPENSATION] in respect to the injury or death.

Sec 9 pg

(1) * Sec. 36. AS 23.30.105 is amended to read:

Sec. 23.30.105. TIME FOR FILING OF CLAIMS. (1) (a) The right to benefits [COMPENSATION FOR DISABILITY] under this chapter is barred unless a claim for them [IT] is filed within two years after the employee has knowledge of the nature of his disability and its relation to his employment and after disablement. The [HOWEVER, THE MAXIMUM TIME FOR FILING THE CLAIM IN ANY EVENT OTHER THAN ARISING OUT OF AN OCCUPATIONAL DISEASE SHALL BE FOUR YEARS FROM THE DATE OF INJURY, AND THE] right to benefits [COMPENSATION] for death is barred unless a

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claim for benefits [THEREFORE] is filed within one year after the death. If [, EXCEPT THAT IF] payment of benefits [COMPENSATION] has been made without an award on account of the injury or death, a claim may be filed within one year [TWO YEARS] after the date of the last payment. It is additionally provided that, in the case of a latent injury [DEFECTS PERTINENT TO AND CAUSING COMPENSABLE DISABILITY], the injured employee has full right to claim as shall be determined by the board, time limitations notwithstanding.

(2) [redacted] Failure to file a claim within the period prescribed in (a) of this section is not a bar to benefits [COMPENSATION] unless objection to the failure is made at the first hearing of the claim in which all parties in interest are given reasonable notice and opportunity to be heard.

(2) [redacted] If a person who is entitled to benefits [COMPENSATION] under this chapter is mentally incompetent or a minor, the provisions of (a) of this section are not applicable so long as he has no guardian or other authorized representative, but are applicable in the case of a person who is mentally incompetent or a minor from the date of appointment of a guardian or other representative, or in the case of a minor, if no guardian is appointed before he becomes of age, from the date he becomes of age.

(2) [redacted] If recovery is denied to a person, in a suit brought at law or in admiralty to recover damages in respect to injury or death, on the ground that he was an employee and that the defendant is an employer within the meaning of this chapter and that the employer has secured benefits [COMPENSATION] to the employee under this chapter, the limitation of time prescribed in (a) of this section begins to run only from the date of termination of the suit.

(2) * Sec. 37. AS 23.30.106(b) is amended to read:

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(b) The payment or award of benefits under the workers' compensation law of another state, territory, province, or foreign nation to an employee or his dependents otherwise entitled on account of the injury or death to the benefits under this chapter is not a bar to a claim for benefits under this chapter; however, a claim under this chapter must be filed within the time limits set out in this chapter. If benefits are [COMPENSATION IS] paid or awarded under this section:

(1) the medical and related benefits furnished or paid for by the employer under another workers' compensation law on account of the injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this chapter had claim been made solely under this chapter;

(2) the amount of all income benefits paid or awarded the employee under another workers' compensation law shall be credited against the total amount of income benefits which would have been due the employee under this chapter had claim been made solely under this chapter;

(3) the total amount of death benefits paid or awarded under another workers' compensation law shall be credited against the total amount of death benefits due under this chapter.

(2) * Sec. 38. AS 23.30.106(c) is amended to read:

(c) If an employee is entitled to the benefits of this chapter by reason of an injury sustained in this state in employment by an employer who is domiciled in another state and who has not secured the payment of benefits [COMPENSATION] as required by this chapter, the employer or his carrier may file with the board a certificate, issued by the commission or agency of the other state having jurisdiction over workers' compensation claims, certifying that the employer has secured the payment of benefits [COMPENSATION] under the workers' compensation law

of the other state and that with respect to that injury the employee is entitled to the benefits provided under that law. In that event

(1) the filing of the certificate shall constitute an appointment by the employer or his carrier of the board as his agent for acceptance of the service of process in a proceeding brought by the employee or his dependents to enforce his or their rights under this chapter on account of the injury;

(2) the board shall send to the employer or carrier, by registered or certified mail to the address shown on the certificate, a true copy of any notice of claim or other process served on the director by the employee or his dependents in any proceeding brought to enforce his or their rights under this chapter;

(3) if the employer is a qualified self-insurer under the workers' compensation law of the other state, the employer, upon submission of evidence satisfactory to the board of his ability to meet his liability to the employee under this chapter, shall be considered to be a qualified self-insurer under this chapter;

(4) if the employer's liability under the workers' compensation law of another state is insured, the employer's carrier, as to the employee or his dependents only, shall be considered to be an insurer authorized to write insurance under and be subject to this chapter; however, unless its contract with the employer requires it to pay an amount equivalent to the [COMPENSATION] benefits provided by this chapter, its liability for income benefits or medical and related benefits may not exceed the amounts of the benefits for which the insurer would have been liable under the workers' compensation law of the other state;

(5) if the amount for which the employer's insurance is liable under (3) and (4) of this subsection is less than the total [OF

THE COMPENSATION] benefits to which the employee is entitled under this chapter, the board may, if it considers it necessary, require the employer to file security satisfactory to the board to secure the payment of benefits due the employee or his dependents under this chapter; and

(6) upon compliance with the preceding requirements of (c) of this section, the employer, as to the employee only, shall be considered to have secured the payment of benefits [COMPENSATION] under this chapter.

(2) * Sec. 39. AS 23.30.110(a) is amended to read:

(a) Subject to the provisions of AS 23.30.105, a claim for benefits [COMPENSATION] may be filed with the board in accordance with its regulations at any time after the first seven days of disability following an injury, or at any time after death, and the board may hear and determine all questions in respect to the claim.

Sec 10 P546

(1) * Sec. 40. AS 23.30.110(c) is amended to read:

(c) The board shall make the investigation which it considers necessary in respect of the claim, and upon application of an interested party shall order a hearing on it. If a hearing on a claim is ordered, the board shall give the claimant and other interested parties at least 10 days' notice of the hearing, served personally upon the claimant and other interested parties or sent by registered mail, and shall, within 30 [20] days after the hearing is held [HAD], by order, reject the claim or make an award in respect to it. [IF NO HEARING IS ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN RESPECT TO IT.]

(2) * Sec. 41. AS 23.30.120 is amended to read:

Sec. 23.30.120. PRESUMPTIONS. In a proceeding for the enforce-

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ment of a claim for benefits [COMPENSATION] under this chapter it is presumed, in the absence of substantial evidence to the contrary, that

(1) the claim comes within the provisions of this chapter;

(2) sufficient notice of the claim has been given;

(3) the injury was not occasioned solely by the intoxication of the injured employee;

(4) the injury was not occasioned by the wilful intention of the injured employee to injure or kill himself or another.

(2) Sec. 42. AS 23.30.130 is amended to read:

Sec. 23.30.130. MODIFICATION OF AWARDS. (a) Upon its own initiative, or upon the application of any party in interest on the ground of a change in conditions, including, for the purposes of AS 23.30.175, a change in residence, or because of a mistake in its determination of a fact, the board may, before one year after the date of the last payment of benefits [COMPENSATION,] whether or not a compensation order has been issued, or before one year after the rejection of a claim, review a compensation case in accordance with the procedure prescribed in respect of claims in AS 23.30.110. In accordance with AS 23.30.110 the board may issue a new compensation order which terminates, continues, reinstates, increases, or decreases the compensation, or award benefits [COMPENSATION].

(b) A new order does not affect benefits [COMPENSATION] previously paid, except that an award increasing the compensation rate may be made effective from the date of the injury, and if part of the compensation due or to become due is unpaid, an award decreasing the compensation rate may be made effective from the date of the injury, and payment made earlier in excess of the decreased rate shall be deducted from the unpaid compensation, in the manner the board determines.

(2) Sec. 43. AS 23.30.140 is amended to read:

Sec. 23.30.140. APPOINTMENT OF GUARDIAN BY COURT. The board may require the appointment of a guardian or other representative by a competent court for any person who is mentally incompetent or a minor to receive benefits [COMPENSATION] payable to the person under this chapter and to exercise the powers granted to or to perform the duties required of the person under this chapter. If the board does not require the appointment of a guardian to receive the compensation of a minor, appointment for this purpose is not necessary.

(2) * Sec. 44. AS 23.30.145 is amended to read:

Sec. 23.30.145. ATTORNEY FEES. (a) Fees for legal services rendered in respect to a claim are not valid unless approved by the board, and the fees may not be less than 25 percent on the first $1,000 of benefits [COMPENSATION] or part of the first $1,000 of benefits [COMPENSATION] and 10 percent of all sums in excess of $1,000 of benefits [COMPENSATION]. When the board advises that a claim has been controverted, in whole or in part, the board may direct that the fees for legal services be paid by the employer or carrier in addition to benefits [COMPENSATION] awarded; the fees may be allowed only on the amount of benefits [COMPENSATION] controverted and awarded. When the board advises that a claim has not been controverted, but further advises that bona fide legal services have been rendered in respect to the claim, then the board shall direct the payment of the fees out of the benefits [COMPENSATION] awarded. In determining the amount of fees the board shall take into consideration the nature, length and complexity of the services performed, transportation charges, and the benefits resulting from the services to the compensation beneficiaries.

(b) If an employer fails to file timely notice of controversy or fails to pay [COMPENSATION OR MEDICAL AND RELATED] benefits within 15 days after it becomes due or otherwise resists the payment of [COMPEN-

SATION OR MEDICAL AND RELATED] benefits and if the claimant has employed an attorney in the successful prosecution of his claim, the board shall make an award to reimburse the claimant for his costs in the proceedings, including a reasonable attorney fee. The award is in addition to the [COMPENSATION OR MEDICAL AND RELATED] benefits ordered.

(c) If proceedings are had for review of an [A COMPENSATION OR MEDICAL AND RELATED BENEFITS] order before a court, the court may allow or increase an attorney's fees. The fees are in addition to [COMPENSATION OR MEDICAL AND RELATED] benefits ordered and shall be paid as the court may direct.

(1) Sec 11 P6

* Sec. 45. AS 23.30.155(j) is amended to read:

(j) If an employer has made advance payments or overpayments of compensation, he is entitled to be reimbursed, after approval by the board, out of any unpaid installment or installments of compensation due.

(2) Sec 12 P6

* Sec. 46. AS 23.30.155 is amended by adding new subsections to read:

(n) Compensation owed to an injured employee in the state shall be paid by a check or draft that may be cashed on the first banking day after it is received by the employee and on any succeeding banking day.

(o) Whenever the board determines that it is in the interest of an injured employee and that a substantial hardship will not be imposed on the employer, the liability of the employer for all or part of compensation payable under AS 23.30.190 may be discharged by the payment of a lump sum.

(2) * Sec. 47. AS 23.30 is amended by adding new sections to read:

Sec. 23.30.157. AVAILABILITY FOR EMPLOYMENT. (a) An injured employee who receives compensation or medical and related benefits under this chapter and who is not employed shall register with the employment service operated by the state and shall report to job inter-

views and referrals arranged by the employment service.

(b) An employee described in (a) of this section who is unemployed and has received 10 or more job referrals within the preceding three years may not receive further benefits under this chapter unless the employee is determined to be permanently totally disabled in accordance with AS 23.30.180.

(2) Sec. 23.30.159. OTHER EARNINGS. (a) An injured employee who receives compensation or medical and related benefits shall report monthly any wages earned during the preceding month

(1) to the board; or

(2) if the employer elects to pay benefits directly, to the director of insurance.

(b) An employee who fails to report wages as required under (a) of this section may not receive benefits under this chapter until those reports are made.

(2) * Sec. 48. AS 23.30.160 is amended to read:

Sec. 23.30.160. ASSIGNMENT AND EXEMPTION FROM CLAIMS OF CREDITORS. No assignment, release, or commutation of [COMPENSATION OR] benefits due or payable under this chapter, except as provided by this chapter, is valid, and the [COMPENSATION AND] benefits are exempt from all claims of creditors and from levy, execution, and attachment or other remedy for recovery or collection of a debt. This exemption may not be waived.

(2) * Sec. 49. AS 23.30.165 is amended to read:

Sec. 23.30.165. LIEN. (a) Each employee and beneficiary entitled to benefits [COMPENSATION] under the provisions of this chapter has a lien for the full amount of his benefits [COMPENSATION], including costs and disbursements of suit and attorney fees allowed, upon all of the property in connection with the construction, preservation, mainte-

nance or operation of which the work of the employee was being performed at the time of his injury or death. For example: in the case of an employee injured or killed while engaged in mining or in work connected with mining, the lien extends to the entire mine and all property used in connection with it; and in the case of an employee injured or killed while engaged in fishing or in the packing, canning, or salting of fish, or other branch of the fish industry, the lien extends to the entire packing, fishing, salting or canning plant or establishment and all property used in connection with it; and this is the case with other businesses, industries, works, occupations and employments.

(b) The lien is prior and paramount to any other lien on the property, except a lien for wages or materials as provided by law, and is of equal rank with a lien for wages or materials.

(c) The lien extends to all right, title, interest and claim of the employer in the property affected by the lien.

(d) A person claiming a lien under this chapter shall, within one year after the date of the injury from which the claim of benefits [COMPENSATION] arises, file for record in the office of the recorder of the recording district in which the property affected by the lien is located a notice of lien signed and verified by the claimant or someone on his behalf, and stating in substance, the name of the person injured or killed out of which injury or death the claim of benefits [COMPENSATION] arises, the name of the employer of the injured or deceased person at the time of the injury or death, a description of the property affected or covered by the lien and the name of the owner or reputed owner of the property.

(e) The lien for benefits [COMPENSATION] provided for in this section may be enforced by equitable proceedings as in the enforcement

of other liens upon real or personal property, within 10 months after the cause of action arises. Nothing in this section prevents an attachment of property as security for the payment of benefits [COMPENSATION].

(2) * Sec. 50. AS 23.30.170(a) is amended to read:

(a) In case of default by the employer in the payment of benefits [COMPENSATION] due under an award of benefits [COMPENSATION] for a period of 30 days after the benefits are [COMPENSATION IS] due, the person to whom the benefits are [COMPENSATION IS] payable may, within one year after the default, apply to the board making the compensation order for a supplementary order declaring the amount of the default. After investigation, notice, and hearing, as provided in AS 23.30.110, the board shall make a supplementary order declaring the amount of the default. The order shall be filed in the same manner as the compensation order.

(1) Sec 13 P6

* Sec. 51. AS 23.30.175(b) is repealed and reenacted to read:

(b) After June 30 and before December 1 of each year, the commissioner shall adopt and publish the average weekly wage for the preceding calendar year as computed by the United States Secretary of Labor for the purposes of unemployment insurance. In determining the rate of compensation the commissioner shall use the average weekly wage figure for each jurisdiction, including Alaska, for which the Secretary of Labor computes an average weekly wage. These figures are the applicable average weekly wages for those jurisdictions for the following calendar year. The average weekly wage for Alaska is the amount determined by dividing (1) the total wages paid by all employers covered by the Alaska Employment Security Act by (2) the average monthly employment reported by those employers for the same period and dividing the result by 52.

(1) Sec 14 P7

* Sec. 52. AS 23.30.175(c) is repealed and reenacted to read:

(c) The following rules apply to recipients who do not reside in Alaska:

(1) The weekly rate of compensation shall be calculated using the recipient's average weekly wage times the ratio of the average weekly wage of the jurisdiction in which the recipient resides to the average weekly wage of Alaska. The rate is based on the average weekly wages in effect when the recipient leaves Alaska and shall be adjusted annually upon publication of the average weekly wages for all jurisdictions.

(2) The calculation required by this subsection does not apply if

(A) the average weekly wage of the recipient and the resulting compensation rate is determined under AS 23.30.220(2) by use of wages earned in jurisdictions other than Alaska; or

(B) the absence of the recipient is for medical or rehabilitation services not reasonably available in Alaska.

(3) Application of this subsection may not result in a reduction of the weekly compensation rate to less than $65 a week except as provided in (a) of this section.

(1) Sec 15 P 7

* Sec. 53. AS 23.30.175(d) is repealed and reenacted to read:

(d) In a jurisdiction for which no average weekly wage is computed by the United States Secretary of Labor for the purposes of unemployment insurance, the average weekly wage shall be as determined by the commissioner.

(2) * Sec. 54. AS 23.30.180 is amended to read:

Sec. 23.30.180. PERMANENT TOTAL DISABILITY. In case of total disability adjudged to be permanent 66-2/3 percent of the injured employee's average weekly wages shall be paid to the employee during the continuance of the total disability. Permanent [LOSS OF BOTH

HANDS, OR BOTH ARMS, OR BOTH FEET, OR BOTH LEGS, OR BOTH EYES, OR OF ANY TWO OF THEM, IN THE ABSENCE OF CONCLUSIVE PROOF TO THE CONTRARY, CONSTITUTES PERMANENT TOTAL DISABILITY. IN ALL OTHER CASES PERMANENT] total disability is determined in accordance with the facts.

* Sec. 55. AS 23.30.190 is amended to read:

Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL DISABILITY. (a) In case of disability partial in character but permanent in quality the compensation is 66-2/3 percent of the injured employee's average weekly wages in addition to compensation for temporary total disability or temporary partial disability paid in accordance with AS 23.30.185 or 23.30.200, respectively, and shall be paid to the employee as follows:

(1) arm lost, 156 [280] weeks compensation, not to exceed $43,680;

(2) leg lost, 156 [248] weeks compensation, not to exceed $40,320;

(3) hand lost, 156 [212] weeks compensation, not to exceed $33,600;

(4) foot lost, 156 [173] weeks compensation, not to exceed $28,700;

(5) eye lost, 140 weeks compensation, not to exceed $22,400;

(6) thumb lost, 51 weeks compensation, not to exceed $10,400;

(7) first finger lost, 28 weeks compensation, not to exceed $6,440;

(8) great toe lost, 26 weeks compensation, not to exceed $5,320;

(9) second finger lost, 18 weeks compensation, not to exceed $4,200; third finger lost, 18 weeks compensation, not to exceed $3,500;

(10) toe other than great toe lost, eight weeks compensation, not to exceed $2,240;

L 20A

(2) (11) fourth finger lost, seven weeks compensation, not to exceed $2,100;

(2) (12) loss of hearing of one ear, 52 weeks compensation, not exceeding $7,280; loss of hearing of both ears, 156 [200] weeks compensation, not to exceed $28,000;

(2) (13) compensation for loss of more than one phalange of a digit shall be the same as for loss of the entire digit; compensation for loss of the first phalange is one-half of the compensation for loss of the entire digit;

(2) (14) amputation between the elbow and the wrist is considered equivalent to the loss of an arm, and amputation between the knee and ankle is considered equivalent to the loss of a leg;

(2) (15) compensation for loss of binocular vision or for 80 percent or more of the vision of an eye is the same as for loss of the eye;

(2) (16) compensation for loss of two or more digits, or one or more phalanges of two or more digits of a hand or foot may be proportioned to the resulting loss of use of the injured hand or foot, but may not exceed the compensation for loss of a hand or foot;

(2) (17) compensation for permanent total loss of use of a member is the same as for loss of the member;

(2) (18) compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member;

(2) (19) in addition to other allowable compensation, the board shall award proper and equitable compensation up to $10,000 for

(2) (A) serious disfigurement of face, head and, when such disfigurement is likely to handicap the employee in securing or holding employment, for serious disfigurement of neck or limbs normally exposed, or

(B) partial or total loss of or loss of use of a part or function of the body not otherwise provided for under this section;

(20) in all other cases in this class of disability the compensation is 66-2/3 percent of the difference between his average weekly wages and his wage-earning capacity after the injury in the same employment or otherwise, payable during the continuance of the partial disability, but subject to reconsideration of the degree of the impairment by the board on its own motion or upon application of a party in interest; [WHENEVER THE BOARD DETERMINES THAT IT IS IN THE INTEREST OF JUSTICE, THE LIABILITY OF THE EMPLOYER FOR COMPENSATION, OR ANY PART OF IT AS DETERMINED BY THE BOARD, MAY BE DISCHARGED BY THE PAYMENT OF A LUMP SUM;]

(21) in a case in which there is a loss of, or loss of use of more than one member or parts of more than one member set out in (1) - (18) of this subsection [SECTION], not amounting to permanent total disability, the award of compensation is for the loss of, or loss of use of, each member or part of the member, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, (16) of this subsection [SECTION] applies.

(b) Total compensation paid under (a)(20) of this section may not continue for more than 156 weeks or exceed $60,000.

Sec 17 P8

* Sec. 56. AS 23.30.191 is repealed and reenacted to read:

Sec. 23.30.191. EXPENSES FOR REHABILITATING INJURED EMPLOYEES. An employee, who, as a result of injury, is or may be expected to be totally or partially incapacitated for his normal occupation and who, under the direction of the board, is being rehabilitated to engage in a remunerative occupation, may receive compensation necessary for his

rehabilitation of 66-2/3 percent of his average weekly wage subject to the maximum payable under AS 23.30.175.

(2) * Sec. 57. AS 23.30.210(b) is amended to read:

(b) At any time after death, or after 30 days subsequent to the date of injury, the employer and the employee or the beneficiary or beneficiaries, as the case may be, have the right to reach an agreement in regard to a claim for injury or death under this chapter [HEREUNDER] in accordance with the applicable schedule [HEREOF], but a memorandum of the agreement in a form prescribed by the board shall be filed with the board. Otherwise, the agreement is void for any purpose. If approved by the board, the agreement is enforceable the same as an order or award of the board and discharges the liability of the employer for the benefits [COMPENSATION] notwithstanding the provisions of [AS 23.30.130,] AS 23.30.160 [,] and AS 23.30.245(b) [AS 23.30.245]. The agreement shall be approved by the board only when the terms conform to the provisions of this chapter and, if it involves or is likely to involve permanent disability, the board may require an impartial medical examination and a hearing in order to determine whether or not to approve the agreement. The board may approve lump-sum settlements when it appears to be to the best interest of the employee or beneficiary or beneficiaries.

(1) Sec 18 p 8

* Sec. 58. AS 23.30.215(a)(1) is amended to read:

(1) reasonable and necessary funeral expenses not exceeding $2,500; the commissioner by regulation shall annually adjust this limit to reflect increased expenses resulting from inflation [$1,000];

(3) Sec 20 p 8 ff

* Sec. 59. AS 23.30.220(2) is amended to read:

(2) the average weekly wage is [THAT MOST FAVORABLE TO THE EMPLOYEE] calculated by dividing 52 into the total wages earned, including self-employment, in [ANY ONE OF] the [THREE] calendar year

[YEARS] immediately preceding the injury;

* Sec. 60. AS 23.30 is amended by adding a new section to read:

Sec. 23.30.227. OTHER BENEFITS. (a) Notwithstanding any other provision of this chapter, an injured employee may not receive compensation for permanent total, permanent partial, temporary total, or temporary partial disability if he receives unemployment benefits (AS 23.20) for the same period of time.

(b) Notwithstanding any other provision of this chapter, an injured employee may not receive compensation for permanent total, permanent partial, temporary total, or temporary partial disability that exceeds 100 percent of his average weekly wage when added to any sick pay to which he is entitled for the same period of time.

(c) Notwithstanding any other provision of this chapter, the amount of compensation received by an injured employee for permanent total, permanent partial, temporary total, or temporary partial disability shall be reduced by the amount of retirement benefits paid to him for the same period of time.

* Sec. 61. AS 23.30.235 is amended to read:

Sec. 23.30.235. CASES IN WHICH NO BENEFITS ARE [COMPENSATION IS] PAYABLE. No benefits [COMPENSATION] may be paid if the injury was occasioned solely by the intoxication of the employee or by the wilful intention of the employee to injure or kill himself or another.

* Sec. 62. AS 23.30.245 is amended to read:

Sec. 23.30.245. INVALID AGREEMENTS. (a) An agreement by an employee to pay a portion of the premium paid by his employer to a carrier or to contribute to a benefit fund or department maintained by the employer for the purpose of providing benefits [COMPENSATION OR MEDICAL SERVICES AND SUPPLIES] as required by this chapter is not valid. An employer who makes a deduction for this purpose from the pay

of an employee entitled to the benefits of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $1,000.

(b) An agreement by an employee to waive his right to benefits [COMPENSATION] under this chapter is not valid.

(1) Sec 20 P 8,9

* Sec. 63. AS 23.30.250 is amended to read:

Sec. 23.30.250. PENALTY FOR MISREPRESENTATION. A person who wilfully makes a false or misleading statement or representation for the purpose of obtaining a benefit or payment under this chapter is guilty of theft as defined in AS 11.46.100(3) and is punishable as provided in AS 11.46.120 - 11.46.150 [A MISDEMEANOR, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $1,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH].

(2)

* Sec. 64. AS 23.30.255 is amended to read:

Sec. 23.30.255. PENALTY FOR FAILURE TO PAY BENEFITS [COMPENSATION]. (a) An employer required to secure the payment of benefits [COMPENSATION] under this chapter who fails to do so is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both. If the employer is a corporation, its president, secretary, and treasurer are also severally liable to the fine or imprisonment provided in this section for the failure of the corporation to secure the payment of benefits [COMPENSATION]. The president, secretary, and treasurer are severally personally liable, jointly with the corporation, for the benefits [COMPENSATION] or other benefit which accrues under this chapter in respect to an injury which happens to an employee of the corporation while it has failed to secure the payment of benefits [COMPENSATION] as required by AS 23.30.075.

(b) An employer who knowingly transfers, sells, encumbers, as-

signs, or in any manner disposes of, conceals, secretes, or destroys any of his property after one of his employees has been injured within the scope of this chapter, with intent to avoid the payment of benefits [COMPENSATION] under this chapter to the employee or his dependents, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both. If the employer is a corporation, its president, secretary, and treasurer are also severally liable to the penalty of imprisonment as well as jointly liable with the corporation for the fine.

(c) This section does not affect any other liability of the employer under this chapter.

(2)

* Sec. 65. AS 23.30.260 is amended to read:

Sec. 23.30.260. PENALTY FOR RECEIVING UNAPPROVED FEES AND SOLICITING. A person is guilty of a misdemeanor, and upon conviction is punishable for each offense by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both, if he

(1) receives a fee, other consideration, or a gratuity on account of services rendered in respect to a claim, unless the consideration or gratuity is approved by the board or the court; or

(2) makes it a business to solicit employment for a lawyer or for himself in respect to a claim or award for benefits [COMPENSATION].

(3) Sec 3 P 7

* Sec. 66. AS 23.30 is amended by adding a new section to read:

(2)

Sec. 23.30.263. UNLAWFUL EMPLOYMENT PRACTICE. It is unlawful for an employer to discharge or otherwise discriminate against an employee because he has filed a claim for workers' compensation benefits under this chapter.

* Sec. 67. AS 23.30.265(9) is amended to read:

(9) "death" as a basis for a right to benefits [COMPENSA-

TION] means only death resulting from an injury;

* Sec. 68. AS 23.30.265(16) is amended to read:

(16) "medical and related benefits" includes but is not limited to physicians' fees, nurses' charges, pain clinic services, hospital services, hospital supplies, medicine and prosthetic devices, physical rehabilitation, and treatment for the fitting and training for use of such devices as may reasonably be required which arises out of or is necessitated by an injury, and transportation charges to the nearest point where adequate medical facilities are available;

* Sec. 69. AS 23.30.265(19) is amended to read:

(19) "self-insurer" means an employer who, instead of insuring his liability under this chapter as it provides, elects to pay directly the benefits [COMPENSATION] provided for, and who has furnished to the director of insurance [BOARD] satisfactory proof of his financial ability to make the direct payments and has been issued a self-insurance certificate;

* Sec. 70. AS 23.30.265(20) is amended to read:

(20) "wages" means the money rate at which the service rendered is recompensed under the contract of hiring [IN FORCE AT THE TIME OF THE INJURY,] and includes the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer, and gratuities received in the course of employment from other [OTHERS] than the employer;

* Sec. 71. AS 23.30.265 is amended by adding new paragraphs to read:

(29) "benefits" means compensation and medical and related benefits;

(30) "in the course of employment" includes travel to and from a remote job site but does not include activities outside of working hours that are not work-connected or in which an employee ordi-

signs, or in any manner disposes of, conceals, secretes, or destroys any of his property after one of his employees has been injured within the scope of this chapter, with intent to avoid the payment of benefits [COMPENSATION] under this chapter to the employee or his dependents, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both. If the employer is a corporation, its president, secretary, and treasurer are also severally liable to the penalty of imprisonment as well as jointly liable with the corporation for the fine.

(c) This section does not affect any other liability of the employer under this chapter.

(2)

* Sec. 65. AS 23.30.260 is amended to read:

Sec. 23.30.260. PENALTY FOR RECEIVING UNAPPROVED FEES AND SOLICITING. A person is guilty of a misdemeanor, and upon conviction is punishable for each offense by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both, if he

(1) receives a fee, other consideration, or a gratuity on account of services rendered in respect to a claim, unless the consideration or gratuity is approved by the board or the court; or

(2) makes it a business to solicit employment for a lawyer or for himself in respect to a claim or award for benefits [COMPENSATION].

(3)

Sec 1 P 2

* Sec. 66. AS 23.30 is amended by adding a new section to read:

(2)

Sec. 23.30.263. UNLAWFUL EMPLOYMENT PRACTICE. It is unlawful for an employer to discharge or otherwise discriminate against an employee because he has filed a claim for workers' compensation benefits under this chapter.

* Sec. 67. AS 23.30.265(9) is amended to read:

(9) "death" as a basis for a right to benefits [COMPENSA-

TION] means only death resulting from an injury;

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(16) "medical and related benefits" includes but is not limited to physicians' fees, nurses' charges, pain clinic services, hospital services, hospital supplies, medicine and prosthetic devices, physical rehabilitation, and treatment for the fitting and training for use of such devices as may reasonably be required which arises out of or is necessitated by an injury, and transportation charges to the nearest point where adequate medical facilities are available;

* Sec. 69. AS 23.30.265(19) is amended to read:

(19) "self-insurer" means an employer who, instead of insuring his liability under this chapter as it provides, elects to pay directly the benefits [COMPENSATION] provided for, and who has furnished to the director of insurance [BOARD] satisfactory proof of his financial ability to make the direct payments and has been issued a self-insurance certificate;

* Sec. 70. AS 23.30.265(20) is amended to read:

(20) "wages" means the money rate at which the service rendered is recompensed under the contract of hiring [IN FORCE AT THE TIME OF THE INJURY,] and includes the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer, and gratuities received in the course of employment from other [OTHERS] than the employer;

* Sec. 71. AS 23.30.265 is amended by adding new paragraphs to read:

(29) "benefits" means compensation and medical and related benefits;

(30) "in the course of employment" includes travel to and from a remote job site but does not include activities outside of working hours that are not work-connected or in which an employee ordi-

narily engages while not at a remote job site.

(1)* (2) Sec. 72. AS 23.30.005(k), 23.30.095(g), 23.30.125(b), and 23.30.175(e) and (f) are repealed.

(1)* Sec. 73. This Act takes effect on July 1, 1982.

PLEASE NOTE: THE PRECEDING PAGES WERE TREATED AS A UNIT IN THE ORIGINAL DOCUMENT.

A M E N D M E N T #1

TO: CSHB 159(L&C)

* Sec. . AS 23.30 is amended by adding a new section to read:

Sec. 23.30.157. AVAILABILITY FOR EMPLOYMENT. (a) An injured employee who receives compensation or medical and related benefits under this chapter and who is not employed shall, as provided by the board, register with the employment service operated by the state and shall report to job interviews and referrals arranged by the employment service.

(b) An employee described in (a) of this section who is unemployed and has received 10 or more job referrals within the preceding three years may not receive further benefits under this chapter unless the employee is determined to be permanently totally disabled in accordance with AS 23.30.180.

A M E N D M E N T #2

TO: CSHB 159(L&C)

* Sec. . AS 23.30 is amended by adding a new section to read:

Sec. 23.30.159. OTHER EARNINGS. (a) An injured employee who receives compensation or medical and related benefits shall report monthly any wages earned during the preceding month

(1) to the board; or

(2) if the employer elects to pay benefits directly, to the director of insurance.

(b) An employee who fails to report wages as required under (a) of this section may not receive benefits under this chapter until those reports are made.

Prior to
self-insured employer or carrier.

A M E N D M E N T #3

TO: CSHB 159(L&C) See new schedule in AS 15.

* Sec. . AS 23.30.190 is amended to read:

Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL DISABILITY. (a) In case of disability partial in character but permanent in quality the compensation is 66-2/3 percent of the injured employee's average weekly wages in addition to compensation for temporary total disability or temporary partial disability paid in accordance with AS 23.30.185 or 23.30.200, respectively, and shall be paid to the employee as follows:

(1) arm lost, 156 [280] weeks compensation, not to exceed $43,680;

(2) leg lost, 156 [248] weeks compensation, not to exceed $40,320;

(3) hand lost, 156 [212] weeks compensation, not to exceed $33,600;

(4) foot lost, 156 [173] weeks compensation, not to exceed $28,700;

(5) eye lost, 140 weeks compensation, not to exceed $22,400;

(6) thumb lost, 51 weeks compensation, not to exceed $10,400;

(7) first finger lost, 28 weeks compensation, not to exceed $6,440;

(8) great toe lost, 26 weeks compensation, not to exceed $5,320;

(9) second finger lost, 18 weeks compensation, not to exceed $4,200; third finger lost, 18 weeks compensation, not to exceed $3,500;

(10) toe other than great toe lost, eight weeks compensation, not to exceed $2,240;

(11) fourth finger lost, seven weeks compensation, not to exceed $2,100;

(12) loss of hearing of one ear, 52 weeks compensation, not exceeding $7,280; loss of hearing of both ears, 156 [200] weeks compen-

sation, not to exceed $28,000;

(13) compensation for loss of more than one phalange of a digit shall be the same as for loss of the entire digit; compensation for loss of the first phalange is one-half of the compensation for loss of the entire digit;

(14) amputation between the elbow and the wrist is considered equivalent to the loss of an arm, and amputation between the knee and ankle is considered equivalent to the loss of a leg;

(15) compensation for loss of binocular vision or for 80 percent or more of the vision of an eye is the same as for loss of the eye;

(16) compensation for loss of two or more digits, or one or more phalanges of two or more digits of a hand or foot may be proportioned to the resulting loss of use of the injured hand or foot, but may not exceed the compensation for loss of a hand or foot;

(17) compensation for permanent total loss of use of a member is the same as for loss of the member;

(18) compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member;

(19) in addition to other allowable compensation, the board shall award proper and equitable compensation up to $10,000 for

(A) serious disfigurement of face, head and, when such disfigurement is likely to handicap the employee in securing or holding employment, for serious disfigurement of neck or limbs normally exposed, or

(B) partial or total loss of or loss of use of a part or function of the body not otherwise provided for under this section;

(20) in all other cases in this class of disability the compensation is 66-2/3 percent of the difference between his average weekly wages and his wage-earning capacity after the injury in the same employment or otherwise, payable during the continuance of the partial disability, but subject to reconsideration of the degree of the impair-

ment by the board on its own motion or upon application of a party in interest; [WHENEVER THE BOARD DETERMINES THAT IT IS IN THE INTEREST OF JUSTICE, THE LIABILITY OF THE EMPLOYER FOR COMPENSATION, OR ANY PART OF IT AS DETERMINED BY THE BOARD, MAY BE DISCHARGED BY THE PAYMENT OF A LUMP SUM;]

(21) in a case in which there is a loss of, or loss of use of more than one member or parts of more than one member set out in (1) - (18) of this subsection [SECTION], not amounting to permanent total disability, the award of compensation is for the loss of, or loss of use of, each member or part of the member, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, (16) of this subsection [SECTION] applies.

(b) Total compensation paid under (a)(20) of this section may not continue for more than 156 weeks or exceed $60,000.

A M E N D M E N T #4

TO: CSHB 159(L&C)

* Sec. . AS 23.30 is amended by adding a new section to read:

Sec. 23.30.227. OTHER BENEFITS. Notwithstanding any other provision of this chapter, an injured employee who receives compensation for permanent total, permanent partial, temporary total, or temporary partial disability shall have that compensation reduced by an amount equal to unemployment benefits (AS 23.20) received for the same period of time.

A M E N D M E N T #5

TO: CSHB 159(L&C)

* Sec. . AS 23.30 is amended by adding a new section to read:

Sec. 23.30.227. OTHER BENEFITS. (a) Notwithstanding any other provision of this chapter, an injured employee may not receive compensation for permanent total, permanent partial, temporary total, or temporary partial disability that exceeds 100 percent of his average weekly wage when added to any noncompensable sick pay to which he is entitled for the same period of time.

(b) In this section "noncompensable sick pay" is sick pay which is without cash value.

The Report of The Comprehensive Study of Vocational Rehabilitation in The Alaska Workers' Compensation Program

The Report of

The Comprehensive Study of Vocational Rehabilitation in The Alaska Workers' Compensation Program

JUNEAU, ALASKA
March 12, 1982

ZEE PAMPLIN JACKSON
Rehabilitation Consultant
P. O. Box 3130
Anchorage, AK 99510
(907) 264-2460

March 12, 1982

To the Legislature.

A Preliminary Report was delivered to you on January 26, 1982.

I have the honor to submit to you the Final Report of the Comprehensive Study of Vocational Rehabilitation in the Alaska Workers' Compensation Program in accordance with House Bill 94, effective July 11, 1981. Corrections and minor changes which do not alter the essence of the Preliminary Report have been made.

Findings of the study have led to general conclusions regarding the delivery system of vocational rehabilitation benefits to injured workers. The State Workers' Compensation system has the potential to fulfill its obligations to injured workers and employers through the provision of properly structured and managed rehabilitation services. These services are presently inadequate, however, for a substantial number of injured workers. Recommendations for change and major improvements are offered for consideration in developing an effective delivery system of rehabilitation benefits to injured workers in Alaska.

Sincerely,

Zee Pamplin Jackson
Rehabilitation Consultant

Staff

REHABILITATION CONSULTANT

Zee Pamplin Jackson

RESEARCH ANALYST

David Kertzner

SECRETARIAL STAFF

Dorothy Deans

Acknowledgments

On behalf of the members of the staff, I wish to acknowledge the assistance we received in conducting the study and preparing this Report.

The Department of Labor and the Division of Workers' Compensation arranged for office space and telephones. Administrative staff at both levels provided guidance on fiscal policies, procedures and budgetary matters. Their supportive assistance in preparing the Preliminary Report was provided with diligence, good will and best wishes.

The staff was assisted by rehabilitation professionals and administrators of other workers' compensation rehabilitation programs, who contributed ideas and advice. Gary Stivers of the Idaho Industrial Commission and Charles Kilczewski of the Office of Workers' Compensation Programs were among those who provided data and their views on structuring and managing rehabilitation services for industrially injured workers. In addition, we express our appreciation to injured workers, employers, unions, insurance companies, physicians and attorneys who provided valuable ideas and resource data for our review.

The Workers' Compensation Board was critical to the completion of the study. The Board imparted elements of practicality and feasibility through its legal and technical contributions. These elements, and the Board's expressed interest in improving the rehabilitation program, provided a framework for the conclusions and recommendations of the study.

Special gratitude is expressed to Nancy Fisher. Her patience and perseverance in transcribing numerous drafts added clarity and legibility to the Report.

Zee Pamplin Jackson
Rehabilitation Consultant

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Introduction & Summary

Major Conclusions and Recommendations

INTRODUCTION

In 1981 the Legislature of the State of Alaska enacted laws relating to workers' compensation. House Bill 94 became effective on July 11, 1981. Section 7 of the bill provides for the Division of Workers' Compensation within the Department of Labor to conduct a comprehensive study of vocational rehabilitation of injured workers. The Division was directed to report its findings and recommendations for legislative or administrative action by the 30th day of the Second Session of the Twelfth Legislature.

The study began on August 24, 1981. Activities for the past six months have been devoted to querying, collecting, investigating and analyzing concerns registered by all participants in the State's workers' compensation system. Four public hearings, conducted by the House Labor and Commerce Committee on Workers' Compensation, were attended in Anchorage, Fairbanks and Juneau. A survey of over 600 injured workers was conducted. Meetings were held with physicians, rehabilitation professionals, insurance companies, employers and representatives of labor and management. Records of the Division of Workers' Compensation, rehabilitation firms and insurance companies were reviewed. The rehabilitation programs in two other workers' compensation systems were reviewed and discussed in order to show examples of the potential savings and benefits to be derived from a properly structured and managed program. Additionally, published reports and writings of study groups and authorities in workers' compensation were reviewed.

The study found that the delivery system is not providing timely and adequate rehablitation services to a substantial number of those injured workers who could benefit from these services for two primary reasons. First, the system does not afford prompt referral of appropriate cases to

rehabilitation facilities. Second, injured workers are not consistently advised of their potential entitlement to these services, nor are the services being provided monitored. This is due primarily to a lack of resources and trained personnel within the Division of Workers' Compensation, as well as the absence of established procedures and guidelines for delivering and monitoring the system. The State's workers' compensation system has the potential to fulfill its obligations to injured workers and employers through the provision of properly managed rehabilitation services. A detailed discussion of these findings and recommendations are offered in the main body of the report, which is summarized below.

PART I. THE GOALS OF REHABILITATION IN A WORKERS' COMPENSATION PROGRAM

There are five goals of rehabilitation in a workers' compensation program.

Early identification of injured workers who potentially need rehabilitation

Workers who may not be able to return to their regular employment after suffering job-related injuries should be referred to rehabilitation as soon as this determination has been made or can be reasonably predicted.

Use of competent rehabilitation providers

The unusual characteristics of workers' compensation and the different approach required for successful rehabilitation are strong arguments for the use of counselors trained in industrial rehabilitation. While this training does not require an intimate knowledge of the law, it should include the ability to recognize the needs of the industrially injured population and the compensation system alike.

Provide opportunities for return to direct employment

The success of rehabilitation in a workers' compensation program rests on the attainment of one of its most critical goals: the earliest possible return of workers to direct employment.

Maintenance of atmosphere conducive to rehabilitation

Rehabilitation is a process which does not occur in isolation. The conditions and atmosphere surrounding this process are primary determinants of its eventual outcome.

Provide incentives, remove disincentives to rehabilitation

A rehabilitation program may fall short of fully achieving the primary objective of a workers' compensation system unless it maintains sufficient incentives and removes disincentives in the rehabilitation process.

PART II. EVALUATION OF VOCATIONAL REHABILITATION IN THE ALASKA WORKERS' COMPENSATION PROGRAM AND RECOMMENDATIONS

1. Injured Workers Who Potentially Need Rehabilitation Should Be Identified as Early as this Determination Can Reasonably Be Made.

Based on available data, it appears that the average time from the date of injury to referral is 16.8 months for injured workers referred to the state vocational rehabilitation program and 11.8 months for workers referred to the private rehabilitation firm.

Recommendation. Insurers/employers should timely report to the Division of Workers' Compensation all injured workers who potentially need rehabilitation services. The Division of Workers' Compensation should timely screen these reports and contact injured workers regarding their potential entitlement to these services. (See Recommendations 1.1 through 1.4 in the main body of the report for complete details.)

2. Provision of Rehabilitation Services by Competent Counselors.

Counselors presently providing rehabilitation services to injured workers covered by the Act are presumed to have sound backgrounds in basic rehabilitation principles. However, a review of rehabilitation plans, reports and correspondence, as well as views expressed by these counselors, raises questions regarding the presence of critical elements needed to meet the objective of a workers' compensation rehabilitation program. Clearly, the lack of regulations, definitive procedures and guidelines for the provision of vocational rehabilitation has affected the performance of counselors providing services to injured workers covered by the Act.

Recommendation. Regulations on vocational rehabilitation should be adopted. The Division of Workers' Compensation should establish, publish and distribute guidelines for providers of rehabilitation services. (See Recommendations 2.1 through 2.5.)

3. Provide for Early Return to Direct Employment.

The extent to which injured workers are provided opportunities for return to direct employment is a primary determinant of the ultimate success of rehabilitation in a workers' compensation program. There is little evidence in support of Alaska employers providing measurable opportunities for reemployment of injured workers.

Recommendation. Insurers should provide assistance to employers in developing programs for reemployment of injured workers. Arrangements can be made for counselors' services, to include on-site job analyses and assistance in modification of jobs to enhance reemployment opportunities of an employer's injured employees. The Division of Workers' Compensation should encourage the development and implementation of reemployment programs by providing positive monitoring and endorsement of the efforts of all parties. Union agreements can be negotiated between management and labor for reemployment and rehabilitation of injured union members. (See Recommendations 3.1 through 3.4.)

4. Maintenance of Atmosphere Conducive to Rehabilitation.

In general, the extent and timeliness of communication, coordination and commitment seem inadequate for the purpose of supporting a successful rehabilitation program. The lag between date of injury to date of referral of injured workers to rehabilitation supports the conclusion that injured workers are not timely contacted and advised of their entitlement or potential need for rehabilitation services. Rehabilitation reports and other correspondence reflect communication is sporadic and generally inadequate to ensure the rehabilitation effort of a successful and cost-effective outcome. Progress during rehabilitation is not timely monitored or timely reported. Concurrently, coordination of activities necessary to develop realistic return-to-work plans is insufficient, so that inordinate delays and interruptions occur to the detriment of injured workers, the rehabilitation program and the compensation system alike.

Recommendation. Insurers/employers, union representatives and the Division of Workers' Compensation should increase their efforts to effectively and timely communicate with injured workers by contacting them as soon after the injury as possible to explain their entitlement to benefits and the procedure for securing these benefits. The services of rehabilitation professionals can enhance this effort and contribute to the maintenance of an atmosphere conducive to successful rehabilitation. (See Recommendations 4.1 through 4.3.)

5. Provision of Incentives, Removal of Disincentives.

Proper rating of employers, participation in the targeted jobs tax credit program and the proper administration of the Second Injury Fund have all been identified as incentives to employers to rehire their injured workers and support the rehabilitation program. The extent to which experience and retrospective rating methods are used in rating Alaska employers is unknown and is beyond the scope of this report. Changes in the administration of the Second Injury Fund which would enhance the overall rehabilitation program of the state's workers' compensation system appear to be in order. (See discussion in Part Two, under Goal 5 and Recommendations 5.1 through 5.7.)

Applications for settlements are frequently submitted for various reasons, including funding for proposed self-employment ventures in lieu of participation in a supervised rehabilitation program. Recommendations for such plans, without adequate documentation to support the soundness or feasibility of the proposals, are common. All parties seem to lose sight of the end goal of rehabilitation when this occurs.

Recommendation. Each plan must be carefully evaluated for its soundness and potential for successfully returning the worker to productive employment. In cases not involving self-employment plans, claims should be settled only after a determination has been made that to do so is in the best interest of the injured worker. (See Recommendation 5.8.)

Rehabilitation professionals providing services to injured workers in Alaska readily attest to the activities of both the plaintiffs' bar and defense attorneys as interfering in the rehabilitation process. Regulations, guidelines and well-defined procedures regarding rehabilitation will remove much of the need and opportunity to litigate issues surrounding the rehabilitation process. (See Recommendations 2.1 through 2.5.)

Parties who refuse to cooperate or who sabotage the rehabilitation effort through passive-aggressive means should be encouraged to cooperate through the application of remedial penalties acting upon both the insurer/employer and the injured worker similarly. The board has the authority to apply such remedies. A review of the board's more recent decisions and orders reflects an increased effort to make sufficient applications of these remedies in support of the rehabilitation objective.

DELIVERY OF REHABILITATION IN THE ALASKA WORKERS' COMPENSATION SYSTEM

The Alaska workers' compensation program must have an effective rehabilitation delivery system if it is to meet its six obligations as outlined in Part One of this report and achieve the five goals of rehabilitation. Despite the ongoing efforts of the Division of Workers' Compensation to improve its delivery system to the workers' compensation community, it continues to lack the resources and staff necessary to achieve a successful rehabilitation program which will ultimately reduce the cost of the compensation system. Administrative monitoring and positive assistance to injured workers and all other members in the system require the adoption of the recommendations set forth in this report.

The savings experienced in other compensation programs cited in the main body of this report resulted from the delivery of well-managed, cost-effective rehabilitation benefits. These results did not occur independent of the economic wisdom of administrators for those programs, who realized that a relatively small investment of resources would yield tremendous dividends in the reduction of compensation costs to employers, injured workers and society.

Part One

Goals of Rehabilitation

A brief description of the history of rehabilitation provisions
for industrially injured workers

A. HISTORY OF REHABILITATION PROVISIONS FOR INDUSTRIALLY INJURED WORKERS.

Rehabilitation in workers' compensation programs in the United States has been paid increasing attention over the past ten years following publication of the 1972 Report of the National Commission on State Workmen's Compensation Laws. However, the realization that workers' compensation laws should include provisions for rehabilitating industrially injured workers was manifested by the Massachusetts Industrial Accident Board as early as 1914, when a member of that board went to study the German program. Pursuant to that study, and a meeting in 1916 of the International Association of Industrial Accident Boards and Commissions (IAIABC), during which the delegates were advised that a primary goal of workers' compensation programs was the rehabilitation of disabled workers, the first state vocational rehabilitation law was enacted in 1918 in Massachusetts. (Berkowitz, 1963). The law, administered by the Industrial Accident Board, covered only those persons disabled by industrial accidents and occupational diseases. Following Massachusetts' lead, other states enacted laws with similar rehabilitation provisions. Congress, through the passage of Public Law 236 in 1920, created the State/Federal Vocational Rehabilitation Program. Its statement of purpose provided for the promotion of vocational rehabilitation of industrially disabled workers. Thus, persons with occupational disabilities were the prime target for vocational rehabilitation services. Subsequent Congressional mandates, however, shifted the attention to other specific disability groups and resulted in obscuring the focus on industrially injured workers. This shift in focus, coupled with the existence of the common law tort liability in the compensation system with its inherent litigation, resulted in the failure of both systems to adequately provide rehabilitation services to the industrially disabled, a condition which still exists today, according to the report of the National Commission (National Commission on State Workmen's Compensation Laws, 1972) and Larson, who suggests that one-half of 1% of industrially injured workers are rehabilitated under the federal/state programs. Larson further suggests that ten percent of workers currently being injured could benefit from vocational rehabilitation services. (Larson, 1980).

B. REHABILITATION DEFINED.

The increased emphasis on the inclusion of rehabilitation benefits in a modern workers' compensation system has prompted attempts by those in the system to define rehabilitation. A noteworthy observation is made by Sawyer in this regard, wherein he makes a distinction between the philosophical differences in rehabilitation of the workers' compensation system and the state/federal program. Sawyer observes that the objective of workers' compensation rehabilitation is to restore the industrially injured worker to a state of employability equal to, or as near as possible to that of his pre-injury status, through the provision of only those services necessary to achieve this objective. On the other hand, he notes, the state vocational program seeks to rehabilitate disabled persons to their maximum potential through the provision of education and other services deemed necessary by the disabled worker to achieve a chosen vocational objective. (Sawyer, 1978)

A further distinction can be made through examination of the primary funding source of each program. The state vocational rehabilitation program is supported by federal and state funds, while the cost of rehabilitation in a workers' compensation system is borne by private industry through contributions to a special or second injury fund and direct payment to private rehabilitation providers. The employer further contributes to the rehabilitation of industrially injured workers through payment of compensation benefits during the period of rehabilitation.

A third distinction, perhaps more revealing than the first two, is the difference in population served by each system. As we previously discussed, Congressional mandates have directed the focus of the state/federal program to give priority to specific disability groups classified as severely disabled. These include developmental disabilities, congenital, orthopedic and neurological conditions, and catastrophic injuries resulting in paraplegia and quadriplegia. The bulk of individuals in these disability categories are adolescents and young adults, most of whom have never participated in the world of work. Therefore, the process employed in making them work ready is habilitation rather than rehabilitation. Since their backgrounds do not include significant work experience which has imparted marketable skills, their plans usually include long-term pre-vocational and vocational preparation centered around academic training toward a specific career goal chosen by the individual. Contrast this to the industrially injured group, who for the most part, have not been severely disabled by their injuries, according to state/federal guidelines, and whose pre-injury work experiences have imparted skills which can usually be marketed in the workplace. On the whole, their natural orientation is not likely to be toward academic or classroom training, as they did not choose this method to enter the world of work to begin with, and they have not usually chosen to engage in academic pursuits at any point in their work life prior to the injury and subsequent visits to the

state vocational rehabilitation office. It is reasonable to conclude that the approach taken in assisting them to return to the work place will differ considerably from that taken for the first group.

The socially underlying concept of rehabilitation embraced by rehabilitation professionals is the intrinsic dignity of man, his feeling of self-worth and his right to life, liberty and the pursuit of happiness. This concept cannot realistically exist independent of economic wisdom in a workers' compensation program. The timely return of an industrially injured worker to a safe employment status, commensurate with that held at the time of injury, through the investment of necessary resources, is a logical goal in a workers' compensation program. The end result is an economic as well as a social asset to the injured worker, the compensation system and society. Properly managed, cost-effective rehabilitation will enable many disabled workers to return to productive jobs and thus reduce compensation costs.

C. THE APPROPRIATENESS OF REHABILITATION IN A WORKERS' COMPENSATION SYSTEM.

In 1976, the Rehabilitation Committee of the International Association of Industrial Accident Boards and Commissions conducted research on rehabilitation services in all state workers' compensation programs and went on to submit a model program of medical care and rehabilitation which was adopted by the IAIABC in 1977. The stated purpose of the model program was the assurance and coordination of efficient and timely delivery of services necessary to restore the industrially disabled employee to optimum physical and vocational well-being. (Ross, 1976).

The need for rehabilitating injured workers was stressed in the 1977 report of the President's Interdepartmental Workers' Compensation Task Force. The report, which stressed reemployment, advocated increased private rehabilitation efforts by employers and insurance companies. (Interdepartmental Workers' Compensation Task Force, 1977).

The Insurance Rehabilitation Study Group is an organization whose purpose is to provide a forum for members of the insurance industry to explore and develop concepts and programs of rehabilitation and medical administration applicable to all phases of insurance. The group undertook a project to develop guidelines and language dealing with rehabilitation and subsequently published a report which in part stated:

> While insurance losses and benefits are usually stated in monetary terms, the full consequences of human disability cannot be measured by money alone. Earnings lost due to accident or sickness can be replaced and medical expenses can be reimbursed, but there is no meaningful way to financially translate the value of an arm or a leg, or the personal dignity of being able to contribute to society as a useful member rather than merely existing disabled and dependent.

The study group went on to state that:

> If insurance is to protect against these human losses, it must do more than provide financial compensation alone. It must also strive to restore such losses. Insurance should provide the means for disabled workers to return to gainful employment whenever possible, and to regain as much functional independence as they can, even if they cannot return to work. Compensation cannot accomplish these goals without rehabilitation. (Insurance Rehabilitation Study Group, 1975).

The Study Group's report included its model rehabilitation program.

Based on the cited research and studies conducted by recognized authorities in workers' compensation, it is clear the consensus supports the premise that rehabilitation is an effective tool which should be included in workers' compensation if the system is to fulfill its total responsibility to the industrially injured worker and to society within the economy.

D. WHO SHOULD FUND REHABILITATION IN WORKERS'COMPENSATION

Leading insurance companies, employers and other members of the workers' compensation community support the belief that all costs of the system should be borne by the employer and not by the general public. Sawyer suggests:

> While some individual insurers and self-insured employers still approach the subject of rehabilitation with varying degrees of acceptance, the matter of involvement is no longer an option. Through a combination of either basic legislative changes or administrative regulations, the responsibilities of carriers and employers to provide rehabilitation services specifically directed toward returning injured workers to suitable gainful employment are spreading to all jurisdictions. (Sawyer, 1981).

It is reasonable to conclude that the legal requirement to provide rehabilitation benefits for injured workers has as its basis a collective mandate by society, for industry to provide benefits which most effectively achieve the basic remedial and restorative purpose for which the workers' compensation laws were intended.

E. THE ROLE OF THE STATE WORKERS' COMPENSATION AGENCY IN REHABILITATION.

The National Commission on State Workers Compensation Laws suggest that a state agency has six primary obligations in a workers' compensation program. Those obligations are applicable to rehabilitation and will be used for the purpose of this discussion.

First, the agency must ensure that the basic objective of rehabilitation is met by taking the initiative to administer the laws relative to rehabilitation.

Second, the agency must continually review the performance of the rehabilitation program and make procedural changes to improve the program when change is indicated.

Third, the workers' compensation agency is obliged to advise workers of their rights and obligations under the law and to assure that they receive the rehabilitation benefits to which they are entitled.

Fourth, the agency should apprise employers and carriers of their responsibilities and rights under the law. Physicians and attorneys must also be informed of their obligations in the rehabilitation process.

Fifth, the agency should assist in voluntary and informal resolution of rehabilitation issues and assure that such resolutions are consistent with the law.

Sixth, in the absence of voluntary resolutions, the Workers' Compensation Board must make adjudicatory decisions to resolve issues affecting rehabilitation.

The compensation agency must have sufficient authority and adequate staff to fulfill these six obligations. Moreover, the skills and background of the staff must be consistent with the functions to be served and the tasks to be performed.

F. FIVE SPECIFIC GOALS OF REHABILITATION IN A WORKERS' COMPENSATION PROGRAM

One of the four basic objectives of a modern workers' compensation program, as presented in the report by the National Commission, is the provision of sufficient medical care and rehabilitation services. The Commission suggests that these services are equally as important as the cash benefits of the program. However, it can be reasoned from a long-range perspective, these services are even more important than cash benefits, given the nature of their permanent and long-term value. Indeed, the provision of temporary compensation payments to replace a substantial portion of the worker's lost earnings, during the period of total disability, is a critical factor if the worker and his family are to be spared the disastrous hardships resulting from lack of income. However, the temporary characteristic of compensation payments suggests that a remedy with a far more long-range quality must be provided if the compensation system is to achieve its more fundamental objective of restoring the worker's ability to earn wages by returning him to the work place. Rehabilitation is an effective tool to be used in achieving this basic objective.

Five goals must be achieved in a workers' compensation rehabilitation program if the system is to serve its primary purpose. The basic goals are:

1. *early identification of injured workers potentially needing rehabilitation;*

2. *provision of effective rehabilitation services through the use of competent professionals;*

3. *provision of early return to direct employment;*

4. *maintenance of atmosphere conducive to rehabilitation;*

5. *provision of incentives, removal of disincentives in rehabilitation.*

(1) EARLY IDENTIFICATION OF INJURED WORKERS POTENTIALLY NEEDING REHABILITATION

One of the central themes repeated by rehabilitation professionals as well as noted authorities in workers' compensation is the need for early involvement in the rehabilitation process of workers whose injuries prevent them from timely returning to their regular job. Indeed, the idea as Sawyer suggests may well have originated with a limited number of leading

insurers who embraced the notion of rehabilitation as a part of a sound workers' compensation system. Whatever the original source, this premise, which has been endorsed by previously cited authorities, has gained increasing acceptance in workers' compensation over the past recent years.

Those proponents of the early involvement theory share the common realization that time can be a deadly enemy to successful rehabilitation. Benign neglect of what originally is a minor disability can result in protracting that disability to the point where an unwholesome attitude regarding return to work becomes permanent and fixed, and the psychological hurdle required to overcome this is extremely difficult, if not impossible to achieve. The notion of a timely return to work should be one of the first imparted to an injured worker.

The responsibility of the employer to provide rehabilitation benefits to injured workers has been sufficiently discussed. The extent to which this responsibility is met by the employer or insurer depends on the extent to which top management is committed to rehabilitation. This decision cannot be left to the discretion of individual claims adjusters. Early intervention in appropriate cases requires an unequivocal commitment to rehabilitation and precludes the adversary approach. In Sawyer's words:

> The role of the claims administrator moves from that of a "dollar doler" to an advocate of good care directed toward the earliest possible return to safe employment. In this context the disability, not the claimant, is the adversary to be overcome. (Sawyer, 1981).

The vice-president of a local insurance company, recognized in the workers' compensation community for her commitment to rehabilitation, reports that it is a standard company requirement of claims adjusters to make initial arrangements for rehabilitation in all cases where the injured worker remains off work 60 days or longer after the injury. In jurisdictions where the workers' compensation agency monitors rehabilitation, the adjuster files a report with the agency to advise that rehabilitation services are being initiated, or to request assistance from the agency in arranging for services. The company's philosophy and commitment to rehabilitation, which top administration holds as a non-negotiable policy with its staff, are included in the initial and ongoing training of all claims adjusters. While the company does not afford statistical data on its total rehabilitation program, the vice-president emphatically holds that the company indeed saves money for its insureds through its non-adversary, early intervention approach to rehabilitation.

The state workers' compensation agency, in fulfilling its obligation to support the goal of early identification of injured workers needing rehabilitation services and to ensure their receipt of these services, must maintain a systematic reporting and screening mechanism. Insurance companies and self-insured employers should file reports in all lost-time cases where injured workers continue to remain off work after a specified period of time. (A recommended time period is discussed in Part Two.) The report should indicate the carrier's immediate or future plans with explanation for the provision of rehabilitation services. Simultaneously, the workers' compensation agency must continually screen all lost-time injury reports and arrange for rehabilitation services in appropriate cases where the carrier has failed to do so.

The early intervention approach clearly militates against the obsolete concept that the injured worker's medical condition must be fixed and stationary before a successful rehabilitation effort can begin. A recently completed study by the California Workers' Compensation Institute Rehabilitation Committee appears to refute this outmoded concept. The study sample was randomly selected from files closed by the Rehabilitation Bureau of the State Division of Industrial Accidents during June and July of 1980. Findings are based on a detailed analysis of 611 cases. The results of the study show a direct correlation between early implementation of rehabilitation and completion rate. (See Table 1.) Clearly, the dangerous wait-and-see practice has no real validity and can be a deterrent to successful rehabilitation. If allowed to prevail, it will most surely undermine achieving the goals of successful rehabilitation.

(2) IDENTIFICATION AND USE OF COMPETENT REHABILITATION PROVIDERS WHO UNDERSTAND THE PURPOSE AND PHILOSOPHY OF WORKERS' COMPENSATION.

The differences in philosophical approaches to rehabilitation in workers' compensation systems and state/federal programs have been adequately discussed. Little or no purpose is served in arguing the merits of these differences in a vacuum. It is important to understand, however, the need to provide rehabilitation services in a workers' compensation program in a manner which supports the basic objective of the system. Therefore, it is important to engage the services of

those rehabilitation providers who not only understand this objective, but who are willing to provide services to injured workers consistent with achieving this objective. The counselor must have a sufficient understanding of medical issues and the function of the workers' compensation system, along with the ability to employ sound rehabilitation practices within the total context of the system.

Beyond meeting the requirement of understanding and working to achieve the objective of a workers' compensation program, the rehabilitation counselor must be competent and skilled in working with multiple parties in the system. The counselor must possess the ability to establish rapport with the injured worker to create the level of trust and cooperation necessary to achieve a successful outcome of the rehabilitation effort. The injured worker must be involved. It is not only his right but also his responsibility, as his complete involvement is a major key to any successful result. This means approaching the worker from an objective, yet restorative and supportive posture. This posture precludes counselor attempts to adjudicate and negotiate settlement and other claims issues more appropriately left to the adjudicatory body in the system.

The counselor must be able to effectively work with and gain the support of the treating physician in the rehabilitation effort. Contacting the physician prior to contacting the injured worker, to explain what is being attempted, is imperative if the counselor expects to gain the support of the physician, who can pave the way for a successful rehabilitation outcome. Work restrictions and remaining physical capabilities, which will serve as a basis for vocational planning, can be obtained at this time. Simultaneously, the counselor's presence provides assistance to the physician in his efforts to counsel the patient in working toward recovery and an eventual return to productive employment, with emphasis on what he can do, as opposed to what he cannot do.

Since the earliest possible return to work is the goal of industrial rehabilitation, inordinate delay on the part of the counselor in conducting extensive vocational evaluations and testing, before attempting to develop a direct return-to-work plan, is inappropriate in the workers' compensation system. An attempt to return the injured worker to his modified job held at the time of injury, or a different job with the same employer is the appropriate initial direction to take. If this is not possible, selective placement with a new employer in a job using established skills compatible with remaining physical capabilities is the next logical course to pursue. If either course is likely to result in returning the injured worker to safe, gainful employment, the counselor must not only be competent and willing to pursue this course, but must be required to pursue it by the workers' compensation system. In the face of existing opportunities for direct return to work, it is a disservice to an injured worker and his family if the counselor attempts to develop an unnecessary training plan which may result in prolonging the disability and increasing the cost of workers' compensation to industry and ultimately to society.

When efforts to return the injured worker to direct employment are not likely to succeed because of insufficient marketable skills, the counselor must recognize the need to timely establish a plan of vocational training, the scope and duration of which must not exceed that which is absolutely necessary to return the injured worker to an employment status commensurate with his pre-injury status. It is reasonable to place parameters on the training benefits of injured workers which will coincidentally place limitations on the employers' liability for such benefits. (Suggested parameters are offered in the recommendations in Part Two of this report.) There must be a plan with a realistic goal. This requires skillful, specific actions on the part of the counselor, as plans do not emerge from the waters. The goal of the plan should be clearly described and fully understood by those who are to participate in it. A time table with specific target dates, and a delineation of roles and responsibilities, specifying who, what, when, where and how, must be spelled out.

TABLE 1. Results of early implementation.

	% Plans Implemented	
	Before P & S	After P & S
Rehab plans completed	82	74
Employees working	75	65
Plan suspended/terminated	18	26
Average cost	$4,238	$7,671

Remarks: P & S refers to the injured worker's medical condition as being permanent and stationary.

Claims management by the insurer, and administrative oversight by the state workers' compensation agency, cannot occur in a void. Therefore, the system requires the counselor to maintain effective communication with all interested parties. The counselor must provide initial written and oral communication regarding the original plan, and make ongoing reports sufficient in content and scope to keep all appropriate parties fully advised of the progress being made toward achieving the goal of the plan and the primary objective of workers' compensation. This requires consistent, ongoing monitoring by the counselor. The workers' compensation system must provide additional monitoring to ensure the counselor is meeting this requirement.

Cooperative Agreements. During the formative years of no-fault workers' compensation, many systems provided for cooperative agreements between the workers' compensation agency and the state/federal division of vocational rehabilitation. This practice was primarily due to the fact that the state/federal program was the sole source of rehabilitation services for disabled workers. The National Commission's report, however, detailed the past failure of many state programs to fulfill the expectancy of the compensation systems, as well as the failure of state compensation agencies to resolve this matter. In view of this failure, coupled with the emergence of private rehabilitation providers, whose services appear to be more specifically geared toward working with industrially injured workers, cooperative agreements between the two agencies may well be obsolete. As noted earlier, the purpose of the workers' compensation system can best be served by identifying and utilizing those providers whose services support the primary objective of the compensation system.

(3) PROVISION FOR EARLY RETURN TO DIRECT EMPLOYMENT.

The success of rehabilitation in a workers' compensation program rests on attaining one of its most critical goals: the earliest possible return of workers to direct employment. Members of the workers' compensation community share the widely held belief that the fewer changes made in the life of an injured worker during the rehabilitation process, the more successful that process is likely to be. Conversely, a more complex rehabilitation plan requiring numerous changes in the life of the injured worker, and requiring a proportionate period of time to implement, diminishes the chance of a successful outcome. This too, appears to be borne out by the study of the California Workers' Compensation Rehabilitation Committee. The results show that modification of the worker's pre-injury job and direct placement of workers with transferable skills were more successful than formal training programs in terms of return to work. (See Table 2.) The results also revealed the costs and outcome of plans were inversely proportionate, with the least expensive program offering the greatest opportunity to return the injured worker to the work force. (See Tables 2 and 3.)

Key Players Necessary

Employer Participation. The employer's responsibility to his injured employee must transcend the traditional role of merely paying premiums and forwarding accident reports to the insurance company. The employer has the first and foremost obligation to do everything within reason to assure his employee's return to safe work. It is accepted that this will not always be possible. However, the employer must make more than a cursory attempt in the return to work

TABLE 2. RTW by plan type completed.

	% RTW
Modified Work	84.6
OJT + schooling	72.2
Direct placement	71.1
On-the-job training	69.7
Formal Schooling	52.1

effort. His actions may include arrangements for an on-site job analysis by a qualified rehabilitation professional, to identify a job compatible with the remaining physical capacities of the recovered employee, or the union representative may be called upon to run interference in overcoming obstacles in union agreements which may prevent the injured worker from successfully returning to work. At any rate, the employer will not know what can be done until he initiates an active and aggressive return-to-work effort. In the absence of this effort, complaints regarding spiraling workers' compensation costs are hardly justifiable.

Employee Responsibility. The employee must clearly understand his rights do not exist independent of his responsibilities under the workers' compensation law. He must therefore act responsibly in the face of a valid reemployment offer made by his employer. His total cooperation as well as participation in a return-to-work effort is a requirement, not an option, if he expects to receive the benefits which the system provides. Pursuit of training or a more elaborate rehabilitation plan is not justified if the opportunity exists for his return to a safe employment status compatible with his pre-injury employment status. After all, the basic purpose of workers' compensation is to ensure his opportunity for restoration to work when he is medically able to do so. This is not synonymous with guaranteeing an unconditional right to training.

Union Support. Union representatives can play a significant role in supporting reemployment programs for their members. Contracts can be negotiated to permit the existence of light-duty and rehabilitation positions to which an injured worker may be assigned, once released by his physician for light duty. Information obtained from the Idaho Industrial Commission Rehabilitation Division confirms the benefits to be reaped from union involvement and support of direct reemployment opportunities for its members.

During the 1981 fiscal year, 18% of injured workers experiencing lost time in Idaho received rehabilitation services. Twenty-four percent of those who received services were successfully rehabilitated. Of the total number successfully rehabilitated, 38% returned to work with their previous employer. (See Table 4.) The administrator of the industrial rehabilitation unit, as well as labor and industry representatives, attributes this high rate of return to direct employment to the cooperative efforts of labor and management. Such efforts include contractual provisions for rehabilitation and light-duty assignments of industrially injured union members.

Significan Others

Rehabiiitation Counselor. The role of the counselor in the rehabilitation process, as previously discussed, is worthy of mention here. Early and consistent contact with the injured worker and other family members, consultation with the treating physician regarding remaining physical capacities and performance of on-site job analysis are all activities which can be effectively and timely performed by the competent rehabilitation counselor, who serves as a key link in the communication process with all appropriate parties. The timely release of a sufficiently recovered worker to light-duty employment is significantly enhanced if the treating physician is aware of existing opportunities for such work, and the availability of counselor services to assist the patient in making a safe return to work.

TABLE 3. Average cost by plan type.

	1978	1980
Modified work	$ 2,754	$ 3,346
Direct placement	1,495	4,966
On-the-job training	3,487	5,058
OJT + schooling	4,603	8,372
Formal schooling	5,707	9,886
Average	$ 4,218	$ 6,927

TABLE 4. Data for Idaho Industrial Commission rehabilitation program FY 81.

Fiscal Year	# of Time Injuries	Workers Provided Services			Injured Workers Successfully Rehabilitated		
		#	% Lost Time Cases	% Rec'd Training	#	% of Wkrs. Served	% of Lost Time Cases
81	7,800	1,431	18	2	344	24	4.4

Remarks: *Lost time injuries based on 20% of total injuries (39,026) provided by Administrator of Idaho Industrial Commission, Division of Rehabilitation.

Attorney Obligation. In most cases, attorney involvement in the rehabilitation process should be appropriately limited to encouraging respective clients to participate in the rehabilitation effort. There may be a few instances where issues in the claim may have a bearing on rehabilitation or vice versa, and thus litigation may ensue. However, direct, ongoing attorney involvement in the rehabilitation process is unnecessary and inappropriate in the workers' compensation system. The remaining physical capabilities of an injured worker as related to his ability to return to productive work are determined by his physician. The counselor is the key person who works with the injured worker, his physician, the employer and all other appropriate parties in the rehabilitation effort. The worker's compensation agency provides monitoring and administrative oversight to ensure all parties will act in good faith in meeting their respective responsibilities and obligations. Clearly, this well-designed procedural mechanism makes it possible to address issues and concerns in the appropriate context and removes the opportunity, as well as the necessity for excessive attorney involvement in the rehabilitation process.

(4) MAINTENANCE OF AN ATMOSPHERE CONDUCIVE TO SUCCESSFUL REHABILITATION

Sawyer, in a written discourse on private insurance company rehabilitation programming, makes several noteworthy statements regarding rehabilitation and claims disposition:

> Rehabilitation, in the broadest sense, represents one of several concepts currently being advocated as socially desirable and economically feasible for inclusion in a modern benefit system. It has reached the point of respectability primarily as a result of the voluntary experimentation by those leading insurance companies that have recognized the need for workers' compensation to mean something more than "a check in the mail" and filing forms for industrial commission review.

Sawyer goes on to note:

> Rehabilitation is important in claims disposition... An adversary approach to claims handling is obsolete. Modern claims practices recognize the essential function of the claims person in identifying and meeting the needs of his employer and claimant alike. (Sawyer, 1978).

Rehabilitation is a process which does not occur in isolation. The condition and atmosphere in which rehabilitation takes place are primary determinants of the eventual outcome of that process. The screening and early identification of injured workers who potentially need rehabilitation services and the timely provision of these services will not necessarily result in a successful outcome if the process is fraught with hostilities, mistrust and excessive litigation. Certain positive elements which may be termed the "four C's" must be present to ensure successful rehabilitation.

Concern

An accident resulting in a traumatic injury to a worker is a sudden, potentially devastating experience with far-reaching implications for the injured worker, his future and that of his family. This is no time to present him with vague ambiguities and benign neglect. The adjuster must recognize and demonstrate an understanding of the worker, his reaction and that of his family to the injury and its potential effect on their future. An early demonstration of concern and a sincere effort to assist the worker in receiving all the benefits to which he is entitled, including rehabilitation, will often eliminate disputes over issues arising from the injury.

Communication

Perhaps one of the main barriers to successful rehabilitation and claims disposition is poor communication, or the absence of communication. Whether this barrier is present at the onset of the injury, or develops at a later stage in the claim, it can result in exacting a heavy toll on the injured worker and his family, the employer and

the compensation system alike. A dearth of information to the injured worker regarding his rights, extent of benefits and how to secure them and his responsibility for meeting certain requirements can lead to the worker acting on erroneous information sought from inappropriate sources. This may result in the claims adjuster taking action which adversely affects the worker and sets the tone for the course and eventual disposition of the claim.

A simple and most desirable way of providing the injured worker with information on his benefits, rights and responsibilities is through the employer at the time of injury. This of course requires the employer to be sufficiently knowledgeable of the state compensation laws and attendant matters. This requirement is entirely reasonable, as the employer is the responsible party for damages sustained by a worker in the performance of his job. It is a matter of historical reality, however, that the claims adjuster, as a representative of the employer is the likely party with whom the injured worker will have the most contact throughout the duration of his claim. The extent to which the adjuster is available to communicate with the injured worker and advise him of what the provisions are for rehabilitation and other services, can have a significant bearing on his orientation to litigate or cooperate in the rehabilitation process.

Some insurance companies take a rather progressive approach in this regard. Instead of waiting to be contacted by the severely injured worker, as a matter of standard company policy, the adjuster pays a personal visit to the worker and his family in the home or hospital to determine what their needs and concerns are as a result of the injury, and to explain as nearly as possible procedural matters and the series of events most likely to occur in the course of the claim. Going a step beyond this, the adjuster assigns a rehabilitation counselor who works with everyone involved through the collection of information pertinent to the rehabilitation and ultimate disposition of the case, and who serves as the major communication link between the worker and his family and all other parties in the compensation system.

Coordination

Successful rehabilitation requires considerable coordination. The early assignment of a competent rehabilitation counselor is an appropriate step toward achieving this. The counselor is able to direct the initial emphasis on the worker and the problems presented by the injury, and to subsequently expand the focus to include all other factors within the context of the compensation system pertinent to the eventual outcome of his return to the work force and resumption of a productive life. Medical treatment and course of recovery, remaining physical capacities and abilities and opportunities for return to direct employment can be used by the counselor and the injured worker to develop a realistic plan. Now is the time for the who, what, where, when and how to be glued together and set in motion for the achievement of a return-to-work goal.

Cooperation/Commitment

A rehabilitation plan will not realize its purpose unless the parties involved bring to it a sufficient level of commitment to ensure its success. Good faith, cooperation and understanding of respective roles, rights and responsibilities are ingredients necessary to ensure commitment to the rehabilitation effort.

The employer at the time of injury must make a sincere effort to provide the recovered employee appropriate, safe work commensurate with remaining physical abilities and skills. The employee must be realistic and understand his responsibility to cooperate with the employer in a reemployment plan. The counselor must meet the responsibility of counseling the worker toward exploring existing opportunities for direct return to work. The claims adjuster, after agreeing to the plan, must act in good faith by providing timely compensation payments and other services necessary to support the plan. The attorneys must act responsibly by counseling their clients to fully cooperate in the rehabilitation effort. All parties must be realistic and flexible to allow for amendment of the plan if change is needed to ensure achievement of the ultimate return-to-work goal. The workers' compensation agency must provide sufficient administrative oversight and monitoring to ensure that all parties clearly understand and meet their responsibilities.

(5) PROVISION OF INCENTIVES, REMOVAL OF DISINCENTIVES TO REHABILITATION.

A rehabilitation program which makes early identification of workers needing rehabilitation, provides for early return to direct employment, uses competent rehabilitation providers and maintains an atmosphere conducive to rehabilitation, may fall short of fully achieving the primary objective of a workers' compensation system unless it maintains sufficient incentives and removes disincentives in the rehabilitation of injured workers. Caution must be exercised so that expectations regarding rehabilitation are not based on the premise that good faith efforts on the part of all parties in the system will spontaneously

occur. There must be a realization that basic human nature usually requires the existence or application of stimuli necessary to create sufficient incentives before actions are taken to achieve a desired goal.

Incentives

Proper Rating of Employers. Authorities in workers' compensation have suggested internalizing the costs of work-related accidents and diseases by properly rating employers will support the safety objective of a workers' compensation system. The Interdepartmental Workers' Compensation Task Force's recommendation that experience rating should be extended to small as well as large employers in an incentive to reemploy injured workers. (Interdepartmental Workers' Compensation Task Force, 1977). Experience rating permits a "before-the-fact" look at an employer's safety and reemployment record over a specified period of time. If the record is good, the employer is given a credit toward future premiums.

A similar incentive exists in retrospective rating where the employer pays a fixed advance premium based on his classification rate and estimated payroll. His loss experience is assessed after the policy has been in force for a predetermined period of months. Depending on his experience, he may be reimbursed for a portion of the advance premium.

A detailed discussion of the intricate features of rating methods is not intended. They are offered in light of their suggested use by authorities in workers' compensation as incentives to employers in rehiring their injured employees. The insurance industry should provide assistance and information on rating to employers as a part of loss-control services to them.

Targeted Jobs Tax Credits. As part of the Revenue Act of 1978, Congress created the Targeted Jobs Tax Credit (TJTC), which gives private-sector employers an incentive in the form of tax credits to hire certain targeted groups including vocational rehabilitation clients. New legislation was passed in August 1981 which allows employers to claim a full two-year credit on all certified employees. The TJTC credit is based on 50% of the first $6,000.00 in wages paid to a qualified employee during the first year of employment, and 25% of the first $6,000 in wages paid during the second year. The potential "in-pocket" two-year savings can amount to as much as $3,870 per eligible employee, depending on the amount of wages paid and the employer's tax bracket. The program requires minimal paperwork on the part of the employer. The knowledgeable rehabilitation counselor is aware of this incentive and should readily make prospective employers aware of its features when assisting the injured worker in returning to employment.

Second Injury Fund. Placement of the partially disabled worker is difficult at best, depending on the extent of the disability, age, education background, skill level of the disabled person and the prevailing job market. The task is made more difficult by employer reluctance to hire the handicapped. While a cure-all to eliminate this reluctance is not likely to exist, the workers' compensation system can provide a remedy to at least reduce the fears of employers surrounding hiring a worker with an impairment, through establishing a second injury fund. The National Commission has suggested that second injury funds serve two intents: to encourage employment of the handicapped and to spread the risk associated with pre-existing impairments among employers equitably. Both intents are applicable for purposes of this discussion.

A second injury fund within the workers' compensation system presents a remedy to deal equitably with a situation where the second injury would not have occurred had the prior impairment not existed, or where the degree of impairment resulting from the combination of the prior and subsequent injuries is more serious than the total effect of the two injuries considered separately. The fund provides full compensation for the worker who suffers a second injury, and simultaneously allows the employer to be responsible only for the benefits resulting from the second injury.

The second injury fund can help a handicapped worker get a job if employers are aware of the existence and nature of the fund. As suggested by the National Commission, the workers' compensation agency can encourage rehabilitation and employment of industrially handicapped workers through wide publication and interpretation of eligibility requirements.

Substantial Maintenance. That the basic needs of injured workers and their families continue during rehabilitation is too obvious for argument. It is worth emphasizing, however, the importance of keeping this in mind when discussing incentives which will enhance the rehabilitation effort. Total compensation should of course continue during the period of rehabilitation. Additionally, maintenance payments to offset extra expenses such as transportation costs incurred by the worker while undergoing rehabilitation should be provided. This realization is prevalent in the compensation community as most systems provide such incentives.

Removal of Disincentives

Premature Settlements. Perhaps one of the greatest deterrents to rehabilitation in workers' compensation is the settlement of a claim before an injured worker undertakes or completes rehabilitation. Larson notes:

> One of the worst enemies of the rehabilitation program is the reckless, lump-summing of permanent disability awards, since this usually means that the claimant loses all benefit of continued surveillance of his case, and often finds himself in a few years with neither money nor competitive earning ability. (Larson, 1980).

Attempts by any party in the system to settle a workers' claim prior to the worker undertaking a rehabilitation effort should not be allowed by the workers' compensation agency, unless it has been determined after careful consideration that settlement is in the best interest of the injured worker. Factors and conditions to be considered are too varied and numerous in each individual case to allow a complete discussion in this report. The primary aim is to motivate an injured worker to undertake a supervised rehabilitation program designed to restore his ability to earn a living as a productive worker, rather than to allow him to persist in "foot-dragging" based on the expectation of receiving the "pot of gold" at the end of the rainbow. The workers' compensation agency should ensure that all parties in the system understand the policy regarding settlement and rehabilitation.

Excessive Litigation. As previously discussed, excessive litigation serves no useful purpose in the rehabilitation process. It is likely to be a primary obstacle to successful rehabilitation of industrially injured workers. Excessive litigation serves to obscure the goal of rehabilitation in achieving the primary objective of workers' compensation. It causes the focus to shift from restoring the injured worker's competitive earning ability to highlighting his disability. In the ensuing process, rehabilitation is not used as an effective tool for the long-range benefit of the injured worker. It becomes a bargaining stick employed by the worker's attorney in the quest to obtain his pot of gold. It is simultaneously used as a trade-off carrot by the insurer's attorney to limit future liability. The workers' compensation agency can provide an effective remedy to this unacceptable paradox by reducing the need and opportunity to litigate, through maintenance of an effective delivery system of rehabilitation services. As suggested by the National Commission, litigation may occur less frequently if state agencies provide enough positive assistance to workers who are unable by themselves to deal with the complexities of the law. Regulations, along with definitive procedures and guidelines for rehabilitation services, aggressively administered, would remove much of the opportunity to litigate.

Other Stimuli

There are likely to be a few cases in which some workers may hesitate to restore their earning capabilities because of a possible reduction in benefits. Although these instances may be rare, they are to be expected and must be dealt with if the compensation system is to have an effective rehabilitation program. Workers who refuse rehabilitation services, or who sabotage rehabilitation efforts by passive-aggressive means, should be encouraged to cooperate by having their benefits temporarily suspended during the total period of noncooperation. A similar provision acting upon the employer should also exist. This provision is contained in many compensation systems and can be an effective stimulus to ensure cooperation in the rehabilitation process.

Part Two

Evaluation & Recommendations

Evaluation of rehabilitation in the Alaska workers' compensation program, with recommendations for changes

INTRODUCTION

The first workers' compensation act was passed in Alaska in 1915. The law, which limited coverage to miners, permitted employers and employees to elect coverage under the act. Provisions for a schedule of lump-sum benefits were included. The act did not include provisions for medical and rehabilitation care or a second injury fund.

The current act provides for expenses for vocational rehabilitation to be paid out of that portion of the Second Injury Fund exceeding $10,000. Persons undergoing rehabilitation are entitled to receive extra compensation for maintenance during the period of rehabilitation. The total expenditures for maintenance, training, necessary transportation and other rehabilitation services may not exceed $10,000 for one person. (See Appendix B for chronological changes in the law from 1915 to 1981.)

The 1972 Report of the National Commission significantly influenced states' workers' compensation legislation over recent years. Many states have amended their laws to permit adoption of most, if not all, of the 19 essential recommendations made by the Commission. The Alaska Workers' Compensation Act is in compliance with 14 of these essential recommendations. (U.S. Department of Labor, 1981). Three of these hold positive implications for vocational rehabilitation.

Two of the essential recommendations call for the removal of statutory limits on dollar amount and passage of time for medical care and physical rehabilitation. Students of industrial rehabilitation have long recognized quality medical and physical rehabilitation treatments as necessary precursors to successful vocational rehabilitation. This long-standing belief is supported by the Commission's recommendation for inclusion of these benefits in a workers' compensation program.

The third essential recommendation which affects vocational rehabilitation, and with which the Alaska workers' compensation program complies, provides for the replacement of a substantial portion of the worker's lost wages during the period of disability. As previously discussed, the basic needs of the injured worker and his family continue in spite of the injury. Anxieties regarding the family's ability to meet these needs are legitimate and must be sufficiently abated if the worker is to make a satisfactory recovery and return to gainful work. Unresolved anxieties produced by an inadequate source of income to meet basic needs will interfere with the rehabilitation process. As noted by the Commission: "A worker may be in such dire circumstances that he may be forced to return to work before he has properly recovered or he may become so demoralized as to be indefinitely disabled." Substantial protection against interruption of income during rehabilitation prevents this and enhances the prospects for successful rehabilitation.

Efforts of the Division of Workers' Compensation to improve its service delivery system are worthy of discussion here. The Division has recently implemented an automated system which provides an effective tool for capturing and managing complex interdependent sets of data and for releasing staff resources to resolve client problems promptly. It also addresses program quality in a legal sense by providing access to precedence information, thereby reducing the ad-hoc nature of Workers' Compensation Board decisions. Access to claims filed in the field offices will enable compensation officers to resolve disputes in the early stages and thus will reduce the number of board hearings. This will consequently reduce litigation and its costs for all parties. Additionally, the Division has recently implemented a comprehensive compensation report which will enhance its automated system. Training sessions have been provided to insurers on the proper use and completion of the new compensation report.

The board has submitted proposed changes in regulations in Title 8 of the Alaska Administrative Code dealing with workers' compensation and vocational rehabilitation, to clarify the Alaska Workers' Compensation Act. Hearings are currently being held on these proposed changes. (See Appendix C.)

A brochure, explaining benefits to injured workers covered by the Workers' Compensation Act, was published approximately eight months ago and has been widely distributed. Similarly, a handbook for employers is presently being prepared for distribution in the near future. Both publications should enhance the delivery system of the Alaska Workers' Compensation Act.

The board's increasing efforts to address the rights and responsibilities of all parties in the rehabilitation process are reflected by its more recent decisions. Applications for compromise and release settlements, which preclude the worker from engaging in or exploring rehabilitation alternatives prior to settlement, are being disallowed or at the very least, discouraged. The board is taking an active role in ordering vocational evaluations to establish the feasibility of return-to-work plans prior to approving them.

The administrative officer for the Second Injury Fund has been provided additional staff, in

the relentless effort to more efficiently administer the fund and oversee rehabilitation plans requiring Second Injury Fund expenditure. Workers' Compensation officers have been shifted to allow more direct contact with injured workers and other parties to provide individual assistance in rehabilitation and other benefit matters. This shift permits more field visits by the officer as the Division continues in its efforts to improve the delivery system to all parties.

Discussion of Data

Although the Alaska workers' compensation program has many strengths, recording and maintaining baseline data pertinent to rehabilitation is not among them. Gathering quantifiable data from all sources in the system was difficult, due to the incomplete nature of available records.

The primary providers of vocational rehabilitation services to injured workers in Alaska are the state vocational rehabilitation agency and two private rehabilitation firms. The state agency and one of the private firms supplied data retrieved from their automated data systems. Collection of data from the other private firm was precluded due to incomplete records which lacked essential information pertinent to the study. Limitations exist for the purpose of comparing data collected from the two sources.

First, data for the state rehabilitation program reflects a three-year period for fiscal year 1978 through fiscal year 1980. Data supplied by the private rehabilitation firm is for the period of July 1, 1980 through July 31, 1981.

Second, terms common to rehabilitation of disabled persons have several definitions for the purposes of statistics, depending on who collects and records the data. For example, a workers' compensation rehabilitation program, for purposes of closure statistics, defines a successfully rehabilitated worker as one who has 1) maintained paid employment for at least 60 days; 2) in a job consistent with restrictions imposed by the disabling condition. The state rehabilitation program considers a successfully rehabilitated person as one who has completed a rehabilitation program and has 1) maintained paid employment for at least 60 days in a job which may or may not be consistent with restrictions imposed by the disabling condition; or 2) has not returned to work, but has been restored to an optimum level of function such as an unpaid homemaker. The private rehabilitation firm describes a successful case as one in which the injured worker 1) returned to paid employment in a job which may or may not be consistent with restrictions imposed by the disabling condition; or 2) whose claim was closed or denied as a result of involvement of the rehabilitation firm. It is important to keep these limitations in mind when making comparisons between data presented for the two sources. Tables 5 and 6 present data received from the state vocational rehabilitation program. Tables 7 and 8 present data received from the private rehabilitation firm.

Although data limitations do not allow unequivocal conclusions to be drawn concerning workers' compensation rehabilitation in Alaska, several widely accepted ideas are supported by the figures presented in the tables. For both the state rehabilitation program and the private rehabilitation firm, the earliest referrals become, on average, the least expensive cases. While there is an anomaly in the trend at 19-24 months where both providers experienced an unexplainable dip in costs, the general direction is one of increased costs as the time between date of injury and the date of referral to rehabilitation increases. There appear to be differences between the state rehabilitation program and the private firm in terms of average cost. The private rehabilitation firm shows 75% of the cases with costs for services below $2,500 as reflected in Table 8a. A comparable figure for the state program can be seen in Table 6a, which shows 64% of the cases with costs for services below $2,500. This difference may be explained in several ways. First, as noted in Table 5, the average time from the date of injury to the date of referral to rehabilitation is 16.8 months for the state program and 11.8 months for the private rehabilitation firm as noted in Table 7. Given the relationships expressed in Tables 6b and 8b, it is reasonable to expect the state program's average costs per case to be higher than the private firm's cost per case. A second factor affecting costs is the average time spent in the rehabilitation process. The average number of months spent in the rehabilitation process for the injured worker served by the state program is 27 months for fiscal year 1980, as can be seen in Table 5. A comparable figure for the private firm is 7.4 months, as shown in Table 7. A third explanation for cost differences between the two programs may be reflected in Table 5 which shows 21% of the cases closed by the state program in fiscal year 1980 involved training, as compared to 3% of the cases for the private firm, which can be seen in Table 7. Training costs for tuition, books and supplies clearly add to the overall costs of services.

Table 5 shows that as the percent of workers receiving college training has decreased since fiscal year 1978, the percent of workers successfully rehabilitated has increased. This inverse correlation is consistent with reported results of the

TABLE 5. Data supplied by the Alaska Division of Vocational Rehabilitation (DVR).

Period	Total Cases Closed	Avg. Mos. in Rehab. Process	% College Training	# of Workers Successfully Rehabilitated	Avg. Cost/ Case	Avg. Cost/ Successful Case
FY80	61	27	21	33 (54%)	$2,280	$3,505
FY79	50	23	36	22 (44%)	1,615	2,821
FY78	48	32	38	20 (42%)	1,468	3,021

Remarks: The average time from date of injury to date of referral to rehabilitation was 16.8 months (derived from DVR data and injury dates reflected in the Division of Workers' Compensation records).

TABLE 6. Cost analysis and referral period — (DVR)

For 72 randomly selected closed cases during fiscal year 78 thjrough fiscal year 80.

a. Cost	#		b. Referral period	#	Avg. Cost/Case
0- 500	18		0- 6 mos. after injury	14	$2,168
500-1,000	9		7-12	26	2,391
1,000-1,500	9	64% below	13-18	10	2,494
1,500-2,000	7	$2,500	19-24	7	975
2,000-2,500	3		25-30	10	2,332
2,500-3,000	3		30-36	4	2,492
3,000-3,500	2				
3,500-4,000	7		36 and over	1	8,258
4,000-4,500	1				
4,500-5,000	3				
5,000 and over	10				

Remarks: Figures for 72 randomly selected cases closed for fiscal years 1978, 1979, and 1980. Thus, an average time from date of injury to date of referral to rehabilitation derived from Table 6b, will not correlate with the figure of 16.8 months noted in Table 5.

TABLE 7. Data supplied by private rehabilitation firm.

Period	# of Surveyed Cases Closed	Avg. Mos. in Rehab. Process	% Rec'd. Training	# of Workers Successfully Rehabilitated	Avg. Cost/ Case	Avg. Cost/ Successful Case
July 1, 1980 through July 31, 1981	188	7.4	3	91 (48%)	$1,685	$1,847

Remarks. The average time from date of injury to date of referral to rehabilitation was 11.8 months as reported by the firm.

TABLE 8. Cost analysis and referral period — private firm. For 188 case files closed between 7/1/80 and 7/31/81.

a. Cost	#		b. Referral period	#	Avg. Cost/Case
0- 500	49		0- 6 mos. after injury	44	$1,414
500-1,000	36		7-12	18	1,670
1,000-1,500	28	75% below	13-18	9	2,003
1,500-2,000	25	$2,500	19-24	7	1,875
2,000-2,500	13		25-30	7	1,926
2,500-3,000	12		over 30	6	2,198
3,000-3,500	11				
3,500-4,000	10				
4,000-4,500	4				
4,500-5,000	2				
5,000 and over	7				

study conducted by the California Workers' Compensation Institute, as well as beliefs embraced by members of the workers' compensation community regarding a higher success rate of shorter and less expensive programs over longer and more expensive programs.

While many inferences can be made from the data presented in Tables 5 through 8, it must be kept in mind that the percentage of injured workers involved in rehabilitation with respect to the total number of workers experiencing lost-time injuries is small. The Division of Workers' Compensation processed an average of 6,838 lost-time injuries for fiscal years 1978, 1979 and 1980. The administrator of the Second Injury Fund estimated 200 to 250 injured workers were determined eligible for fund expenditures in fiscal year 1980. This does not include those workers provided direct placement and other services, however, where expenditures from the fund were not required. It cannot be determined that a certain percentage of workers suffering lost-time injuries in a given fiscal year will receive rehabilitation services within that same fiscal year. Based on the estimate of the Second Injury Fund administrator, however, 3 to 4% of these workers eventually become eligible for such services. Table 9 presents comparable data for the state rehabilitation program and the private rehabilitation firm of such factors as the percent of workers with lost-time injuries who were provided services and the percent of workers with lost-time injuries who were successfully rehabilitated.

Survey of Injured Workers

A survey was conducted to measure the post-injury economic status of injured workers and to examine their reactions to the delivery system of rehabilitation in the Alaska worker's compensation program.

Injured workers surveyed fell into two main groups. The first group included workers who had signed compromise and release agreements which did not include provisions for rehabilitation benefits. Out of approximately 1,000 of such workers, 468 were randomly selected to be included in the survey. The second group included 142 injured workers who were certified as eligible for and referred to rehabilitation. A total of 610 injured workers were surveyed from the two groups.

Due to time constraints, problems experienced in obtaining correct addresses and incomplete answers to all questions, response to the survey was limited to the point that no definite conclusions can be drawn.

The survey called for subjective evaluation by injured workers of the rehabilitation services they received. The overriding concerns expressed by injured workers were the inordinate delays they experienced before referral to rehabilitation occurred, the lack of information available to them regarding their entitlement to rehabilitation benefits and the complexity of the system which necessitates obtaining attorney services. These concerns support the argument for positive administration and assistance by the Division of Workers' Compensation.

1. EARLY IDENTIFICATION OF INJURED WORKERS

A basic goal of rehabilitation in workers' compensation is the early identification of injured workers who may not be able to return to the job held at the time of injury, or who may eventually return to their regular work with comprehensive vocational rehabilitation services. In either case, the workers' compensation program must maintain systematic procedures for the reporting of these injuries by the insurance company and the screening of these reports by the workers' compensation agency. The Alaska workers' compensation system does not maintain such a procedure. The insurance companies are not required to file reports, timely or otherwise, indicating a worker's need for rehabilitation services or identifying the workers who are eventually provided these services. Based on available data, it appears that injured workers are not timely identified or referred for rehabilitation services in the Alaska

TABLE 9. Comparable rehabilitation data for Alaska workers' compensation program.

Provider of Services	# of Lost Time Cases	Closed Cases Received Services			Injured Workers Successfully Rehabilitated			Avg. Mos. in RHB	Avg. Cost per Case
		#	% Lost Time Cases	% Received Training	#	% Closed Cases	% Lost Time Cases		
1/ Private Firm	7,784	188	2.4	3	91	48	1.1	7.4	$1,685
2/ DVR	6,356	61	1.9	21	33	54	0.5	27	3,505

Remarks: 1/ Data provided covered period of July 1, 1980 through July 31, 1981.
2/ Data provided by Division of Vocational Rehabilitation for FY 80.

workers' compensation system. There is no universally accepted, hard and fast rule regarding the point at which an injured worker should be referred to rehabilitation. Average recovery time for the bulk of industrial injuries, back strains and sprains, and the acuteness of other more serious injuries serve as guidelines for most workers' compensation agencies in deciding when to initiate vocational rehabilitation services. While specific time frames vary among workers' compensation agencies, the general rule of thumb applied is, services should be initiated as soon as it appears the worker is unlikely to be able to return to his pre-injury employment. Using this rule of thumb, several study groups suggest 120 days of continuous lost-time as the time when reports regarding the worker's need for services should be filed. Administrative rules of the Oregon workers' compensation program range from within 96 hours of the insurer's knowledge of seriously injured workers who are hospitalized, to 90 consecutive days of lost-time for less seriously injured workers. Additionally, workers who have suffered intermittent lost-time of 190 days from the date of injury must also be reported to the Oregon Workers' Compensation Division. The Idaho Industrial Commission has no specific reporting requirements of insurers or employe
When vocational rehabilitation services
needed as determined by the adjuster, a requ
made for the assistance of the Industrial Commission's rehabilitation staff in initiating rehabilitation services. Still, the Office of Workers' Compensation Programs, in administering the Longshoremen's and Harbor Workers' Compensation Act, requires the insurer to report injured workers who continue to receive compensation payments 60 days from the date of injury. Immediate reporting is encouraged of workers who suffer catastrophic or acute injuries.

The workers' compensation agency, in attempting to meet the early identification goal, must balance the reporting requirements of the insurer with its capability to timely screen these reports. This capability is determined of course by the staff and resources of the workers' compensation agency. The purpose of timely reporting will be undermined if the agency is not sufficiently staffed to screen the reports and monitor provision of rehabilitation services to workers who need them.

Recommendation 1.1

That insurers employers report to the Division of Workers' Compensation:

a. all injured workers who experience continuous lost-time of 90 to 120 days from the date of injury, depending on the staffing level of the division, and

b. all acutely injured workers where an immediate determination can be made that the worker will not likely be able to return to the job held at the time of injury.

Recommendation 1.2

That the Division of Workers' Compensation screen reports no later than five working days from the date each report is received.

Recommendation 1.3

That subsequent to, or during the screening process, the Division of Workers' Compensation contact each reported worker. The purpose for contact is to explain the benefits to which the worker may be entitled and to set the tone for a positive rehabilitation outcome, by explaining the objective of rehabilitation, and the worker's rights and responsibilities in the rehabilitation effort.

Recommendation 1.4

That the Division of Workers' Compensation establish and publish the procedural mechanism to support the reporting, screening and contacting activities.

2. PROVISION OF REHABILITATION SERVICES BY COMPETENT COUNSELORS

The unusual characteristics of workers' compensation and the different approach required for successful rehabilitation, as this report has previously elaborated, are strong arguments for the use of counselors trained in industrial rehabilitation. While this training does not require an intimate knowledge of the law, it should include the ability to recognize the needs of the industrially injured population and the compensation community alike. The backgrounds of most rehabilitation professionals include formal training in rehabilitation or a behavioral science. However, institutions have traditionally failed to include substantial courses on workers' compensation in their schools of rehabilitation. Thus, the degree of competence required to achieve success in a workers' compensation rehabilitation program has generally been acquired through well-designed, in-service programs and practical hands-on experience.

Counselors presently providing rehabilitation services to injured workers covered by the Alaska Workers' Compensation Act are presumed to have sound backgrounds in basic rehabilitation principles. However, a review of rehabilitation plans, reports and correspondence, as well as views expressed by these counselors, raises questions regarding whether remaining critical elements are sufficiently present to meet the objectives of a workers' compensation rehabilitation program.

First, some counselors appear not to understand their roles as they attempt to interpret laws to the board regarding a worker's entitlement to rehabilitation benefits, and they inappropriately make recommendations to the board regarding settlement of workers' claims.

Second, it appears that some counselors are unable/unwilling to deliver services in a manner consistent with supporting the objectives of the workers' compensation system. Services are not timely delivered (six months to complete a vocational evaluation and make recommendations). Training plans are developed prior to pursuing opportunities for direct return to employment. Some plans do not clearly define the vocational objective of the worker, or provide information regarding the type, scope and time frames within which services are to be provided. In cases where the vocational goal is defined, subsequent reports do not reflect specifically what has been accomplished toward achieving the goal.

Third, some counselors believe the system should afford a "pure" environment within which rehabilitation services can be provided to workers. They should not be required to interact with insurance adjusters, attorneys or the board, as this interferes with their ability to effectively deliver services.

Finally, it appears that a number of counselors are unprepared/unwilling to accept the board's authority to make decisions regarding the rehabilitation of injured workers covered by the Act. Board requests for information in support of recommended plans are questioned or ignored. In some instances, attempts to coerce board approval of Second Injury Fund expenditures are made simultaneously to the counselor's overt resistance to the board's requests for information needed to support a plan recommended by the counselor.

Clearly, the lack of regulations, definitive procedures and guidelines for provision of vocational rehabilitation has affected the performance of counselors providing services to injured workers covered by the Act.

Recommendation 2.1

That pursuant to the adoption of regulations on vocational rehabilitation, the Division of Workers' Compensation establish, publish and distribute guidelines for providers of rehabilitation services in accordance with Recommendation 2.2 through 2.5 and the following time frames:

- Completion of vocational evaluation and plan recommendation—six weeks
- Complete development of plan—six weeks
- Direct placement program—three months
- On-the-job training—three to six months, depending on the skills to be acquired coupled with the skill level of the injured worker
- Vocational training—52 weeks (extensions subject to prior approval by the board)

Recommendation 2.2

That rehabilitation providers issue a report within 30 days of initial contact with an injured worker. Background information regarding the worker's age, education, work history and general medical condition, as well as a summary of activities conducted during the 30-day period, should be included in the report. Information regarding the next immediate plan of action should also be included.

Recommendation 2.3

That plans submitted for approval contain pertinent information as outlined in proposed regulations on Vocational Rehabilitation 8 AAC 47.040(b)(1) through (9).

Recommendation 2.4

That subsequent to implementing plans, rehabilitation providers issue monthly progress reports sufficient in content and scope to inform all interested parties of the progress being made toward achieving the vocational goal of the plan.

Recommendation 2.5

That approval by the board must be obtained prior to amendment, suspension or termination of an approved rehabilitation plan.

Members of the rehabilitation community in Alaska have expressed concern regarding the provision of rehabilitation services by persons with proper credentials. The Alaska Rehabilitation Association, an affiliate of the National Rehabilitation Association, reports it is currently taking steps to address this concern. The priority of the Association as reflected in its constitution and bylaws is the certification of rehabilitation professionals practicing in Alaska. In general, setting standards and ethics for rehabilitation practitioners is best left to the

professional associations. However, the basic objective of rehabilitation in a workers' compensation system must be kept uppermost in mind in establishing guidelines and standards for professionals providing services to industrially injured workers. The performance of rehabilitation providers must be measured against these standards, which the system must determine it needs in order to achieve the purpose for which the workers' compensation system was established. The timely return of injured workers to safe employment commensurate with that held at the time of the injury, the cost-effectiveness of services, and the understanding as well as the responsiveness of providers to the needs of injured workers and the compensation system alike are the ultimate credentials which will determine the suitability of rehabilitation professionals providing services in the compensation system.

3. PROVIDE FOR EARLY RETURN TO DIRECT EMPLOYMENT

The extent to which injured workers are provided opportunities for return to direct employment is a primary determinant of the ultimate success of rehabilitation in a workers' compensation program. Administrators of rehabilitation programs for the Idaho Industrial Commission and the Office of Workers' Compensation Programs (OWCP), as well as others in the industrial rehabilitation community, support this premise. The Idaho program states as its primary goal: "The earliest possible return of the injured worker to meaningful safe work." The OWCP, in an effort to improve its rehabilitation program, has developed/endorsed return-to-work programs for injured workers covered by the Longshoremen's and Harbor Workers' (LHCA) and the Federal Employees' Compensation Act (FECA). According to information received from the OWCP, 763 injured workers were successfully rehabilitated under the FECA for fiscal year 1981. Sixty-eight percent of these workers were reemployed by their previous employers. (See Table 10 for data on the rehabilitation programs of the federal acts).

Insurance companies can be instrumental in helping employers develop reemployment programs. A carrier for a large employer covered under the LHCA reports services provided the employer in establishing a reemployment program approved by the OWCP resulted in the employer rehiring 18 injured workers over a nine-month period during fiscal year 1981. A $1.25 million savings in projected compensation payments resulted from this effort. Additionally, the employer reported higher morale and a reduction in suspected fraudulent claims as additional payoffs. The benefits to be derived from reemployment of injured workers by their previous employers is obvious.

There is little evidence in support of Alaska employers providing measurable opportunities for reemployment of injured workers. One self-insured reported having an organized return-to-work program. Figures to substantiate this effort were not afforded. The risk manager of a major employer in Alaska indicated an extensive feasibility study has been conducted over the past year in preparation for developing a comprehensive reemployment program. A precious few employers reported limited efforts of temporarily assigning injured employees to light duty. On the whole, emloyers readily proclaim the nature of their business precludes rehiring their injured employees: their operations simply cannot accommodate workers with less than full body integrity. Insurers' comments contributed little to modify or change the complexion of this proclamation. Neither party admitted to having particular knowledge of how to improve this present state of affairs, although the suggestion of some insurers regarding performance of on-site job analysis, in cases of reemployment dispelled the notion of complete unawareness in this matter.

OFFICE OF WORKERS' COMPENSATION PROGRAMS

TABLE 10. Vocational Rehabilitation Performance Report FY 81.

Program	# of Compensated Lost-Time Cases	Cases Screened for Services		Cases Opened for Services			Injured Workers Successfully Rehabilitated				Avg. Mos. in RHB	Avg. Cost Succ. Case
		#	% of Lost-Time Cases	#	% of Compensated Cases	% Rec'd Training	#	% of Cases Opened	% RTW w/Prev. Emp.	% of Compensated Cases		
1/LHCA	19,082	4,947	26	947	5	28	386	41	23	2.0	23	$1,500
2/FECA	47,982	7,608	16	2,214	5	11	763	34	68	1.6	18	2,000

Remarks: 1/ Longshoremen's and Harbor Workers' Compensation Act
2/ Federal Employees' Compensation Act

Recommendation 3.1

That insurers provide assistance to employers in developing programs for reemployment of injured workers.

Recommendation 3.2

That insurers/employers arrange for counselor services to include on-site job analyses and assistance in modification of jobs to enhance reemployment opportunities for injured employees.

Recommendation 3.3

That the Division of Workers' Compensation encourage the development and implementation of reemployment programs by providing positive monitoring/endorsement of the efforts of all parties.

Recommendation 3.4

That contractual agreements be negotiated between management and labor for reemployment/rehabilitation of injured union members.

4. MAINTENANCE OF ATMOSPHERE CONDUCIVE TO REHABILITATION

Rehabilitation is a process which does not occur in isolation. The conditions and atmosphere surrounding this process are primary determinants of its eventual outcome.

The element of concern is sufficiently intangible to render itself unmeasurable in a quantifiable way. It is therefore difficult to present an elaborate discussion on the extent to which insurers/employers in Alaska are concerned about their injured employees during the course of their claims. This would require a detailed examination of randomly selected files maintained by carriers, with particular notations made of such items as timeliness of first and subsequent compensation payments, timely and adequate provision of medical and rehabilitation services, the extent to which workers are advised of their entitlement to benefits, etc. Moreover, the quality of contacts between the injured worker and the insurer/employer would be difficult if not impossible to capture. The elements of communication, coordination and commitment lend themselves to more discussion, particularly in regard to rehabilitation.

In general, the extent and timeliness of communication with injured workers seem inadequate for the purpose of supporting a successful rehabilitation program. First, the lag between date of injury to date of referral, as previously noted, supports the conclusion that injured workers are not timely contacted and advised of their entitlement or potential need for rehabilitation services. Second, rehabilitation reports and other correspondence reflect communication is sporadic and generally inadequate to ensure the rehabilitation effort of a successful and cost-effective outcome. Progress in rehabilitation plans is not timely monitored or timely reported. Concurrently, coordination of activities necessary to develop realistic return to work plans is insufficient, so that inordinate delays and interruptions occur to the detriment of injured workers, the rehabilitation program and the compensation system alike.

As to the extent of commitment to rehabilitation in the Alaska system, the time lag from date of injury to referral for services, and the percent of lost-time workers provided services, coupled with the percent of lost-time workers successfully rehabilitated, indicate this element too, is inadequate to support a rehabilitation program.

Recommendation 4.1

That insurers/employers increase their efforts to effectively and timely communicate with injured workers by contacting them as soon after the injury as possible to explain their entitlement to benefits and the procedure for securing these benefits.

Recommendation 4.2

That in the case of workers experiencing lost-time, who may need rehabilitation services, insurers/employers assign a counselor to contact the worker as soon as this determination can reasonably be made.

There is a developing trend among leading insurance companies to hire rehabilitation personnel who serve as a communication link between the injured worker and insurance company, as well as other appropriate parties in the system. These personnel assist in creating an atmosphere conducive to an early return to work and facilitate coordination and development of rehabilitation plans for those workers who may not be able to return to employment without training.

Recommendation 4.3

That insurers/employers consider hiring a rehabilitation professional to enhance their ability to effectively communicate with, and timely provide services for injured workers.

5. PROVISION OF INCENTIVES, REMOVAL OF DISINCENTIVES

Incentives

Experience and retrospective rating. The extent to which these methods are used in rating Alaska employers is unknown and is beyond the scope of this report. Their suggested uses by authorities in workers' compensation has been sufficient to present them as incentives for employers to reemploy their injured workers.

Recommendation 5.1

That insurers assist employers by providing loss-control services to assure appropriate rating consistent with their safety record and reemployment practices.

Recommendation 5.2

That to supplement the loss-control services provided by insurers, employers seek the assistance of the state Division of Insurance in rating matters and methods.

Targeted Jobs Tax Credits. According to the Division of Employment Security, Alaska employers rarely take advantage of this tax credit when employing the industrially injured worker. Several factors, such as eligibility criteria and employer awareness, may be influencing this. The extent to which counselors adequately advise employers of this incentive when attempting to place injured workers in unknown.

Recommendation 5.3

That counselors enhance their efforts to place injured workers by informing employers of targeted jobs tax credit provisions and by providing assistance necessary to facilitate employer participation in this program.

Additional Maintenance. Injured workers undertaking a rehabilitation program can receive up to $200 in additional maintenance to defray extra expenses incurred during their rehabilitation program. This provision appears to be adequately serving the purpose for which it was established in the Alaska workers' compensation program.

Second Injury Fund. The Alaska Workers' Compensation Act has provisions for a Second Injury Fund to be administered in accordance with orders and awards of the board. (AS 23.30.040(a)). Subsection (e) authorizes expenditures for rehabilitation expenses and maintenance during the period of rehabilitation which may not exceed $10,000 for one person.

When it comes to placing limitations on rehabilitation benefits in a workers' compensation system, there is an inherent problem in stating these limitations in monetary terms. More than likely, expectations and rehabilitation plans are designed around the upper limits of the dollar amount, rather than around what services are actually needed to make the injured worker employable. The injured worker believes his is an undeniable right to a program which costs $10,000, even though a less expensive program may be more appropriate to restore his employability. The counselor views the $10,000 as the worker's personal account which he has a right to exhaust by charging the costs of items and services superfluous to his rehabilitation program. In settlement negotiations, the attorney seeks to include $10,000 for rehabilitation benefits in the total settlement, which he argues is his client's right. All parties appear to have forgotten the basic tenet in a workers' compensation rehabilitation program: The injured worker's right to rehabilitation services coexists with the need of the worker for such services. The type, scope and duration of a rehabilitation program will vary with each injured worker, depending on such factors as skill level, education, age and extent of disability. It is therefore a reasonable assumption that the cost of services will vary for individual programs. Provisions for rehabilitation should be made with this in mind, which is the current practice in most compensation systems.

Recommendation 5.4

That language in AS 23.30.040(e) be changed from dollar amount to provide for necessary costs of rehabilitation services subject to board approval.

This provision would enhance continual efforts of the board to provide necessary expenditures for workers seeking to rehabilitate themselves back to the work place and at the same time, protect the investment of insurers/employers who support the fund.

There appears to be a lack of employer awareness regarding the existence or purpose of the Second Injury Fund and its provision for preexisting conditions, under AS 23.30.205. This incentive will not realize its basic purpose if employers are not aware of its nature or not encouraged to use the fund appropriately.

Recommendation 5.5

That the Division of Workers' Compensation increase employer awareness and encourage employer use of the Second Injury Fund in employment of industrially injured workers.

Increased publicity and eligibility interpretation will enhance this effort.

Provisions also exist for the board to make cooperative arrangements with insurance companies, private organizations and institutions, and state or federal agencies to provide rehabilitation services to injured workers covered by the Act. Through the end of fiscal year 1981, the board maintained a cooperative agreement with the Alaska Division of Vocational Rehabilitation. The agreement permitted transfer of lump-sum funds from the Second Injury Fund on a fiscal year basis, to the Division of Vocational Rehabilitation, for the provision of rehabilitation services to injured workers in the compensation system. Currently, a cooperative agreement does not exist between the two agencies. This is due to unresolved differences surrounding the board's authority to approve rehabilitation plans submitted by counselors of the Division of Vocational Rehabilitation, requiring Second Injury Fund expenditure. The wisdom of transferring lump-sum Second Injury Fund monies to the agency, and attempting to renew a cooperative agreement between the two agencies is questionable for at least three reasons. First, the obsolete practice of forming cooperative agreements between a compensation and state rehabilitation agency has been sufficiently discussed in Part One of this report. Second, removal of Second Injury Fund monies from the administration of the Commissioner of Labor, by transferring them to another agency which has no administrative oversight in the workers' compensation system, undermines the Commissioner's ability to effectively administer the fund in accordance with the orders and awards of the board. The last reason has legal implications. As the law clearly assigns the administrative responsibility of the fund to the Commissioner, and transfer of monies from the fund undermines the Commissioner's ability to discharge that responsibility, it would appear that meeting the requirement of the law is precluded by a cooperative agreement. This issue is of particular importance in view of the reluctance of the Division of Vocational Rehabilitation to respect the board's authority to approve rehabilitation plans requiring expenditure of Second Injury Fund monies.

Recommendation 5.6

That cooperative agreements involving transfer of Second Injury Fund monies to the Division of Vocational Rehabilitation be discontinued.

Recommendation 5.7

That criteria for development, recommendation and implementation of rehabilitation plans, in accordance with Recommendations 2.1 through 2.5, be applied to all providers of vocational rehabilitation services to persons covered by the state compensation laws.

Disincentives

Premature Compromise and Release Settlements. Authorities on workers' compensation are strong opponents of settlements which prematurely preclude an injured worker's participation in a supervised rehabilitation program. There is a real concern for the worker who settles his claim and releases his rehabilitation benefits. He may quickly exhaust his settlement funds and find himself with inadequate skills to earn a living.

That workers submit applications for settlements to fund proposed self-employment ventures, in lieu of participation in a supervised rehabilitation program, is common knowledge in the Alaska workers' compensation community. Almost equally as common, and particularly disturbing, are the recommendations for such plans without adequate documentation to support their soundness or feasibility. Motivations vary among the parties making unfounded recommendations for such plans.

> The injured worker views it as an opportunity to do what he has always wanted to do. Besides, he will not have to work as hard if he can work at his own pace.
>
> The insurer/employer suggests it as a mutual agreement which affords an equitable solution toward the disposition of the claim. It will also relieve the insurer/employer of any future liability related to compensation and rehabilitation benefits.
>
> The injured worker's attorney argues it will allow his client to get on with resuming a normal life. It will also afford the attorney an immediate appreciable fee.
>
> The rehabilitation counselor opines: "Given the worker's vocational evaluation results, his interests and motivation to succeed, the proposed venture will afford him a realistic vocational goal." It will also provide the counselor with much-needed relief from the task of developing a sound rehabilitation

plan, which has been difficult if not impossible to achieve in light of the worker's resistance to any plan other than the self-employment venture.

In instances such as these, all parties seem to lose sight of the goal of rehabilitation: the return of the injured worker to gainful employment by restoring the ability to earn a living. An injured worker's desire to start his own business is inappropriately equated with the goal of rehabilitation. A self-employment plan may restore the worker to gainful employment which will afford him a livable wage, and thus is a means to an end. An unsound plan, however, may not afford him a sufficient income and will thereby fail to achieve the ultimate goal of rehabilitation. This is not to suggest that all self-employment plans are unsound and thus should not be considered, or that all workers must participate in an approved rehabilitation plan before a claim can be settled. It is suggested, however, that each plan must be carefully evaluated for its soundness and potential for successfully returning the worker to gainful employment. In cases not involving self-employment plans or supervised rehabilitation programs, claims should be settled only after a determination has been made that to do so is in the best interest of the injured worker.

Recommendation 5.8

That as a general policy, the board deny settlement of claims prior to an injured worker's completion of a supervised rehabilitation program.

Excessive Litigation. Rehabilitation professionals providing services to injured workers in Alaska readily attest to the activities of both the plaintiffs' bar and defense attorneys as interfering in the rehabilitation process. Indeed, this seems to be borne out by testimony offered during the public hearings on workers' compensation, and in the claims files of injured workers. Excessive litigation serves little if any purpose in the rehabilitation process, and if allowed to exist, will undermine the primary objectives of rehabilitation. As suggested earlier, regulations, guidelines and well-defined procedures regarding rehabilitation will remove much of the need and opportunity to litigate. (See Recommendations 2.1 through 2.5.)

Other Stimuli. Parties who refuse to cooperate or who sabotage the rehabilitation effort by passive-aggressive means, should be encouraged to cooperate through the application of remedial penalties acting upon both the insurer/employer and the injured worker similarly. The board has authority to apply such remedies in the Alaska workers' compensation system. A review of the board's more recent decisions and orders reflects increased efforts to make sufficient application of these remedies in support of the rehabilitation objectives.

Administrative Organization. The key to an effective delivery system of rehabilitation benefits is the workers' compensation agency's active pursuit of its administrative obligations which this report has previously elaborated. The delivery system can perform well if the Division of Workers' Compensation has authority commensurate with its responsibility and is given the staff and resources sufficient to fulfill its obligations.

Recommendation 5.9

That the Division of Workers' Compensation acquire sufficient staff to develop and implement a rehabilitation program designed to administer and monitor the rehabilitation of industrially injured workers covered by the Alaska Workers' Compensation Act.

Recommendation 5.10

That the Division of Workers' Compensation establish procedures for collecting and analyzing data pertinent to determine the effectiveness of its rehabilitation program.

Members of the Alaska workers' compensation community must agree on the overriding objective of rehabilitation in workers' compensation. It is not an education benefit, a guaranteed training program or a money system, as is the view of some participants. It is not a legalistic system as some attorneys seek to make it. Neither is it a system solely designed to control claims and costs, which may be the view of loss-control technicians or claims adjusters. Instead, the resources and services are provided to restore the injured employee to work. The system must recognize and maintain this return-to-work objective if it is to achieve its basic purpose.

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Appendix A

Glossary

adequate: sufficient for what is needed or required; delivering sufficient benefits and services to meet the objectives of the program.

catastrophic injury: damage to a body part caused by an acute, traumatic episode resulting in a severe anatomical or function loss (see injury).

experience rating: a method of rating based on the individual employer's previous loss experience relative to the average employer in his class and the statistical reliability of that experience.

developmental disability: a condition resulting from a physical or intellectual impairment as a consequence of abnormal neurological or cerebral development.

disability: a condition resulting in loss of earnings or earning capacity caused by an impairment.

gainful employment: paid employment which restores the injured worker to maximum self-support.

habilitate: to educate or train (the physically or mentally handicapped) to maximize their ability to function in society.

impairment: an anatomic or functional abnormality or loss.

industrial rehabilitation: restoration of earning capacity of a person whose disability is a consequence of a job-related injury or disease (see vocational rehabilitation).

injury: damage to the body resulting from an acute traumatic episode.

plan: a proposal of services to be performed by a rehabilitation provider with a goal of returning the injured worker to gainful employment.

regulations: rules applied by the board to govern the delivery system of worker's compenstion benefits.

rehabilitate: to restore to a normal or optimum state of constructive activity.

rehabilitation provider: any federal, state or local government agency, or any public or private entity performing services designed to return the injured worker to gainful employment.

retrospective rating: a form of experience rating under which an employer pays a premium which varies with his own loss experience during the policy period.

safe work: gainful employment consistent with a worker's physical and mental capacity and vocational skills.

second injury fund: a special fund which assumes all or part of the liability for benefits provided to a worker because of the combined effect of a work-related impairment with a pre-existing condition.

severe disability: a serious or grave condition caused by an anatomic or functional abnormality or loss, resulting in a loss of earning capacity.

vocational rehabilitation: a program of services, not limited to medical services, designed to restore an injured or disabled worker to gainful employment.

Appendix B

Chronological Development of Workers' Compensation in Alaska, 1915 - 1981

Year	Brief Summary of Laws and Changes
1915	First Alaska Workmen's Compensation Act passed. Covered miners only. Employers and employees permitted to elect not to come within the provisions of the Act. Schedule of lump sum benefit payments established. No provision for medical, surgical, hospital treatment, rehabilitation, and second injury fund. (Ch. 71 SLA 1915).
1923	Repeal of 1915 Act and passage of new law. Language and format of old Act for the most part contained in new law. Coverage extended to all employments except domestic service, agriculture, dairying and the operation of railroads as common carriers. Schedule of benefits increased in all classifications. (Ch. 98 SLA 1923).
1925	Amendment to place responsibility for providing medical, surgical and hospital treatment for injured employees on the employer. (Ch. 63 SLA 1925).
1927	Repeal of prior compensation laws and enactment of new law. Payments allowed under schedule of benefits increased. Temporary partial and total disability compensation increased from 50% of weekly wages to 65%. Interest at 8% per year permitted as a charge against employers on overdue payments to employees. Right to lien on property of employer for full amount of compensation owing. (Ch. 13 SLA 1927).
1929	Repeal and substantial reenactment of existing law. Definition of "child," "widower," and "married" added. (Ch. 25 SLA 1929).
1935	Amendment to change provisions relating to payments to beneficiaries. Employers no longer required to pay transportation costs of injured employees in connection with medical, surgical, or hospital treatment. (Ch. 84 SLA 1935).
1937	Amendment to make insurers parties defendant in actions or proceedings brought under the Act. (Ch. 63 SLA 1937). Amendment to change waiting period after an injury from one week to one day in addition to the day on which the injury occurred. (Ch. 74 SLA 1937).
1941	Amendment to fix time for payment for any temporary disability compensation, defining "wage earning capacity" of an employee. (Ch. 44 SLA 1941).
1946	Existing law repealed with enactment of new "compulsory" type law eliminating right of employees and employers to "elect" whether or not to come within the provisions of the law. Self-insurance by employers permitted. Schedule of benefits substantially the same as provided in the 1929 law. Second Injury Fund established. (Ch. 9 ESLA 1946).
1949	Section pertaining to liens to secure compensation modified. (Ch. 104 SLA 1949).
1951	Alaska Industrial Board reconstituted to include the Auditor in place of the Insurance Commissioner to serve with the Attorney General and the Commissioner of Labor. (Ch. 133 SLA 1951).
1953	Alaska Industrial Board again reconstituted and the Auditor replaced by the Insurance Commissioner. Other members remained unchanged. (Ch. 24 SLA 1953). Coverage extended from employers employing three or more persons to those employing one or more persons. Death and partial permanent disability benefits roughly doubled. Length of time employers required to provide medical and related treatment increased from one year to two years following injury. Period employees required to wait following an injury before compensation begins increased from two days to three days. Limited temporary disability payments to twenty-four months and provided a ceiling of $75 per week to any claimant. (Ch. 60 SLA 1953).
1955	Maximum weekly compensation to be paid during any temporary disability increased from $75 to $100. Employer liability for providing medical and related services increased from two to four years following the injury (Ch. 141 SLA 1955).

1959 A new and comprehensive workers' compensation law was passed for Alaska. Detailed provision on aspects of administration and insurance were included. The new law called for the appointment of an Alaska Workers' Compensation Board consisting of the Commissioner of Labor, one labor representative and one industry representative.

1960 Second Injury Fund contributions increased. In cases of fatally injured workers with no dependents, employers (carriers) must pay a flat $1,500 into the Fund. In-training maintenance allotments for injured workers increased from $50 to $100 per month.

1961 Public hearings held on the possibility of establishing a nonprofit exclusive state fund and the workers' compensation then in effect. Two legislative proposals for establishing a state fund did not pass.

1962 Insurers must provide claims adjustment facilities. Funeral expense allotment increased from $500 to $1,000. Executive officers permitted to waive coverage under the Workers' Compensation Act. Exclusiveness of liability clarified (fellow employees cannot be liable). Two year period for employer liability on medical treatment established, with the Board authorizing all treatment after that. Four-year limit for filing in case of occupational disease established.

1963 Rehabilitation benefits extended to compensate in situations where temporary total or temporary partial benefits have been exhausted. Penalty of misdemeanor established for anyone interfering with the selection of an authorized physician, or for improperly influencing the work of an authorized physician.

1964 Penalties added for failure to insure. Definition of injury broadened. Benefits increased for temporary total and permanent partial disability.

1965 $3,500 maximum allowed for all serious disfigurement of face, head, etc. Two panels established to assist the board in hearing claims.

1966 Second Injury Fund contribution rate increased to 5% of permanent partial losses. Spending limit for rehabilitation increased to $5,000 per case. Death benefits for survivors increased. Maximum weekly compensation increased from $81 to $100 per week.

1968 Board empowered to approve lump-sum payments in cases of unscheduled permanent partial injuries. Eligibility for Second Injury Fund money clarified. Maximum weekly compensation increased from $100 to $113.

1970 Permanent partial disability benefits increased. Contribution rate to Second Injury Fund increased to 8% of permanent partial disability losses. Maximum weekly compensation increased from $113 to $127.

1972 Benefits increased to scheduled permanent partial disability. Maximum weekly compensation increased from $127 to $175. Minimum increased from $25 to $65 per week. Employer liabiality, when the state, a home rule or other political subdivision of the state awards a contract, clarified. If the contractor fails to maintain a valid insurance policy, the state may either terminate the contract or continue the premium payments on the contractor's behalf.

1974 Section on benefit adjustment added to the statute. Benefits for temporary and permanent disabilities shall be calculated according to currently existing benefit rates, and not the rates at time of injury, except in cases where the new rate would cause a decrease in benefits. Death benefits increased for surviving spouse or children. Maximum weekly compensation for permanent total disability increased to $175.

1975 Five-step increase in maximum weekly benefit level passed. Maximum levels go from 80% of state average weekly wage on July 1, 1975 to 200% of state average weekly wage on January 1, 1981. Legislation doubles the maximum compensation allowed for scheduled permanent partial disabilities. Compensation rate for death benefits in case of surviving spouse only or children only, raised to 67% of deceased's average weekly wage. In cases of surviving spouse only, benefits to be paid until remarriage. $75,000 maximum total benefits for surviving spouse removed, as was $30,000 maximum for temporary

partial and permanent partial disability. Determination of state average weekly wage now based on three consecutive quarters of state wage data ending June 30th of the year in question.

1976 Out-of-state claimants receive adjusted benefit based on the ratio of a given state's average weekly wage, to Alaska's average weekly wage. National Council on Compensation Insurance designated the statistical agency for the Division of Insurance with respect to underwriting experience in workers' compensation insurance.

1977 Unscheduled permanent partial disability maximum compensation established at $60,000. Death benefits reduced for widows or widowers under age 52, except in cases where the widow or widower is permanently and totally disabled, at the time of the deceased worker's death. A Social Security offset established. Basis for calculating benefits changed. Average weekly wage in any one of the three calendar years immediately preceding the injury used in order to compute benefit levels.

1979 Workers' compensation coverage may be extended by a political subdivision to volunteer ambulance attendants and policemen. Workers' Compensation Board increased from five to seven members.

1981 Second Injury Fund solvency strengthened as the contribution base expands and the contribution rate becomes flexible according to the fund's reserves at year end. Expense limits for rehabilitation are increased. The Alaska Workers' Compensation Board increased to nine members. Reporting requirements for carriers strengthened to facilitate more accurate cost and injury data collection by the Division of Workers' Compensation. The Legislature funded a study of vocational rehabilitation of injured workers to be completed early in the Second Session of the Twelfth Legislature. Limit for rehabilitation expenditure increased to $10,000.

Appendix C

Proposed Alaska Workers' Compensation Board Regulations

CHAPTER 47

VOCATIONAL REHABILITATION

8 AAC 47.010. Goal of Vocational Rehabilitation. The board shall direct and provide for the vocational rehabilitation of employees entitled under the Act. Vocational plans formulated under the Act and this chapter must be designed to restore the injured employee to gainful employment. (Eff. / / , Register).

Authority: AS 23.30.005
AS 23.30.040

8 AAC 47.020 Duties of the Parties. (a) The employer, the self-insurer, the insurance carrier, and the employee shall promptly recognize the need for the evaluation of vocational rehabilitation and shall initiate necessary action to restore the injured employee to gainful employment as expeditiously as possible.

(b) The employee shall cooperate in all phases of vocational rehabilitation. The employee shall promptly and responsibly participate in a board-approved vocational plan when ordered to do so by the board. If the employee does not choose to enroll in a vocational plan, nothing in this chapter is to be interpreted so as to require the employee to do so. However, in cases where the employee chooses not to enroll in a vocational plan, or unreasonably refuses to complete a vocational plan, the degree of permanent partial disability will be determined as though the employee had enrolled in, and successfully completed, the vocational plan. The employee shall notify the board and the employer within 14 days of the first consultation with a vocational rehabilitation representative.

(c) The vocational rehabilitation representative shall notify the board and all interested parties within 14 days of the first consultation with an employee. Thereafter, the vocational rehabilitation representative shall file regular monthly reports with the board during the consultation period. Within 14 days of the final consultation, the vocational rehabilitation representative shall file a report of consultation which must contain findings, conclusions and recommendations regarding vocational rehabilitation. (Eff. / / , Register).

Authority: AS 23.30.005
AS 23.30.040

8 AAC 47.030. Evaluation Analysis. (a) No vocational plan may be initiated until board approval has been secured. Board approval may be secured by any party by filing a petition for initiation of a vocational plan, accompanied by a written evaluation analysis. Copies of the petition and the evaluation analysis must be served upon all parties and the administrator of the Alaska Second Injury Fund, in accordance with 8 AAC 45.060.

(b) A written evaluation analysis must be accompanied by copies of all medical reports referred to in the analysis and must, in addition, include

(1) an assessment of the employee's employable skills, including a synopsis of his work history and educational background;

(2) a summary of the disabilities limiting the employee's employment opportunities; and

(3) a specific accounting of the employee's pre-injury wage and an assessment of his post-injury wage-earning capacity.

(c) After the complete, written evaluation analysis has been filed the boar will review the factors discussed in the analysis and will determine whether the employee is able to return to his previous employment or to modified employment or whether, instead, direct job placement, on-the-job training or formal retraining is necessary in order to return the employee to gainful employment.

(d) If the board determines that formal retraining is necessary, it shall direct the employer or the employee, or both, to initiate a vocational plan in accordance with 8 AAC 47.040. The board will give preference to direct job placement and on-the-job training over a formal retraining program. (Eff. / / , Register).

Authority: AS 23.30.005

8 AAC 47.040. Vocational Plans. (a) Following evaluation in accordance with 8 AAC 47.030, a vocational plan may be initiated by direction of the board or by any person. Vocational plans must be developed by a qualified rehabilitation representative designated by either the employer, the carrier, the self-insurer, the employee, or the board.

(b) Proposed vocational plans must be submitted to the board in the form of a petition by the person responsible for initiating the vocational plan. The petition must be in writing and must include

(1) the gainful employment objectives of the vocational plan, including estimated earnings and reasonable availability of gainful employment;

(2) the name and location of the educational institution, public or private vocational training agency, or company or business involved in the vocational plan;

(3) the nature, extent, and duration of services to be provided during the period of rehabilitation;

(4) the dates of commencement and expected completion of the vocational plan;

(5) a statement regarding the general financial condition of the employee;

(6) the amount of weekly income maintenance benefits, tuition, fees, and transportation costs, if any, and the time and manner of such payments to the employee during the period of rehabilitation;

(7) the employee's written acceptance of the plan, plus any comments the employee desires to make a matter of record concerning why the plan is in his best interests;

(8) the name of the rehabilitation representative who prepared the plan, a complete description of his or her qualifications, and the name and address of the representative's institution, agency, or company; and

(9) all medical, psychological, and vocational evaluation reports related to the case.

(c) Objections to a vocational plan must be filed in writing with the board within 10 days of the date of service of the plan upon the board.

(d) Upon receipt of written objections, or where it appears obvious that the employee and the employer are unable to reach agreement on the terms of the vocational plan, a prehearing conference will be scheduled. If agreement is reached at the conference, the board may approve the plan. If the differences cannot be resolved at the prehearing conference, the matter shall be set for a hearing. Hearings shall be held in accordance with the provisions of this chapter.

(e) Upon receipt of a proposed vocational plan acceptable to all parties concerned, or following a hearing, and after review, the board shall approve, disapprove, or modify the plan.

(f) Implementation of the plan must begin as soon as the employee is capable of participating in the program and medical opinion indicates the employee's recovery will not be impeded by participation in the plan. The plan shall begin upon the date of board approval or the date specified in the plan, whichever occurs last.

(g) In the event

(1) a vocational plan is not offered by the employer; or

(2) an employer-offered plan or a rehabilitation agency-offered plan is not accepted by the employee; or

(3) the board finds that the employee is eligible for a plan but the proposed plans are not effective,

the board, on its own motion or upon the petition of any party, shall make a determination by means of a hearing or hearings of the services necessary to restore the employee to gainful employment. (Eff. / / , Register).

Authority: AS 23.30.005
AS 23.30.040

8 AAC 47.050. Modification, Suspension, or Termination of Vocational Plans. Any party may petition the board for modification, suspension, or termination of a plan. The petition shall be treated as any other petition under § 050 of this chapter. The board shall order the modification, suspension, or termination if it finds

(1) satisfactory progress is not being made in the approved plan; or

(2) the plan is not likely to prepare the employee for gainful employment due to unexpected contingencies; or

(3) the employee refuses to complete the vocational plan approved by the board; or

(4) a more suitable plan becomes available. (Eff. / / , Register).

Authority: AS 23.30.005

8 AAC 47.060. Vocational Rehabilitation Definitions. As used in this chapter

(1) "Gainful employment" means employment which is reasonably attainable and which offers an opportunity to restore the employee as soon as possible to maximum self-support, due consideration being given to the employee's qualifications, physical and mental condition, interests, motivation and incentives, pre-injury earnings and future earning capacity, and the present and future labor market.

(2) "Implementation of a plan" means commencement by the employee of an actual return-to-work plan of direct job placement, on-the-job training or vocational training in accordance with an approved vocational rehabilitation plan.

(3) "Initiation of a plan" means the creation and drafting of a written vocational rehabilitation plan.

(4) "Vocational rehabilitation" means a program of services, not limited to medical services, designed to restore an injured or disabled employee to gainful employment.

(5) "Vocational rehabilitation representative" means a person who possesses the special skills, knowledge, education, training, and experience necessary to develop and implement vocational rehabilitation plans.

(6) "Vocational rehabilitation plan" means the planning and providing of services, not limited to medical services, reasonably necessary to restore an employee to gainful employment. Such services include, but are not limited to, vocational evaluation, counseling, retraining, on-the-job training, and job placement assistance. (Eff. / / , Register).

Authority AS 23.30.005
AS 23.30.040

Rep Randolph

RECOMMENDED CHANGES TO THE ALASKAN WORKERS' COMPENSATION ACT

PREPARED FOR

THE ALASKA CONFERENCE OF EMPLOYERS, INC.

% Jack Thompson

Air Van Lines

2216 Post Road

Anchorage, Alaska 99501

REPRODUCED BY THE

WORKERS' COMPENSATION COMMITTEE OF ALASKA, INC.

WITH THE PERMISSION OF THE

ALASKA CONFERENCE OF EMPLOYERS, INC.

Box 1647

Anchorage, Alaska 99501

PREPARED BY:

Edward L. Hite, Vice President
Daryl A. Cody Company
201 Danner Avenue
Suite 155
Anchorage, Alaska 99502

The Alaska Conference of Employer's, (ACE) a non-profit research co-operation, has commissioned this study which is designed to spell out in specific detail exactly what changes to the workers' compensation law are necessary to accomplish three objectives:

1. Reduce the waste of the compensation dollar on non-disabling injuries.

2. Reduce the waste of administrative, medical, legal and judical time and resource.

3. Maximize benefits and minimize costs.

This is the second study sponsored by ACE. The first, published in 1980, was commissioned to identify the problems associated with the workers' compensation program. It accomplished its objective by demonstrating the effects of misdirected incentives, subjectivity in benefit determination, and the unfairness of benefit structures. Another very important result materialized in that it put the legislature on notice that the business community was starting to cry for help.

There are only so many dollars available for compensation as the source of funds is not infinite. Employers who paid attention to claims could not only monitor the status of injured employees they could read their insurance company loss runs and form an impression of the effectiveness of their premium dollar. Their impression was negative, as they saw a waste of time, human resources, and productivity, all of which translate into premium dollars. Those premium dollars, insignificant in the past, were now a very major expense item which easily could determine the difference between a profit or loss for the business.

On the other side of the coin, the burdens endured by employees are often overwhelming when you consider the contortious an employee must go through to obtain what he considers a fair benefit. When a benefit structure is designed for the average person, everyone considers it unfair. When a social program pays the electrical lineman and the executive $33,600 for the loss of a hand resulting from an occupational injury, what is fair. The executive is probably back to work in a week, while the lineman is out of work for months.

These problems can be corrected, and this study was commissioned to define those problems involved and to create positive solutions designed to reduce the cost burden on employers while increasing or making the benefit structure more fair.

In order to convince readers that there is an incredible waste in the compensation premium dollar we needed data to support our theories. We found a total lack of statistical data of the type needed to draw factual conclusions. Therefore, as the result of a meeting in Seattle with industry leaders we decided to accomplish our task in two steps. First, using the data we did have, draw the best conclusions we could and complete the study. Second, was to simultaneously research a large group of recent claims to validate our conclusions. This method puts the credibility of this study in jepordy of being invalidated by the claim study, but the supporting opinions of everyone concerned made it mandatory that we accept the risk, as the probability of error was considered mimimum.

Alaska is not the first state to have its claims studied in this respect, as Florida, Louisiana, and Washington have already conducted the study. The Alaskan Workers' Compensation Act is structured the same as all the other laws in the United States and we have no reason to believe the results obtained in Alaska will differ from those obtained in other states. What was found in other states is that 70 percent of the injured workers who receive cash awards under the permanent partial disability section of the law suffered no economic loss subsequent to the payment of the award. This is a significant indicator of waste if an exceptionally large portion of the benefit dollars are paid in the permanent partial disability section of the law.

The best comparative data obtainable was gathered in Florida during 1977-1978, before their historic change to a wage-loss program. That data was selected for comparative purposes because there is also data gathered after the change to wage-loss which would enable us to predict the effects of our changes if they were similar. The data utilized from Florida is contained in a report prepared by the Bureau of Economic Analysis, Division of Economic Development, Florida Department of Commerce, published in October, 1981, page 7. The content of that report is so pertinent to our study it is added as Exhibit I.

Tables I and II on page 7, compare the percentage distribution of resolved

workmen's compensation cases by injury type, and the percentage distribution of benefits paid in resolved workmen's compensation cases by injury type, between Florida, Alabama, and Wisconsin.

The pertinent data displayed is the difference in percent distribution of permanent partial disability claims between states. As previously stated, 70 percent of the persons who receive cash awards under the permanent partial disability section of the law, incurred no economic loss subsequent to being paid the award. If a disproportionate amount of money is allocated to the permanent partial disability cases, it therefore follows that a significant amount of money is scattered among many claimants who had no economic loss.

In Florida, 30 percent of the claims fell into the permanent partial disability classification, and Florida allocated 67.2 percent of all claim dollars to those claims. In Alabama, only 7 percent were permanent partial cases and they consumed 37.5 percent of the claim dollars. In Wisconsin, 9 percent were permanent partial disability cases that accounted for 40.8 percent of the dollars. Florida had three to four times the number of permanent partial disability cases as Wisconsin and Alabama. Florida also allocated almost twice the percentage of dollars to those claims as did the other states.

The available data in Alaska indicates that our situation is very similar to that in Florida. The source of our data is the National Council on Compensation Insurance (NCCI) and is presented as Exhibit II. Utilizing the state average weekly wage we converted those statistics into comparative data. The results indicate that in Alaska, 24.15 percent of the claims are classified as permanent partial disability cases and we allocated 66.21 percent of all claim dollars to those claims. The claims study in progress at this time will add credibility to those statistics and most importantly, be current. The claim study has been commissioned by the State of Alaska and results will be made available in early 1982.

	Distribution of Claims		Distribution of Claim Dollars	
	Permanent Partial	Other	Permanent Partial	Other
Florida	30%	70%	67.2%	32.8%
Alaska	24%	76%	66.2%	33.8%
Alabama	7%	93%	37.5%	62.5%
Wisconsin	9%	91%	40.8%	59.2%

Note: A later Florida study placed the percentage of claims in the permanent partial category at 24 percent. See Exhibit I, page 22.

As in Florida, Alaska's workers' compensation law has a hole in the dyke containing the claim dollars. Alaska, like Florida, has an inordinate number of permanent partial disability claims and allocates 2/3rds of all claim dollars to those claims.

What is there about the typical permanent partial disability claim which accounts for its popularity and uncommon distribution of money? It is this section of the law which compensates the injured worker who incurs an injury which results in a permanent impairment of one of the body functions. The most predominate type of case is the common back injury. During the healing period, the employee is paid compensation to replace his average weekly wage, and this is the point where the claim gets very costly. Approximately 70 percent of these worker's return to their same job, same pay, same or other employer, and incur no further economic loss. However, that worker is entitled to an additional cash award for the future decrease in wages he may incur throughout his lifetime, as measured by a disability rating subjectively computed by his physician. The higher the rating, the higher the cash award, resulting in employees canvasing the medical community for a physician who will give a higher disability rating (at the employer's expense, called, doctor shopping). For the approximately 30 percent who do incur subsequent economic loss, they are often entitled to be retrained for a new occupation. A number of employees utilize attorneys in this case as the costs of retraining can also be paid in a lump sum along with the award for loss of future wage earning capacity. Many cases are settled on a compromise and release at this point, with the insurance company issuing a check. For those resourceful enough to obtain employment in their old occupation, they pocket the cash; others find new lines of related work. Few are actually trained. Adding to the cost, is the claimant's attorney's fee which is a percentage of the award paid to the worker. The employer must also hire an attorney to represent himself before the board. It is not difficult to visualize the dollar cost involved in these cases and thereafter wonder if the existing act is accomplishing its intended purpose. If the purpose of the original law was to distribute money by the buckets-full to people without economic loss, the intent of the law is being served.

This is Alaska's problem: This was Florida's problem until they changed their law to one based upon wage-loss. Gone are the cash awards for hypothetical loss of future wage earning capacity. Instead, the wage-loss program replaces future wages lost only when wages are actually lost and an employee's wage history can be monitored for as long as 10 years subsequent to reaching the date of maximum medical improvement. Also gone is the doctor shopping as an objective rating system replaces the subjective system. The change to wage-loss redistributed the dollars. For the 70 percent who had no economic loss it took dollars away and gave the 30 percent who actually had economic loss far more dollars. The balance was used for premium reduction.

As a result, Florida employers are enjoying workers' compensation rates 36.4 percent lower than the 1979 pre-wage-loss rates. Employee's who actually incur economic loss are enjoying a higher level of benefits without the hassel which accompanies the compensation systems as it exist in Alaska.

Our recommendation encompasses the wage-loss theory of compensation, and also changes numerous other sections to correct injustices to both the employer and employee, all directed towards making the system fair as perceived by all.

It is the author's opinion, that if the Alaska Workers' Compensation Act should ever be changed as suggested in this study, premium rates will decrease by 25 percent initially, and further decreases determined by company experience will result in a total reduction equal to 35-40 percent.

Before proceeding into our recommendations we wish to identify our major sources for the revisions.

For wage-loss related sections the Florida Workers' Compensation Act was heavily relied upon by modifying its provisions to meet the requirements of Alaska.

The second major source was a "model workers' compensation law" drafted in the 1960's and revised in 1974, by The Council on State Governments, entitled the Workmen's Compensation and Rehabilitation Law, Revised. Many of the existing provisions in the Alaska Act were taken from that "model law" as were many sections found in compensation acts throughout the nation. Portions of that document are attached for your information as Exhibit III.

The third source was "Larson, Workers' Compensation Law, by Dr. Authur Larson, wherein almost every facit of workers' compensation is discussed in

detail. Larson is a renouned authority on workers' compensation and his passages are liberally quoted by courts throughout the land. The Larson volumes were indispensable to this study.

In the following pages on a section by section bases we will enumerate the problems we found, describe our solutions, and indicate the source of the recommendation. Each section is reproduced in its entirety to enable the reader to comprehend the entire content of the section, even if the changes are minor.

New wording is underlined, and wording being deleted is capitalized in brackets.

AS 23.30.040
SECOND INJURY FUND

Problem and Solution:

1. Existing section utilizes the words "Permanent Partial Disability" in subsection (b) which is inconsistent with a wage-loss program. Change "Permanent Partial Disability" to "Permanent Impairment, Wage-Loss".

2. Subsection (e) authorizes vocational retraining and vocational rehabilitation and authorizes the payment of a maintence expense. This and other references should be combined in one section. Transfer content of subsection (e) to a new section, proposed AS 23.30.094, Rehabilitation

Justification:

1. Required in order to conform with overall recommendation in section 190, wage-loss.

2. See proposed section 094, Rehabilitation.

Recommendation:

AS 23.30.040 SECOND INJURY FUND

(a) There is created a second injury fund, administered by the commissioner of labor. Money in the second injury fund may only be paid for the benefit of those persons entitled to payment of benefits from the second injury fund under this chapter. Payments from the second injury fund must be made by the commissioner of labor in accordance with the orders and awards of the board.

(b) If an employee suffers a compensable injury which results in temporary total disability, temporary partial disability, permanent impairment, wage-loss [PARTIAL DISABILITY], or permanent total disability, the employer or insurance carrier shall contribute to the second injury fund. The contribution shall be made by one year from the date of the injury or on termination of the employee's claim, whichever is sooner. If the claim is not terminated within one year, subsequent contributions shall be made yearly until the termination of the employee's claim. The amount of the contribution is the product of the compensation to which the employee is entitled for temporary total disability, temporary partial disability,

permanent impairment, wage-loss [PARTIAL DISABILITY], or permanent total disability, [OR FOR REHABILITATION UNDER AS 23.30.191] and the applicable contribution rate set out in Column A of the subsection. By December 15 of each year the commissioner shall determine and make available to the public the applicable contribution rate for the following calendar year according to the reserve rate of the second injury fund in Column B of this subsection:

Column A	Column B	
Second Injury Fund	Reserve Rate	
Contribution Rate	At Least	But Less Than
(Percent)	(Percent)	(Percent)
6	0	50
5	50	75
4	75	100
3	100	125
2	125	150
1	150	175
0	175	-

(c) If an employee suffers a compensable injury which results in death and the employee is not survived by a widow, widower, child, or dependent relative eligible to receive death benefits under AS 23.30.215, the employer or insurance carrier shall pay $10,000 to the second injury fund.

(d) The board shall refund a payment made into the second injury fund if the employer or insurance carrier shows that it made the payment by mistake or inadvertence, or if it shows there existed at the time of the death of the employee a beneficiary entitled to benefits under AS 23.30.215.

[(e) THE BOARD MAY DIRECT AND PROVIDE THE VOCATIONAL RETRAINING AND VOCATIONAL REHABILITATION OF A PERMANENTLY DISABLED PERSON WHOSE CONDITION IS A RESULT OF AN INJURY COMPENSABLE UNDER THIS CHAPTER BY MAKING COOPERATIVE ARRANGEMENTS WITH INSURANCE CARRIERS, PRIVATE ORGANIZATIONS AND INSTITUTIONS, OR STATE OR FEDERAL AGENCIES. THE PERSON BEING RETRAINED OR REHABILITATED IS ENTITLED TO RECEIVE ADDITIONAL COMPENSATION FROM THE SECOND INJURY FUND FOR MAINTENANCE DURING THE PERIOD OF RETRAINING AND REHABILITATION IN THE SUM THE BOARD CONSIDERS NECESSARY, NOT TO EXCEED $200 A MONTH. THE TOTAL EXPENDITURES FOR MAINTENANCE, RETRAINING, REHABILITATION, AND NECESSARY TRANSPORTATION MAY NOT EXCEED $10,000 FOR ONE PERSON.]

(f) All amounts collected as civil penalties under AS 23.30.155 (c) shall be paid into the second injury fund.

(g) The attorney general may investigate claims and hire expert witnesses necessary to prevent fraudulent or excessive claims for money in the second injury fund.

(h) Administration expenses of the state under this section and AS 23.30.205 shall be paid from the general fund.

AS 23.30.045
EMPLOYER'S LIABILITY FOR COMPENSATION

Problem and Solutions:

1. Subsection (a) does not list the proposed new section, 094, Rehabilitation. Insert AS 23.30.094 in subsection (a).

2. Subsection (e) allows the Division of Vocational Rehabilitation (DVR) to place an injured worker on job training, work readiness, work therapy experience, or in work sampling programs without liability to accommodating employer. The Workers' Compensation Division of the Department of Labor desires the same advantage. Include the Department of Labor as it would facilitate the placement of these people in vital programs.

3. Subsection (c) places the liability on the State of Alaska for injuries incurred by employees placed in job training, work readiness, work therapy experience, or in work sampling programs, rather than on the employer responsible for the original claim. The State of Alaska assumes liability for subsequent accidents when an injured employee is placed in job training programs with accommodating employers. Is it necessary or desirable for the State to lift the liability burden off the previcus employer when the previous employer has the option of providing the same program voluntarily? No. Therefore, change "state" to "employer paying compensation".

4. Subsection (d) (e) and (f) require government entities contracting with "persons" to provide a certificate of workers' compensation insurance. Single proprietors, "persons", do not carry workers' compensation as they have no employees. The utilization of the word "employer" is more appropriate than "person" as the former contemplates someone who has employees and therefore is required to purchase workers' compensation insurance. Therefore, change "persons" to "employers".

Justification:

1. Rehabilitation, like medical and related benefits is an employer provided program and is appropriately inserted in Article 2, Duties of Employer.

2. Recommended by Division of Workers' Compensation, Department of Labor in H.B. 159.

3. The liability of the employer should appropriately extend until the employee is returned to work and all compensation liability is terminated.

4. Recommended by the Division of Workers' Compensation, Department of Labor in H.B. 159.

Recommendation:

Sec. 23.30.045 EMPLOYER'S LIABILITY FOR COMPENSATION

(a) An employer is liable for and shall secure the payment to his employees of the compensation payable under AS 23.30.50, AS 23.30.094, AS 23.30.095, AS 23.30.145, and AS 23.30.180 - AS 23.30.215 of this chapter. If the employer is a subcontractor, the contractor is liable for and shall secure the payment of the compensation to employees of the subcontractor unless the subcontractor secures the payment.

(b) Compensation is payable irrespective of fault as a cause for the injury.

(c) For a person eligible for vocational rehabilitation service under AS 23.15.180 [AND] who is placed with an employer for service [WITHOUT WAGES] at the request of the office of vocational rehabilitation or the Department of Labor to give him on the job training, work readiness, [OR] work therapy experience, or work sampling, notwithstanding AS 23.30.196(c) and (d), the liability set out in (a) of this section applies to the [STATE RATHER THAN TO THE] employer paying compensation.

(d) No contract may be awarded by the state or a home rule or other political subdivision of the state to an employer unless the employer [PERSON] to whom the contract is to be awarded has submitted to the contracting agency proof, furnished by the insurance carrier, of current coverage by workers' compensation insurance from an insurance company or association authorized to transact the business of workers' compensation insurance in this state or proof, furnished by the board, of a current certificate of self-insurance from the board. The employer [PERSON] to whom

the contract is awarded shall keep his workers' compensation insurance policy in effect during the life of the contract with the state or political subdivision. If the state or the political subdivision of the state fails to obtain proof of coverage or self-insurance or to protect itself under (e) of this section, and an employee of the contractor is injured during the term of the contract, the state or the political subdivsion is liable for workers' compensation to the employee if the employee is unable to recover from the employer because of the employer's lack of financial assets. The state or the political subdivision is not liable, however, to the employee for workers' compensation if the employee can recover from the employer under (a) and (b) of this section.

(e) When a contracting agency of the state or a political subdivision receives notice that the workers' compensation insurance policy of an employer to whom the agency has awarded a contract has been cancelled due to nonpayment of a premium, without being replaced by a comparable policy, the agency may either terminate the contract with the employer or continue the premium payments on his behalf in order to keep the policy in force during the life of the agency's contract. If the agency chooses to keep the policy in force, it may deduct its payments from the contract price or bring an action against the employer to recover the amount of the payments. When the contracting agency receives notice that the board has revoked a certificate of self-insurance held by an employer [A PERSON] to whom a contract has been awarded, the agency may terminate the contract. This subsection does not limit the causes of action or remedies which the state or political subdivision may have against the employer.

(f) As used in this section "contractor" means an employer [A PERSON] who undertakes by contract performance of certain work for another and "subcontractor" means an employer [A PERSON] to whom a contractor sublets all or part of his initial undertaking.

AS 23.30.070
REPORT OF INJURY TO BOARD

Problems and Solutions:

1. Subsection (a) requires employers to submit the notice of injury

(form ADL 210) to the board within 10 days of acquiring knowledge of the claim. It is not a reasonable requirement as viewed by most employers. It is reasonable to expect an employer to submit the notice of injury to the board within 10 days after receiving the notice of injury form (ADL 210) in the business office of the employer. This relieves the employer from possible penalties for the reporting while maintaining the important requirement to make the first payment within 14 days of acquiring knowledge as required in AS 23.30.155.

2. Employees when injured have little or no knowledge of the workers' compensation act and obtaining a copy of the law will not help the average employee understand the benefits. Employees should be informed of compensation benefits with an easy to read booklet that offers correct advice. We have option to make the employer or the Division of Workers' Compensation responsible for notifying employees of the benefits. Time is of the essence as the injury has occurred and the employer has knowledge before the board, therefore, the employer should be responsible. It is also hoped that this communication responsibility will relieve some of the existing friction which develops between employees and employers when a claim occurs.

Justification:

1. By request of ACE.
2. Adopted from Florida Workers' Compensation Law, Section 440.185 (4).

Recommendation:

Sec. 23.30.070 REPORT OF INJURY TO BOARD

(a) Within 10 days from the date the employer has received in his business office written notice of an injury, death, disease, or infection as prescribed by AS 23.30.100(b), [KNOWLEDGE OF AN INJURY OR DEATH OR FROM THE DATE THE EMPLOYER HAS KNOWLEDGE OF A DISEASE OR INFECTION], alleged by the employee or on his behalf to have arisen out of and in the course of the employment, the employer shall send to the board a report setting out

(1) the name, address, and business of the employer;

(2) the name, address, and occupation of the employee;

(3) the cause and nature of the alleged injury or death;

(4) the year, month, day, and hour when and the particular locality

where the alleged injury or death occurred; and

(5) the otner information the board may require.

(b) Additional reports in respect to the injury and to the condition of the employee shall be sent by the employer to the board at the times and in the manner which the board prescribes.

(c) A report made under (a) or (b) of this section is not evidence of a fact stated in the report in a proceeding in respect to the injury or death on account of which the report is made.

(d) Mailing of the report and copy to the board in a stamped envelope, within the time prescribed in (a) or (b) of this section, is compliance with this section.

(e) If the employer or the carrier has been given notice, or the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier has knowledge of an injury or death of an employee and fails, neglects, or refuses to file a report of it as required by the provisions of (a) of this section, the limitations in AS 23.30.105 do not begin to run against the claim of the injured employee or his dependents entitled to compensation, or in favor of either the employer or the carrier, until the report has been furnished as required by the provisions of (a) of the section.

(f) Upon receipt of written notice of injury from the employee, the employer shall, within 14 days, deliver or mail to the injured worker at his last known address, a summary statement which sets forth in clear and understandable language, the rights, benefits, and obligations of injured workers under the Workers' Compensation Act, together with an explanation of its operation.

(g) An employer who fails or refuses to send a report required of him by this section or who fails or refuses to send the report required by (a) of this section within the time required shall, if so required by the board, pay the employee or his legal representative or other person entitled to compensation by reason of the the employee's injury or death an additional award equal to 20 per cent of the amounts which were unpaid when due. The award shall be against either the employer or his insurance carrier, or both.

PROPOSED AS 23.30.094

REHABILITATION OF INJURED EMPLOYEES

Problem:

No legislative guidance exists on rehabilitation.

Solution:

- Utilize the most effective rehabilitation methods and create cost incentives to encourage their use.
- Continue to study the rehabilitation problem to make better use of funds spent.
- Define the goal of a vocational rehabilitation program.
- Give employer first opportunity to provide retraining.
- Structure proposed statute to give all possible latitude to the Division of Workers' Compensation to utilize the results of a current study in progress to formulate regulations.
- Provide for necessary expenses.
- Coordinate with the Division of Employment Security for job placements.
- Provide employee incentive to utilize program.
- If employer does not offer re-employment, place rehabilitation under the control and direction of Board.

A great many state laws were reviewed to find other approaches to solving the problem. Many states had wording similar to our proposal in their statute and reports concerning the effectiveness of their law varied from poor to mediocre at the best. It became quite apparent that the effectiveness of the rehabilitation program depended not upon the statute wording but the implementation of the regulations which add concrete substance to the statute.

The State is studying the rehabilitation problem and have hired a very competent consultant who's recommendations will result in regulations guiding the operation of the plan. ACE therefore decided the best approach would be to recommend statutory language which spoke only to those areas which require statutory authorization and which allow the legislature to establish limits or bounds which ought not be exceeded.

Justification:

The "Workmen's Compensation and Rehabilitation Law, Revised," drafted by The Council on State Government, a model workers' compensation act, provided the format for our recommendation and is reproduced with minor changes. This model wording has also been adopted by Kansas, Idaho, New Mexico, Connecticut, West Virginia, and possibly others. The original is reproduced in Exhibit III.

Recommendation:

Sec. 23.30.094 REHABILITATION OF INJURED EMPLOYEES

(a) One of the primary purposes of this act shall be the restoration of the injured employee to suitable gainful employment. To that end it is obvious from the testimony given to the Labor and Commerce Committee that the most effective rehabilitation programs are those which involve re-employment by the employer, therefore, the board will give responsible employers who provide re-employment opportunities sufficient latitude to manage the rehabilitation of their injured employees.

(b) The division shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public. The division shall approve as qualified such facilities, institutions, and physicians as are capable of rendering compentent rehabilitation services to seriously injured employees. No facility or institution shall be considered as qualified unless it is specifically equipped to provide rehabilitation services for persons suffering either from some specialized type of disability or general type of disability within the field of occupational injury and is staffed with trained and qualified personnel.

(c) An employee who has incurred an injury covered by this act shall be entitled to prompt medical rehabilitation services. When as a result of injury he is unable to perform the primary duties of his occupation or any other occupation for which he is qualified by education, training, and experience, he shall be entitled to such vocational rehabilitation services, including retraining, as may be reasonably necessary to restore him for suitable gainful employment. In all instances the board shall inquire if such services have been voluntarily offered and accepted. The board, on its own motion, or upon application of any party after affording the parties

an opportunity to be heard by the board, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, and after affording the parties an opportunity to be heard by the board, the board may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service as the board may deem necessary, be provided at the expense of the employer. Vocational rehabilitation training, treatment or service shall not extend for a period of more than 26 weeks except in unusual cases when by special order of the board, after hearing, and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable the period may be extended for an additional period. However, no carrier or employer shall be precluded from continuing such rehabilitation beyond such period on a voluntary basis.

(d) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging or travel shall be paid for by the employer.

(e) Refusal to accept rehabilitation pursuant to an order of the board shall result in a 50 per cent loss of compensation for each week of the period of refusal.

(f) The division shall cooperate on a reciprocal basis with the vocational rehabilitation section of the Department of Education and the employment service of the Division of Employment Security, and may make cooperative arrangements with insurance carriers, private organizations and institutions or state or federal agencies, to restore the employee to suitable gainful employment.

(g) Temporary disability benefits paid pursuant to AS 23.30.185 or AS 23.30.200 shall include such period as may be reasonably required for training in the use of artifical members and appliances, and shall include such period as the employee may be receiving training or education under a rehabilitation program pursuant to paragraph (c). Notwithstanding AS 23.30.265 (9), the date of maximum medical improvement, for purposes of AS 23.30.190 (b), shall be no earlier than the last day for which such temporary disability benefits are paid.

AS 23.30.095
MEDICAL EXAMINATIONS

Problems and Solutions:

1. Doctor shopping. Doctor shopping occurs at two times during the life of a claim. First, when the employee's physician infers that it is time to return to work because of a lack of objective medical findings, and second, when an employee who has received a permanent impairment and the amount of money received is depended upon a disability rating computed, often times subjectively, by a physician. ACE analyzed the problem as one which is the result of the system and preferred to change the system rather than restrict the free choice of the employee to pick his own physician.

2. Statute limits medical treatment to two years, yet the board regularily orders extended treatments. That portion of subsection (a) which limits medical treatment to two years is deleted and results in medical treatment being given "for the period which the nature of the injury or the process of recovery requires".

3. Independent medical examinations are often times impossible to obtain. The medical examinations are given by a "physician or surgeon authorized to practice medicine" only, as per AS 23.30.095 (e), and the professional friction between the medical profession and chiropractors is aggravated when a medical doctor performs an examination of a chiropractor's patient. The situation is caused because the statute allows an employee to have his physician (or chiropractor) present at the examination, and medical doctors usually will not allow a chiropractor to observe a medical examination. The Workers' Compensation Board and ACE agree that the solution is to delete that portion of AS 23.30.095(e) which states, "the employee has the right to have a physician, paid for by the employer, present at the examination or examinations".

4. It is alleged that employees are deliberately missing medical examination appointments to extend the payment of compensation. The cost to employers resulting from employees missing medical examinations is exceptionally heavy as the weekly indemnity payments continue during the delay. The laws of other states, and the Workmen's Compensation and

Rehabilitation Law, Revised, all incorporate stringent requirements and penalties for missing examination appointments. It is from these laws, used as a model, that ACE recommends requirements for meeting appointments. If an appointment for examination is missed, compensation should be suspended during the delay.

5. Medical reports from physicians are often subjective rather than objective. Independent medical examinations should be based upon objective findings, and if controversy arises as to the facts, the evidence should be weighed by the board at a hearing.

6. In adversary proceedings before the Workers' Compensation Board, the party with the greatest number of supporting medical opinions regularily wins. Obtaining multiple medical opinions to support continued disability or in non-support of disability, is very costly to the employer, yet it is currently necessary to present a preponderance of medical evidence before the Workers' Compensation Board. No one opinion carries more weight than the others in the existing law. Therefore, subsection (e) is amended to allow the formation of an advisory committee to aid the Workers' Compensation Board to select physician's qualified to render independent medical examinations. The examinations given by those physicians will be given greater weight than others in a hearing before the board.

Justification:

1. Request of ACE.

2. Recommended by the Workers' Compensation Board and requested in H.B. 159, and supported and recommended by ACE.

3. An amalgamation of provisions from the Workmen's Compensation and Rehabilitation Law, Revised, and the Delaware Model Workers' Compensation Act, Section 26, pages 63-67.

4. Recommended by the Workers' Compensation Board and ACE.

5. Workmen's Compensation and Rehabilitation Law, Revised, paragraph (C)(2), page 15, and almost all other states.

6. Delaware Model Workers' Compensation Act, Section [illegible], paragraph (b)(3), page 64.

Recommendation:

Sec 23.30.095 MEDICAL EXAMINATIONS

(a) The employer shall furnish medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires. [NOT EXCEEDING TWO YEARS FROM AND AFTER THE DATE OF INJURY TO THE EMPLOYEE. HOWEVER, IF THE CONDITION REQUIRING THE TREATMENT, APPARATUS, OR MEDICINE IS A LATENT ONE, THE TWO-YEAR PERIOD RUNS FROM THE TIME THE EMPLOYEE HAS KNOWLEDGE OF THE NATUR OF HIS DISABILITY AND ITS RELATIONSHIP TO HIS EMPLOYMENT AND AFTER DISABLEMENT. IT SHALL BE ADDITIONALLY PROVIDED THAT, IF CONTINUED TREATMENT OR CARE OR BOTH BEYOND THE TWO-YEAR PERIOD IS INDICATED, THE INJURED EMPLOYEE HAS THE RIGHT OF REVIEW BY THE BOARD. THE BOARD MAY AUTHORIZE CONTINUED TREATMENT OR CARE OR BOTH AS THE PROCESS OF RECOVERY MAY REQUIRE.] When medical care is required, the injured employee may designate a licensed physician inside the state to render the care except in cases where, in the judgment of the board, care or treatment or both can best be administered by the selection of another physician. Upon procuring the services of a physician, the injured employee shall give proper notification of his selection to the employer within a reasonable time after first being treated.

(b) If the employee is unable to designate a physician and the emergency nature of the injury requires immediate medical care, or if he does not desire to designate a physician and so advises the employer, the employer shall designate the physician. Designation under this subsection, however, does not prevent the employee from subsequently designating a physician for continuance of required medical care.

(c) No claim for medical or surgical treatment is valid and enforceable as against the employer unless, within 20 days following the first treatment, the physician giving the treatment or the employee receiving it furnishes to the employer and the board notice of the injury and treatment, preferably on a form prescribed by the board. The board shall, however, excuse the failure to furnish notice within 20 days when it finds it to be in the interest of justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of the medical or surgical treatment so obtained by the employee.

(d) If at any time during the period the employee unreasonably refuses to

submit to medical or surgical treatment, the board may by order suspend the payment of further compensation while the refusal continues, and no compensation may be paid at any time during the period of suspension, unless the circumstances justified the refusal.

(e) The employee shall, after an injury, at reasonable times during the continuance of his disability if requested by his employer or, when ordered by the board, submit himself to an independent medical examination by a physician or surgeon authorized to practice medicine under the laws of the state in which the employee may be found, furnished and paid for by the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR EXAMINATIONS.] No fact relative to the injury or claim communicated to or otherwise learned by a physician or surgeon who may have attended or examined the employee, or who may have been present at an examination is privileged, either in the hearings provided for in this chapter or an action to recover damages against and employer who is subject to the compensation provisions of the chapter. If an employee refuses to submit himself to, or in any way obstructs, any independent medical examination by a physician or surgeon designated by the board, carrier, or employer [PROVIDED FOR IN THIS SECTION] his rights to compensation and right to take or prosecute any proceedings under this chapter shall be suspended until the obstruction or refusal ceases, and his compensation during the period of refusal or obstruction shall be suspended until the refusal or obstruction ceases [SUSPENSION MAY, IN THE DISCRETION OF THE BOARD OR THE COURT IN DETERMINING AN ACTION BROUGHT FOR THE RECOVERY OF DAMAGES UNDER THIS CHAPTER, BE FORFEITED]. The physician or surgeon selected by the board, employer, or carrier shall render an impartial medical opinion, based upon his own objective examination after discussion, if possible, with the treating physician, as to the nature and extent of the injury. The physician may, if appropriate, consult with other physicians outside of his specialty to assist him in forming his medical opinion, which shall be rendered within 2 weeks of the date of the examination. The board shall compile and keep current for each region of the state, a separate list of physicians engaged for not less than 3 years in the active licensed practice of surgery or medicine who are willing to render impartial medical opinions pursuant to this subsection. The board may appoint an Advisory Committee to aid and assist the board in compiling and keeping current such

list of physicians, where members shall be appointed by and serve at the pleasure of the board. The Advisory Committee shall consist of 10 members, including, and be apportioned amongst, members of the medical soceity, carriers, self insurers, hospitals, and the general public. The board shall appoint one member of the Advisory Committee as chairman. Medical opinions provided by physicians authorized by the board to render independent medical examinations shall be given greater weight by all parties in a hearing before the board.

(f) The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. No autopsy may be held without notice first being given to the widow or widower or next of kin if they reside in the state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If no adequate notice is given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

(g) [(f)] All fees and other charges for medical treatment or service are limited to the charges that prevail in the same community for similar treatment of injured persons of like standard of living and shall be subject to regulation by the board.

(h) [(g)] Nothing in this section limits the right of the employee to provide in any case at his own expense a consulting physician, surgeon, chiropractor or osteopath or any attending physician, surgeon, chiropractor or osteopath whom he desires.

(i) [(h)] Upon the filing with the board by a party in interest of an application or other pleading, all parties to the proceeding must immediately, or in any event within 5 days after service of the pleadings, send to the board the original signed reports of all physicians relating to the proceedings which they may have in their possession or under their control, and copies of the reports shall be served by the party immediately on the adverse party. There is a continuing duty on the parties to so file and serve all the reports during the pendency of the proceeding.

(j) [(i)] Interference by a person with the selection by an injured employee of an authorized physician to treat him, or the improper influencing or attempt by a person to influence a medical opinion of a physician who has treated or examined an injured employee is a misdemeanor.

AS 23.30.100
NOTICE OF INJURY OR DEATH

Problems and Solutions:

1. The existing statute provides that a claim must be submitted to the employer and board within 30 days. Claims submitted after the 30 day period are routinely allowed to be filed. "Limitation periods pertaining to notice of injury possess a dual purpose of enabling the employer to provide immediate medical diagnosis and treatment with a view to minimizing the seriousness of the injury; and second, to facilitate the earliest possible investigation of the facts surrounding the injury." (Alaska State Housing Authority vs. Sullivan, Sup. Ct. Op. No. 994 (File No. 1989), 518 P.2d 759 (1974).

If claims filed subsequently to the limitation period are routinely accepted by the board, the purpose of the limitation is obscured and the 2 year statutory time limit for filing claims becomes subsequently prominent. If an employer is denied the right to immediate investigation, the employee should be required to provide minimum substantiation of the facts surrounding the claim. The existing statute is defective in this regard as claims filed up to two (2) years after the accident have to be accepted in accordance with §105 and §120. There presently exists three statutory conditions (see subsection (d)(1)-(3) below) and one judical condition sufficient to overcome the existing 30 day notice provision to support the liberal interpretation given to this statute by the board. It is to one of these conditions that we recommend the following: "however, when the delay in giving notice is so excused .... the burden of proof as to the validity of the claim shall shift to the employee who shall be required to show evidence of independent substantiation of the facts pertaining to the occurrence". The membership of ACE unanimously agreed that the employee would not be prejudiced by being required to relate "facts pertaining to the occurrence" and to obtain the facts from an independent source as the employer would have done if notification was timely.

2. Employees can be paid incorrect benefits in error under a new program such as recommended, resulting in possible financial injury to an innocent employee. Paid benefits should be monitored by a neutral party to assure

the correct benefit is being paid. Adopting wording from Florida, who has had a wage-loss system in effect for 2 1/2 years, will provide the necessary control.

3. Controversies headed for board hearing can sometimes be adverted by the intervention of the division. The Workers' Compensation Division has laid the groundwork for such action but statutory support is needed to enforce and make intervention mandatory. Adopting wording from another state successfully utilizing this system is appropriate to add authority to this requirement. (See also AS 23.30.110(h) proposed)

4. Utilizing a wage-loss program requires that the employee report wages in order to compute the actual wage loss. A statutory wage reporting provision is necessary to support proposed AS 23.30.190(b), Compensation for Wage-Loss.

Justification:

1. Recommendation of ACE.
2. Florida Workers' Compensation Act 440.185(4).
3. Florida Workers' Compensation Act 440.185(4).
4. Florida Workers' Compensation Act 440.185(10).

Recommendation:

Sec. 23.30.100 NOTICE OF INJURY OR DEATH

(a) Notice of an injury or death in respect to which compensation is payable under this chapter shall be given to the board and to the employer within 15 days after the date of such injury or within 30 days after a death [WITHIN 30 DAYS AFTER THE DATE OF SUCH INJURY OR DEATH TO THE BOARD AND TO THE EMPLOYER.]

(b) The notice shall be in writing, on the form prescribed by the board or on any form which contains the name and address of the employee, and a statement of the time, place, nature, and cause of the injury or death, and be signed by the employee or by a person on his behalf, or in the case of death, by a person claiming to be entitled to compensation for the death or by a person on his behalf.

(c) Notice shall be given to the board by delivering it or sending it by mail addressed to the board's office, and to the employer by delivering it to him or by sending it by mail addressed to him at his last known place of

business. If the employer is a partnership, the notice may be given to a partner, or if a corporation, the notice may be given to an agent or officer upon whom legal process may be served or who is in charge of the business in the place where the injury occurred.

(d) Failure to give notice does not bar a claim under this chapter

1. if the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier had knowledge of the injury or death and the board determines that the employer or carrier has not been prejudiced by the failure to give notice;

2. if the board excuses the failure on the ground that for some satisfactory reason notice could not be given. However, when the delay in giving notice is so excused, notwithstanding the provisions of AS 23.30.120, the burden of proof as to the validity of the claim shall shift to the employee who shall be required to show evidence of independent substantiation of the facts pertaining to the occurrence;

3. unless objection to the failure is raised before the board at its first hearing of a claim for benefits in respect to injury or death.

(e) The division shall monitor the furnishing of compensation by the employer or carrier to ascertain that correct benefits are being furnished in cases accepted as compensable injuries. In the event of controversion or a dispute and the filing of a claim, the division shall attempt to resolve the dispute promptly in accordance with AS 23.30.110.

(f) When a claimant has the right or is required to mail a notice within the times prescribed in subsection (a), such mailing will be completed and in compliance with this section if it is postmarked and mailed prepaid to the appropriate recipient prior to the expiration of the timeframes in this section.

(g) Any compensable wage loss shall be reported by the employee to the carrier or self-insured employer within 30 days after the termination of the month for which such loss is claimed. The division shall provide by regulation for the reporting of wage loss by the injured worker, and for the reporting of wage loss and payment of wage loss benefits by the employer, to the division, and may prescribe forms for such reporting. The division, upon request by the employer or carrier, shall provide verification through unemployment compensation records of any claimed wage loss and shall obtain such verification from other states, if applicable. The division shall

require by regulation that the employer inform a worker who suffers a permanent impairment of his possible entitlement to wage-loss and other benefits and of the worker's obligation to report a claimed wage loss.

AS 23.30.105
TIME FOR FILING OF CLAIMS

Problems and Solutions:

1. This section allows claims for benefits to be filed for virtually an unlimited period of time after the original injury causing rates for compensation to be excessive. A review of workers' compensation statutes from other jurisdictions reveals many states support a one-year period (No. Dakota, Tennessee, Washington, Connecticut, Wyoming) but the majority have adopted a two year statute. The two (2) year time limit is also consistent with Alaska tort law. The Workmen's Compensation and Rehabilitation Law, Revised, utilizes a three (3) year period and its wording has been adopted by many states with a revision reducing the time to 2 years.

Whether the time period should run from the date of injury or after the employee has knowledge of the nature of his disability and its relation to his employment and after disablement is also in question. A survey of state statutes indicates overwhelming support for the date of injury as starting the period of time limitation. In addition, the Workmen's Compensation and Rehabilitation Law, Revised utilizes the date of injury.

ACE supports a two (2) year period starting with the date of injury but advocates an unlimited time period for occupational diseases. Additionally, we support a two (2) year period after the last payment of compensation or medical and related benefits.

2. A claim for medical and related benefits (not included in the definition of compensation) has no limit. Insert "medical and related benefits" and apply a two year limitation.

Justification:

Workmen's Compensation and Rehabilitation Law, Revised, Section 27, page 34.

Recommendation:

Sec 23.30.105 TIME FOR FILING OF CLAIMS

(a) The right to compensation for disability, wage-loss, impairment, or medical and related benefits under this chapter is barred unless a claim for it is filed within two years after the [EMPLOYEE HAS KNOWLEDGE OF THE NATURE OF HIS DISABILITY AND ITS RELATION TO HIS EMPLOYMENT AND AFTER DISABLEMENT. HOWEVER, THE MAXIMUM TIME FOR FILING THE CLAIM IN ANY EVENT OTHER THAN ARISING OUT OF AN OCCUPATIONAL DISEASE SHALL BE FOUR YEARS FROM THE] date of injury, and the right to compensation for death is barred unless a claim therefore is filed within one year after death. Except that if payment of compensation or medical and related benefits has been made without an award on account of the injury or death, a claim may be filed within two years from the date of the last payment. It is additionally provided that, in the case of a latent injury [DEFECTS PERTINENT TO AND CAUSING COMPENSABLE DISABILITY], the injured employee has full right to claim as shall be determined by the board, time limitations notwithstanding.

(b) Failure to file a claim within the period prescribed in (a) of this section is not a bar to compensation unless objection to the failure is made at the first hearing of the claim in which all parties in interest are given reasonable notice and opportunity to be heard.

(c) If a person who is entitled to compensation under this chapter is mentally incompetent or a minor, the provisions of (a) of this section are not applicable so long as he has no guardian or other authorized representative, but are applicable in the case of a person who is mentally incompetent or a minor from the date of appointment of a guardian or other representative, or in the case of a minor, if no guardian is appointed before he becomes of age, from the date he becomes of age.

(d) If recovery is denied to a person, in a suit brought at law or in admiralty to recover damages in respect to injury or death, on the ground that he was an employee and that the defendant is an employer within the meaning of this chapter and that the employer as secured compensation to the employee under this chapter, the limitations of time prescribed in (a) of this section begins to run only from the date of termination of the suit.

AS 23.30.110
PROCEDURE ON CLAIMS

Problems and Solutions:

1. It is possible to request a board hearing without having requested the benefit from the employer. Rehabilitation programs are often brought to the board for approval without confirming with the employer. Some aspects of compensation are arbitrary, and requesting the benefit from the employer first, before filing for a board hearing would encourage negotiations and compromise. Board hearings are expensive. Compensation is paid during the request period, attorney fee's are incurred by both sides, and the desired benefit is delayed. ACE's desire is to reduce the cost of compensation, in part, by reducing the number of board hearings. The solution is to require that a request for a board hearing be attached to a request for a benefit and a formal denial of the benefit requested.

2. Board hearings are ordered when negotiating differences might result in immediate delivery of benefits and the resulting cost savings realized by all employers. The solution is to require the Workers' Compensation Division to staff with employees familiar with workers' compensation benefit entitlements. When a controversy develops, have both sides discuss the controversy and attempt to settle differences. The negotiation sessions have to be approved by both the employer and employee, as their right to a hearing before the board should be preserved. The negotiations should be confidential and not be passed to any member of the board. Statutorily creating this section on negotiating will inform employees of this benefit. It will not create claims, as a benefit has to be requested from the employee, and the employer has to deny the benefit. Only then can a request for a board hearing be submitted which initiates the negotiation process.

3. Allegations that board decisions are inordinately delayed by the board or attorneys are not documented, but cases often take excessive periods of time. Benefits are based upon time, therefore time is very expensive, especially at $942 per week in 1982. The actual reasons for delays are not documented. The solution is to require the Worker's Compensation Board to report to key individuals the facts pertaining to hearings not settled within the time period required to obtain sufficient facts to determine and treat the causes of overdue decisions.

Justifications:

1. Adopted from Florida Workers' Compensation Act, 440.25(1).
2. Adopted from Florida Workers' Compensation Act, 440.19(1).
3. Recommended by ACE and adopted from wording in Florida Worker's Compensation Act, 440.25(d).

Recommendation:

AS 23.30.110 PROCEDURE ON CLAIMS

(a) Subject to the provisions of AS 23.30.105, a claim for compensation may be filed with the board at any time after a notice to controvert is filed by the employer or carrier or at any time after a specific benefit becomes due and is not provided. The board shall have full power and authority to hear and determine all questions presented in respect to such claims. [IN ACCORDANCE WITH ITS REGULATIONS AT ANY TIME AFTER THE FIRST SEVEN DAYS OF DISABILITY FOLLOWING AN INJURY, OR AT ANY TIME AFTER DEATH, AND THE BOARD MAY HEAR AND DETERMINE ALL QUESTIONS IN RESPECT TO THE CLAIM.]

(b) Within 10 days after a claim is filed the board, in accordance with its regulations, shall notify the employer and any other person (other than the claimant) whom the board considers an interested party that a claim has been filed. The notice may be served personally upon the employer or other person, or sent by registered mail.

(c) The board shall make the investigation which it considers necessary in respect of the claim, and upon application of an interested party shall order a hearing on it within 90 days from the receipt of the request. If a hearing on a claim is ordered the board shall give the claimant and other interested parties at least 20 [10] days' notice of the hearing, served personally upon the claimant and other interested parties or sent by registered mail, and shall, within 30 [20] days after the hearing is held [had], by order, reject the claim or make an award in respect to it. If a hearing is continued by the board, additional notice is not required under this subsection. [IF NO HEARING IS ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN RESPECT TO IT.]

(d) At the hearing the claimant and the employer may each present evidence in respect to the claim and may be represented by any person authorized in writing for that purpose.

(e) The order rejecting the claim or making the award (referred to in this chapter as a compensation order) shall be filed in the office of the board, and a copy of it shall be sent by registered mail to the claimant and to the employer at the last known address of each.

(f) An award of compensation for disability may be made after the death of an injured employee.

(g) An injured employee claiming or entitled to compensation shall submit to the physical examination by a duly qualified physician which the board may require. The place or places shall be reasonably convenient for the employee. [THE PHYSICIAN OR PHYSICIANS AS THE EMPLOYEE, EMPLOYER, OR CARRIER MAY SELECT AND PAY FOR MAY PARTICIPATE IN AN EXAMINATION IF THE EMPLOYEE, EMPLOYER, OR CARRIER SO REQUESTS.] Proceedings shall be suspended and no compensation may be payable for a period during which the employee refuses to submit to examination.

(h) Upon receipt by the board, every claim for compensation and medical and related benefits filed under this chapter shall be evaluated by the division to ascertain, within 20 days after the filing of a claim, whether the claim can be resolved without a hearing by contacting the employer and employee and inviting both to a confidential meeting in an attempt to resolve the issues. No member of the board may be present nor will any part of the negotiation be made known to any other person not in attendence. Both parties must consent in writing to the meeting and neither party may utilize the services of counsel in the meeting. If an agreement is reached between the parties each party will agree in writing to a dismisal of the claim. If no agreement is reached the division will inform the board that the parties met to negotiate the dispute without resolving the issues.

(i) Each panel chairman is required to submit a special report to the division in each contested workers' compensation case in which the case is not determined within 30 days of final hearing. Said form shall be provided by the division and shall contain the names of the panel chairman and the attorneys involved, and a brief explanation by the panel chairman as to the reason for such a delay in issuing a final order. The division will compile these special reports into an annual public report to the Governor, the Commissioner, and the Legislature.

AS 23.30.120
PRESUMPTIONS

Problem and Solution:

Although workers' compensation is a no-fault law, it is not a prerequisite that the employee be protected by a presumption of compensibility on every claim submitted. Modern no-fault auto insurance does not have a blanket presumption of coverage clause. The facts of an injury should substantiate the payment of disability compensation, and if the facts surrounding an injury are in dispute, it is the duty of the board to interpret the facts. When fraudulent claims are submitted under the cover of the presumption, the employer must show substantial evidence of non-compensibility; almost an impossible task as required by the board and courts. In applying a liberal construction to the Workers' Compensation Act, the liberal attitude should be applied to the law, not to the evidence offered to support a claim by virtue of the law. Many jurisdictions hold that awards of compensation cannot be based on speculation or conjecture evidence, but must be based upon sufficient evidence showing that the disability was the result of an accident arising out of and in the course of employment.

The existing statute appears to have been copied from the Workmen's Compensation and Rehabilitation Law, and edited. ACE restored the deleted wording in its recommendation which creates a presumption only for those who are unable to testify as to the facts surrounding the occurrence of a claim.

The State of Idaho utilizes this wording in their section on presumptions without ill effects. The National Council on Compensation Insurance (NCCI) continually compares Idaho, Washington, Oregon, California and Montana with Alaska. Alaskan employees submit 65 percent more claims than Idaho employees and these variations between statistics could in part be the result of the wording in the presumption clause. Denying claims which cannot be substantiated by the facts will not leave an employee destitute as non-occupational benefits also fully protect employees.

Justification:

1. Copied verbatim from Workmen's Compensation and Rehabilitation Law, Revised, Section 9, page 8.

Recommendation:

Sec. 23.30.120 PRESUMPTIONS

In any claim for compensation, where the employee has been killed, or is physically or mentally unable to testify, and there is unrebutted prima facie evidence that indicates that the injury arose in the course of employment, [IN A PROCEEDING FOR THE ENFORCEMENT OF A CLAIM FOR COMPENSATION UNDER THIS CHAPTER] it shall be [IS] presumed in the absence of substantial evidence to the contrary, that

(1) the injury arose out of the employment [CLAIM COMES WITHIN THE PROVISIONS OF THIS CHAPTER];

(2) sufficient notice of the injury [CLAIM] has been given;

(3) the injury or death was not occasioned while the employee was under the influence of alcohol or a controlled substance [SOLELY BY THE INTOXICATION OF THE INJURY EMPLOYEE]; and

(4) the injury was not occasioned by the willful intention of the injured employee to injure or kill himself or another.

AS 23.30.145
ATTORNEY FEES

Problems and Solutions:

1. Employers strenuously object to paying attorney fees based upon the full award of the board when a portion of the award pertains to non-contested benefits. It is their belief that the fees should be awarded only upon the actual benefit gained in the hearing that wasn't offered prior to the hearing. A number of states, including Florida, have adopted provisions concerning the payment of attorney fees which parallel the Workmen's Compensation and Rehabilitation Law, Revised, which awards fees based upon the whole award if compensation was controverted, or that part of the award which was not previously offered by the employer. ACE recommends the adoption of the essence of the provisions of the Workmen's Compensation and Rehabilitation Law, Revised.

2. Attorney fees should be paid in a lump sum, not periodically. ACE supports the payment of attorney fees in a lump sum as allowed by Florida and many other states and recommended by the Workmen's Compensation and Rehabilitation Law, Revised.

Justification:

1. Workmen's Compensation and Rehabilitation Law, Revised, Section 42, page 42.

2. Florida Workers' Compensation Act, 440.34.

Recommendation:

Sec. 23.30.145 ATTORNEY FEES

(a) Fees for legal services rendered in respect to a claim are not valid unless approved by the board, and the fees may not be less that 25 per cent on the first $1,000 of compensation or part of the first $1,000 of compensation, and 10 per cent of all sums in excess of $1,000 of compensation. [WHEN THE BOARD ADVISES THAT A CLAIM HAS BEEN CONTROVERTED, IN WHOLE OR IN PART, THE BOARD MAY DIRECT THAT THE FEES FOR LEGAL SERVICES BE PAID BY THE EMPLOYER OR CARRIER IN ADDITION TO COMPENSATION AWARDED: THE FEES MAY BE ALLOWED ONLY ON THE AMOUNT OF COMPENSATION CONTROVERTED AND AWARDED. WHEN THE BOARD ADVISES THAT A CLAIM HAS NOT BEEN CONTROVERTED, BUT FURTHER ADVISES THAT A BONA FIDE LEGAL SERVICES HAVE BEEN RENDERED IN RESPECT TO THE CLAIM, THEN THE BOARD SHALL DIRECT THE PAYMENT OF THE FEES OUT OF THE COMPENSATION AWARDED.]

(b) Except as provided in (c) of this section, if an employer declines to pay any compensation on the ground that there is no liability for compensation under this chapter, or [(b) IF AN EMPLOYER FAILS TO FILE TIMELY NOTICE OF CONTROVERSY OR FAILS TO PAY COMPENSATION OR MEDICAL AND RELATED BENEFITS WITHIN 15 DAYS AFTER IT BECOMES DUE, OR] otherwise resists the payment of compensation or medical and related benefits, and if the claimant has employed an attorney in the successful prosecution of his claim, the board shall make an award to reimburse the claimant for his costs in the proceedings, including a reasonable attorney fee. The award is in addition to the compensation or medical and related benefits ordered and shall be paid after final decision directly by the employer or carrier to the attorney for the claimant in a lump sum.

(c) If an employer pays or tenders payment of compensation, but contests the amount of compensation due, and the person seeking benefits utilizes the services of an attorney and an order is made or an agreement is reached thereafter on the amount of compensation due which is greater than the amount paid or tendered by the employer, a reasonable attorney's fee based

soley upon the difference between the amount ordered and the amount tendered or paid shall be ordered in addition to the amount of compensation, which shall be paid directly by the employer or carrier to the attorney for the claimant in a lump sum.

(d) In determining the amount of fees the board shall take into consideration the nature, length and complexity of the services performed, transportation charges, and the benefits resulting from the services to the compensation beneficiaries.

(e) If proceedings are had for review of a compensation or medical and related benefits order before a court, the court may allow or increase an attorney's fees. The fees are in addition to compensation or medical and related benefits ordered and shall be paid as the court may direct.

AS 23.30.155
PAYMENT OF COMPENSATION

Problems and Solutions:

1. Failure to notify the board within a given time period of a change in the amount of benefit paid, automatically subjects the employer or carrier to a fine of $100 plus $25 for each day late, a maximum fine of $2,500 on each claim. ACE believes penalties should be levied when the failure to do something results in damage to an interested party, not because an office clerk mislaid some correspondence. ACE recommends that the board "may" assess a penalty rather than "shall" assess a penalty, and that it only be assessed "if the failure to notify the board causes significant financial hardship to the employee".

2. An employer cannot recover overpayments inadvertently made to a claimant. Subsection (j) should include recovery of overpayments out of future installments due the employee.

3. Lump sum payment of awards provides a positive incentive, a pot-of-gold, for each employee to aim for when appropriate. Adequate testimony was presented before the committee to support the multiple incentives created by the existence of cash awards. The Workers' Compensation Board supports the conclusion that lump sum awards are generally not in the employee's best interest if truly injured. Additionally, the payment of a lump sum does not discharge the employer's liability for future medical treatment. The

Workers' Compensation Board supports the general discouragement of lump sum awards. ACE concurs but believes lump sum awards are appropriate only when the employee incurs the loss of a member (arm, leg, hand, foot) as provided in the recommended AS 23.30.190(a). In other situations, lump sum payments are appropriate "only under special circumstances as when the claimant can demonstrate that lump sum payments will definitely aid in his rehabilitation or are otherwise clearly in his best interest and that lump sum payments will avoid undue expense or undue hardship to any party". The payment of future liability in a lump sum will also include future medical expense, closing the claim forever. A lump sum payment will not be payable before six months after the employee reaches the date of maximum medical improvement, thereby precluding the utilization of a lump sum payment in contested medical cases. Application to the board for approval of a lump sum payment requires the parties to first agree to the amount and to jointly petition the board.

4. Compensation can only be paid by a check. Companies prefer to utilize a draft, however not all drafts are payable immediately. Subsection (o) provides for the payment of compensation by a draft, providing however, that the draft be cashable at any bank the day after it is received by the employee.

Justification:

1. ACE recommendation.
2. ACE recommendation.
3. Florida Worker's Compensation Act, Section 440.20(12) (a) and (b).
4. Division of Workers' Compensation, Department of Labor, H.B. 159.

Recommendation:

Sec. 23.30.155 PAYMENT OF COMPENSATION

(a) Compensation under this chapter shall be paid periodically, promptly, and directly to the person entitled to it, without an award, except where liability to pay compensation is controverted by the employer. To controvert a claim the employer must file a notice, on a form prescribed by the board, stating:

(1) that the right of the employee to benefits are controverted;

(2) the name of the employee;

(3) the name of the employer;

(4) the date of the alleged injury or death; and

(5) the type of benefits and all grounds upon which the right to benefits are controverted.

(b) The first installment of compensation becomes due on the 14th day after the employer has knowledge of the injury or death. On this date all compensation then due shall be paid. Subsequent compensation shall be paid in installments, every 14 days, except where the board determines that payment in installments should be made monthly or at some other period.

(c) Upon making the first payment, and upon an increase, reduction, termination, suspension, resumption or a change in rate or type of compensation paid, the employer shall notify the board within 14 days, on a form prescribed by the board, that payment of compensation has begun or has been increased, reduced, terminated, resumed, changed, or suspended, as the case may be. If the employer fails to notify the board within 14 days, the board may [SHALL] assess against the employer a civil penalty of $100 plus $25 for each day in excess of 14 days that the employer fails to give notice if the failure to notify the board causes significant financial hardship to the employee. Total penalties under this section may not exceed $2,500 for each failure to file a required report.

(d) If the employer controverts the right to compensation he shall file with the board on or before the 14th day after he has knowledge of the alleged injury or death or on or before an installment of compensation payable without an award is due, a notice of controversion on a form prescribed by the board.

(e) If any installment of compensation payable without an award is not paid within 14 days after it becomes due, as provided in (b) of this section, there shall be added to the unpaid installment an amount equal to 20 per cent of it, which shall be paid at the same time as, and in addition to, the installment, unless notice is filed under (d) of this section or unless the nonpayment is excused by the board after a showing by the employer that owing to conditions over which he had no control the installment could not be paid within the period prescribed for the payment.

(f) If compensation payable under the terms of an award is not paid within 14 days after it becomes due, there shall be added to that unpaid

compensation an amount equal to 20 per cent of it, which shall be paid at the same time as, but in addition to, the compensation, unless review of the compensation order making the award is had as provided in AS 23.30.125 and an interlocutory injunction staying payments is allowed by the court.

(g) Repealed

(h) The board may upon its own initiative at any time in a case in which payments are being made with or without an award, where the right to compensation is controverted, or where payments of compensation have been increased, reduced, terminated, changed, or suspended, upon receipt of notice from a person entitled to compensation or from the employer, that the right to compensation is controverted, or the payments of compensation have been increased, reduced, terminated, changed, or suspended, make the investigations, cause the medical examinations to be made, or hold the hearings, and take the further action which it considers will properly protect the rights of all parties.

(i) When the board considers it advisable it may require an employer to make a deposit with the Department of Revenue to secure the prompt and convenient payment of compensation and payments from the deposit upon an award shall be made upon order of the board.

(j) If an employer has made advance payments or overpayments of compensation, he is entitled to be reimbursed out of any unpaid installment or installments of compensation due.

(k) An injured employee, or in case of death his dependents or personal representative, shall give receipts for payment of compensation to the employer paying it and the employer shall produce them for inspection by the board, whenever required.

(l) Repealed

(m) An employer shall file on or before the date one year from the date of injury or upon termination of the claim whichever is sooner, a report on a form prescribed by the board, showing the total amount of all compensation, medical and related benefits, legal fees, and penalties paid during the period since the injury including the name of the claimant, the date of injury, and the claim number. If the claim is not terminated within one year, subsequent reports shall be made yearly until the termination of the claim.

(n)(1) It is the stated policy for the administration of the workers' compensation system that it is in the best interest of the injured worker that he receive disability payments on a periodic basis, and that a lump sum settlement shall be the exception rather than the rule. Lump sum payments in exchange for the employer's or carrier's release for liability for future payments of compensation and medical attendance shall be allowed only under special circumstances, as when the claimant can demonstrate that lump sum payments will definitely aid in his rehabilitation or are otherwise clearly in his best interests and that lump sum payments will avoid undue expense or undue hardship to any party. In no case shall a lump sum payment be allowed until 6 months after the date of maximum medical improvement has been reached.

(2) Upon the joint petition of the interested parties, and after giving due consideration to the interest of the parties, if the Board finds that a lump sum payment in exchange for a release from liability is in their best interest under paragraph 1, the Board will enter a compensation order requiring that the liability of the employer for compensation and medical and related benefits shall be discharged by the payment of a lump sum.

(o) Compensation owed to an injured employee in the state shall be paid by a check or draft which may be cashed on the first banking day after it is received by the employee and on any succeeding banking day.

AS 23.30.175
RATES OF COMPENSATION

Problems and Solutions:

1. This section was compatible with our proposal as written, however, the Workers' Compensation Division recommended in H.B. 159 a complete re-wording of a major portion of the section in order to treat out-of-state recipients of compensation more fairly. These changes have been incorporated into our recommended change.

2. Subsections (e) and (f) were added which deal with the rounding off of compensation benefit payments to the nearest dollar, and the multiple to be used to convert weekly benefits to monthly benefits. These changes were made to facilitate the administration of the new benefits.

Justifications:

1. Division of Worker's Compensation, H.B. 159.
2. ACE recommendation.

Recommendation:

Sec. 23.30.175 RATES OF COMPENSATION

(a) The weekly rate of compensation for disability or death for a recipient residing in Alaska may not exceed 200 per cent of the Alaska average weekly wage in effect on the date of injury, nor be less than $65 per week.

(b) After June 30 and before December 1 of each year, the commissioner shall adopt and publish the average weekly wage for the preceeding calendar year as computed by the United States Secretary of Labor for the purpose of unemployment insurance. In determining the rate of compensation the commissioner shall use the average weekly wage figure for each jurisdiction, including Alaska, for which the Secretary of Labor computes an average weekly wage. These figures are the applicable average weekly wages for those jurisdictions for the following calendar year. The average weekly wage for Alaska is the amount determined by dividing (1) the total wages paid by all employers covered by the Alaska Employment Security Act by (2) the average monthly employment reported by those employers for the same period and dividing the result by 52.

(c) In jurisdictions for which no average weekly wage is computed by the Secretary of Labor for the purposes of unemployment insurance, the average weekly wage shall be as determined by the commissioner.

(d) The following rules apply to recipients who do not reside in Alaska:

(1) The weekly rate of compensation shall be calculated using the recipient's average weekly wage times the ratio of the average weekly wage of the jurisdiction in which the recipient resides to the average weekly wage of Alaska. The rate is based on the average weekly wage in effect when the recipient leaves Alaska and shall be adjusted annually upon publication of the average weekly wage for all jurisdictions.

(2) If the average weekly wage of the recipient and the resulting compensation rate is determined under AS 23.30.220(2), the calculation required by this subsection applies to only those wages earned in Alaska.

(3) The calculation required by this subsection does not apply if the absence of the recipient is for medical or rehabilitation services not reasonably available in Alaska.

(4) Application of this subsection may not result in a reduction of the weekly compensation rate to less than $65 a week except as provided in (a) of this section.

(e) All payments of compensation shall be adjusted to the nearest dollar.

(f) The monthly wage-loss benefits shall not exceed 4.3 times the maximum weekly benefit as computed pursuant to paragraph (a).

AS 23.30.180
PERMANENT TOTAL DISABILITY

Problems and Solutions:

1. What losses or permanent impairments shall be presumptively considered to constitute permanent total disability? The argument for including the loss of both arms, both hands, both legs, etc. in the permanent total section, and creating a presumption that they constitute permanent total disability, is a weak argument as evidenced by the Work Draft Paper on H.B. 159 issued November 23, 1981 by the State of Alaska. This draft completely omitted the so-called shopping list. The list was retained in our recommendation mainly to avoid confrontation with advocates of retaining the list and we did require "conclusive proof" of a substantial earning capacity to avoid the award. This should prove a more difficult test than the mere showing of "conclusive proof to the contrary". All other cases, as in the past, are determined by the facts as interpreted by the board. A substantial earning capacity as defined in AS 23.30.265 "means that an employee is engaged in, or is physically capable of engaging in, gainful employment, including light work."

We do not contemplate a major cost reduction in the permanent total classification as this class represents a very minor portion (.81 percent) of total claims. The NCCI reports permanent total disability cost accounts for 3.7 percent of all compensation costs, so any change in this area will not have a large impact. (see Exhibit (II)

2. If an employee is drawing permanent total disability and subsequently develops an earning capacity, do payments of permanent total continue? The Alaskan Workers' Compensation Act does not preclude an employee who has been awarded permanent total disability status from subsequently obtaining employment. There is a reported, but unconfirmed, case where a resident has been awarded the permanent total disability status three times in his life. The dollars available for compensation are not infinite, and our recommendation clearly takes advantage of those cases where time and rehabilitation, and the employee's own incentives, have combined to produce an earning capacity. In the ACE recommendation, when an employee develops an earning capacity after being awarded permanent total disability benefits, the permanent total benefit will stop and wage-loss benefits will continue from that point on. The benefit computation is the same, but the wage-loss benefit is reduced by earnings and can extend for as long as 10 years.

3. Inflation has severely eroded the spending power of recipients who have been awarded permanent total benefits in the past. Testimony before the Committee indicates a real need for cost of living increases. It appears justified to include a cost of living clause in the permanent total disability section, as to do otherwise is gross neglect of the industrially injured. A cost of living increase has to be stated in terms that are actuarily computable or else the rating mechanism is thrown off balance, and rates have to be packed with extra contingency dollars. An annual increase of 5 percent of the original benefit is an acceptable increase. The inclusion of this benefit is a first step toward addressing the cost of living problem, and future legislators may want to liberalize this percentage in the future as compensation dollars become more plentiful.

Justification:

1-3 The permanent total disability sections of numerous state laws were researched as well as the complete review of Larson, Workers' Compensation Law. The Florida statutes provide the best guidance for wording and also their interpretation by the court was extensively documented to provide guidance to Alaskan's who will test these same issues in the Alaska courts.

Florida Workers' Compensation Act, Section 440.15(1).

Recommendation:

Sec. 23.30.180 PERMANENT TOTAL DISABILITY

(a) In case of total disability adjudged to be permanent, 80 [66 2/3] per cent of the injured employee's spendable [AVERAGE] weekly wages shall be paid to the employee during the continuance of the total disability.

(b) Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two of them, or paraplegia, or quadriplegia, in the absence of conclusive proof of a substantial earning capacity, [TO THE CONTRARY] constitutes permanent total disability. In all other cases permanent total disability is determined in accordance with the facts. In such other cases, no compensation shall be payable under paragraph (a) if the employee is engaged in, or is physically capable of engaging in, gainful employment, and the burden shall be upon the employee to establish that he is not able uninterruptedly to do even light work due to physical limitation.

(c) If an employee who is being paid compensation for permanent total disability shall become rehabilitated to the extent that he shall establish an earning capacity, he shall be paid instead of the compensation provided in paragraph (a), wage-loss benefits pursuant to AS 23.30.190(b). The division shall adopt rules to enable a permanently and totally disabled employee, who may have established an earning capacity to undertake a trial period of reemployment without prejudicing his return to permanent total status in the case that such employee is unable to sustain an earning capacity.

(d) In case of permanent total disability resulting from an accident incurred subsequent to the effective date of this section, the employee shall be entitled to receive additional weekly compensation equal to 5 per cent of the employees' weekly compensation rate at the time of the injury. Such additional 5 per cent benefit will accrue 12 months from the date of the award and each 12 month period thereafter.

(e) The division shall provide by regulation for the periodic reporting to the division of all earnings of any nature and social security income by the injured employee entitled to or claiming benefits for permanent total disability or additional compensation under paragraph (d). Neither the employer or carrier shall make any payment of the permanent total disability

or additional compensation under paragraph (d) for any period during which the employee willfully fails or refuses to report upon request by the division, employer, or carrier in the manner prescribed by said regulations.

(f) Two years after the date the employee is eligible to receive permanent total disability and every two years thereafter, the employer or carrier will re-evaluate the employee's physical condition to ascertain the employee's capacity for rehabilitation to develop an earning capacity. The employer or carrier will report such findings to the Board along with their recommendation for rehabilitation, if any.

AS 23.30.185
TEMPORARY TOTAL DISABILITY

Problem:

This section is not in need of revision except for changing average weekly wage to spendable weekly wage which is discussed in Section 220, to follow.

Recommendation:

Sec. 23.30.185 TEMPORARY TOTAL DISABILITY

(a) In case of disability total in character but temporary in quality, 80 [66 2/3] per cent of the injured employee's spendable [AVERAGE] weekly wages shall be paid to the employee during the continuance of the disability.

AS 23.30.190
COMPENSATION FOR PERMANENT PARTIAL DISABILITY

Preface:

The revision of this section of the statute is the most important revision of the recommendation, as it completely changes the entire philosophy of Alaskan Workers' Compensation from one that currently compensates for loss of earning capacity to one based upon compensation for actual economic loss. The only state to accomplish this change to date is Florida, however Louisiana, Washington, Oregon, and Delaware tried to pass the same program last year and will attempt again this year.

ACE selected a wage-loss program to meet it's goals; in fact the benefits

received by the employee who is truly injured is far greater under wage-loss than under the existing program.

The one factor that prompted the decision to utilize wage-loss is the high cost of the permanent partial disability cases in Alaska as compared to other states. Our existing compensation law is virtually the same as other state laws in this area, and what has been found to be fact in other jurisdictions is presumed at this time to be true in Alaska. The same claim survey that verified the facts in other states is being concluded here and the results will be available in early 1982. Surveys in other states with similar laws show that an average 70 percent of the employees who are compensated under the permanent partial disability section for presumed loss of future wage earning capacity, actually incur no economic loss after payment of the award. Seventy percent of the employees return to the same job, same pay, same or different employers. Alaskan employers no longer have sufficient dollars to pay employees who incur no economic loss when others are not paid enough.

The cost savings inherent in a wage-loss program are obtained by re-distributing those dollars. Florida used them to obtain a 36.4 percent rate reduction and also increased the maximum weekly benefit from 66 2/3rds percent of the states average weekly wage to 100 percent of the states average weekly wage, a 50 percent increase. Because Alaska is already at 200 percent of the average weekly wage, that benefit will not be increased. The savings will however, be directed toward increasing benefits for permanently impaired workers who were formerly compensated under the permanent partial disability schedule of benefits, and for employer rate reductions.

A common perception an analyst of workers' compensation systems is that the severly injured are under compensated and the slightly injured are over compensated. This should no longer be true under a wage-loss program. Loss, as defined by the worker on the street, is loss of dollars in the weekly paycheck as the impact is obvious. Loss, as understood by the worker on the street, is not the theoretical loss of some future wage earning capacity. Compensation for the later loss is a windfall to many and no longer affordable by employers in Alaska.

Problems:

Scheduled Benefits

- Insufficient compensation for loss of scheduled impairments. The loss of an arm to two workers earning the same wages is equal, but the impact to an electrical lineman is far more severe than to an executive in terms of future wage earning capacity.
- The loss of one member qualifies employee for a scheduled benefit of a certain amount for a certain number of weeks. No provision for a lump sum payment. In order to obtain a lump sum, the employee normally must hire an attorney to negotiate a sum less than the amount of the benefit times the number of weeks entitlement (present value). Employees loose; attorneys gain; employers pay.
- Benefit entitlement has no direct relationship to economic loss.
- The need for an attorney to collect the benefit creates an adversary environment not consistent with a no-fault program.
- The actual value of the benefit is reduced annually by inflation, requiring periodic legislative adjustment.

Unscheduled Benefits:

- The predominate impairment in this category is the common back injury.
- Most cases require the utilization of an attorney to advise the employee on how to obtain the maximum benefit. The employee with the best attorney receives more than a person utilizing no attorney or one who is slightly less than best.
- Appointments for medical examinations are missed to prelong payment of temporary total disability prior to settling the permanent partial disability loss for a lump sum (lump sum payment is authorized for unscheduled losses).
- Maximum compensation under this section is $60,000 regardless of the employee's actual economic loss resulting in approximately 10 - 30 percent of all employees being under compensated.
- Disability ratings are largely subjective encouraging over utilization of the medical profession in seeking higher ratings.
- No uniform standard of rating by physicians.

Solutions:

The section has been reworded making a dual benefit, permanent impairment and wage-loss.

The portion dealing with permanent impairment is comparable to the existing scheduled benefit. A true or 100 percent wage-loss program would not include this benefit as it is not based upon actual wage loss, but is a concession to those that historically place a value upon a lost arm or leg. The amount of dollars paid under the impairment subsection are not directly comparable to the existing scheduled benefits. Under the existing permanent partial schedule, that is all the employee receives, regardless of his future economic loss. Under the impairment subsection, a sum of money is paid in cash and any actual wage-loss over the next 10 years is also paid pursuant to subsection (b), Wage-Loss.

Under the existing schedule a person who lost an arm will receive a maximum of $43,680 (paid monthly). Under the recommended impairment schedule the employee would receive a 60 percent whole man disability rating entitling him to $471 X 60 = $28,260, PLUS 80 percent of the employee's actual decrease in wages over the next 10 years, which could equal as much as $489,840 if he incurred a 100 percent wage loss. A total sum of $518,100 ($489,840 + $28,260) is considerably higher than $43,680, the existing benefit. Critics of this low lump sum schedule should not forget that employer and union group life insurance plans also pay dismemberment benefits for the loss of an arm or leg.

Exhibit IV lists the major impairments listed in the subsection on impairments and lists the percentage of disability assigned as provided in the recommendation, and the cash benefit resulting from the application of the 1982 State Average Weekly Wage.

When a loss occurs which entitles the employee to a cash award, the award is due after the employee reaches maximum medical improvement. This period could be called the healing period and during this time, the temporary total disability benefit is payable (80% of spendable weekly wage).

The method employed in determining the employees disability or impairment rating is objective rather than subjective thereby eliminating doctor shopping for higher ratings. The AMA's Guide to the Evaluation of Permanent Impairment is reproduced in part in Exhibit V, and is easy to use and acceptable to all medical doctors. Both Florida and Kentucky have adopted its use to resolve numerous problems similar to Alaska's.

It should also be noted that the cash payments authorized in the impairment subsection of the recommendation allow payment of the benefit for those double losses (both arms, both legs) which carry a presumption of total disability as discussed in a preceding section on permanent total disability. The existing statute does not pay the cash benefit for the multiple member losses which constitute permanent and total disability, plus pay the permanent total benefit.

In summary, the recommended impairment subsection is clear and concise, allowing the average worker to determine the exact benefit to which he is entitled without the necessity of employing an attorney. Additionally, each year as the state average weekly wage increases, this benefit will keep pace with inflation.

The wage-loss section entitles the injured worker to a replacement of wages lost subsequent to an accident when the employee has incurred a permanent impairment. The permanent impairment may or may not have entitled the employee to a cash award under the impairment provisions of subsection (a) as discussed above. If the loss was one that is "scheduled" or named in the impairment section, both the lump sum cash benefit and the wage-loss benefit are payable. If the loss is not named in the impairment subsection, only the wage-loss benefit is due.

The weekly benefit is easily computed by subtracting post injury spendable weekly wages from pre-injury spendable weekly wages, and the benefit payable is 80 percent of that difference.

The most predominate loss occurring will be the back injury as it was with the non-scheduled permanent partial disability section previously discussed. However, no impairment ratings from physicians will be necessary again eliminating the need for "doctor shopping". To prevent the employee from attempting to extend the period of entitlement, when the employee reaches the date of maximum medical improvement, benefits are likely to be reduced by actual wages earned, or if no employment is available, by the unemployment benefit, or by the dollar value of his earning capacity if he were to accept employment.

The wage-loss benefit can continue for a period of 10 years, but eligibility is terminated if during a 2 year period its use is less than for 3 consecutive months.

Justification:

The guide for the recommendation on permanent impairment and wage-loss has been the Florida Workers' Compensation Act, Section 440.15(3). The overwhelming support of the business community and the predominate labor union, the AFL-CIO, have made it a success.

The success of the Florida Wage-Loss System is well documented in the 1981 NCCI report entitled, "Preliminary Report on the Wage-Loss Law in Florida", (Exhibit VI) and a similar report entitled "Florida's New Workers' Compensation System: An Interium Report, dated March 1981 with October 1981 Addendum, prepared by the Bureau of Economic Analysis, Division of Economic Development, Florida Department of Commerce. (Exhibit I)

Preliminary analysis of the claim figures presented to the committee during 1980 by the NCCI indicate Alaska's problems track statistically with Florida before enacting wage loss. Prior to wage-loss, 30 percent of Florida's claims involved permanent partial disability and our computation based upon NCCI figures indicates 24 percent for Alaska; approximately 3 times the average of some other states. Florida allocated 67.2 percent of its benefit dollars for permanent partial disability cases and Alaska allocates 66.2 percent of its benefit dollars; again 2 times the average of some other states.

The wage loss package recommended will reduce these figures to acceptable levels and as a result provide significant rate reductions for employers while allocating more dollars to the seriously injury employee.

Recommendation:

Sec. 23.30.190 COMPENSATION FOR PERMANENT IMPAIRMENT AND WAGE-LOSS

(a) Compensation for permanent impairment.

(1) In case of permanent impairment due to amputation or total loss of use of an arm, or leg or loss of 80 per cent or more of vision after correction, or the total loss of hearing, or serious head or facial disfigurement, there shall be paid to the injured worker for each per cent of permanent impairment of the body as a whole, a sum equal to the state average weekly wage at the time of injury. As used in this paragraph, the term "total loss of use" shall mean that a person is no better off with the member than he would be if the member had been severed.

(2) Once the employee has reached the date of maximum medical improvement impairment benefits are due and payable within 20 days after the carrier or employer has knowledge of the status.

(3) The division shall establish and use a schedule for determining the existence and degree of permanent impairment based upon medically or scientifically demonstrable findings. The schedule shall be based on generally accepted medical standards for determining impairment and may incorporate all or part of any one or more generally accepted schedules used for such purpose. Pending the adoption, by regulation, of a permanent schedule, Guides to the Evaluation of Permanent Impairment, copyright 1977, 1971, or as subsequently updated, by the American Medical Association, shall be the temporary schedule and shall be used for the purposes hereof.

(b) Compensation for wage-loss

(1) Each injured worker who incurs any permanent impairment, which permanent impairment is determined pursuant to the schedule adopted in accordance with paragraph (3) of subsection (a), may be entitled to compensation for wage loss under this subsection. Such compensation shall be based on actual wage loss and shall be equal to 80 per cent of the difference between the employee's spendable weekly wages at the time of injury and the employee's spendable weekly salary, wages, and other remuneration the employee is able to earn after reaching the date of maximum medical improvement, as compared on a monthly basis. Notwithstanding the provisions of AS 23.30.175(a), compensation for wage-loss will not be payable in any month when the amount of compensable wage loss is less than 10 per cent of the employee's spendable weekly wage at the time of the injury. The division may adopt, by regulation, rules to simplify the monthly comparison so as to coincide as closely as possible with an injured worker's pay periods.

(2) The amount determined to be the salary, wages, and other remunerations the employee is able to earn after reaching the date of maximum medical improvement shall in no case be less than the sum actually being earned by the employee, including earnings from sheltered employment. In the event the employee voluntarily limits his or her income or fails to accept employment commensurate with his or her abilities, the salary, wages and other remuneration the injured employee is able to earn after the date of maximum medical improvement shall be deemed to be the amount which would have been earned if the employee did not limit his or her income or accepted appropriate employment. Whenever compensation for wage-loss is payable as set forth in paragraph (1) the burden shall be on the employee to establish that any wage-loss claimed is the result of the compensable injury.

(3) The right to compensation for wage-loss shall terminate:

(A) At the end of any 2 year period commencing at any time subsequent to the month when the injured employee reaches the date of maximum medical improvement, unless during such 2 year period wage-loss benefits have been payable during at least 3 consecutive months; or

(B) 520 weeks after the injured employee reaches the date of maximum medical improvement; or

(C) when the injured employee reaches age 65 and becomes eligible for retirement benefits under 42 U.S.C. ss. 402 and 405, whichever comes first, but not before the payment of at least 2 years of wage-loss.

(4) When the injured employee reaches age 62, wage-loss benefits shall be reduced by the total amount of social security retirement benefits which the employee is receiving or is eligible to receive without reduction for age, not to exceed 50 per cent of the employee's wage-loss benefit.

AS 23.30.191
EXPENSES FOR REHABILITATING INJURED EMPLOYEES

ACE recommends repeal of this section as the content has been transferred to recommended Section 094, Rehabilitation.

Recommendation:

Sec. 23.30.191 EXPENSES FOR REHABILITATING INJURED ENPLOYEES

Repealed

AS 23.30.195
SURVIVAL OF THE RIGHT TO COMPENSATION

Problem:

The problems are minor and should be classified as editing which is made necessary by the adoption of wage-loss, and to give equity to surviving children. The changes have no impact on benefit levels or premium rates.

Recommendation:

Sec. 23.30.195 SURVIVAL OF THE RIGHT TO COMPENSATION

(a) Compensation to which any claimant would be entitled under AS 23.30.190 (a) of this chapter [EXCEPTING (20) OF THAT SECTION] shall, notwithstanding death arising from causes other than the injury, be payable to and for the benefit of the persons following:

(1) if there be a widow or widower and no child of the deceased, to the widow or widower;

(2) if there be a widow or widower and a surviving child or children of the deceased, one-half to the widow or widower, the other half to the surviving child or children, to share equally;

(3) if there be [A] surviving children [CHILD] of the deceased, but no widow or widower, then to the child or children to share equally.

(b) An award for disability may be made after the death of the injured employee.

AS 23.30.196
SUBSEQUENT INJURY
(AN ENTIRELY NEW SECTION)

Problem and Solution:

This section deals with apportionment of benefits. Apportionment can take three forms; between successive employers or carriers, between the employer and a second injury fund, and between an employer and the employee himself. The first two situations assure the employee of full benefits from either source, while the third means the employee will bear a portion of the claim himself. This section deals with the third situation; apportionment between the employer and employee.

Alaska already is a "last carrier" state which eliminates apportionment of costs between successive carriers or employers. Alaska has a second injury fund to fill the gap in benefit source for aggravation of injuries attributable to prior employment.

Paragraph (b) of the recommended section re-states current Alaska law pertaining to aggravation or acceleration of a preexisting condition, when that impairment is an obvious condition and ordinarily one capable of being rated, such as the loss of a hand or arm.

Workers who have general diseases or defects, especially degenerative diseases present an unusually serious exposure to loss to the employer. The

defect or disease not disabling itself, when merged or combined with a minor aggravation, can become totally disabling and cost the employer thousands in unanticipated loss without second injury fund protection. We do not believe an employer should be held liable under the workers' compensation program for that portion of the disability which is attributable to the employee's general diseases, especially degenerative diseases which are the result of age.

That portion of subsection (a) which reads "where a preexisting disease or anomaly is accelerated or aggravated by an accident arising out of and in the course of employment, only the acceleration of death or the acceleration or aggravation of the preexisting condition attributable to the accident shall be compensable with respect to permanent impairment or death" reduces this exposure to loss faced by employers. Compensation for permanent impairment and death therefore, are apportionable with the employee. Compensation for temporary total disability, medical and wage-loss are not apportionable with the employee, which has the effect of softening the harshness of this rule as 99 percent of all claims fall into these categories.

Approximately half of the states have some form of apportionment statute, Larson, Workers' Compensation Law was researched along with the provisions of various state statutes to find the most fair, complete, and adequate wording that has been tested in court to give guidance to Alaskans dealing with its provisions should our recommendation ever be enacted into law. The Florida law met the needs of Alaska more closely than any other, possibly because their section on apportionment is operational with the wage-loss program. Larson devotes considerable space to the decisions of the Florida Supreme Court in interpreting the historical development and principles supporting this section. For those who desire further information (see pages 10-345 to 10-534).

Subsection (c) and (d) deal with situations where an employee drawing wage-loss incurs a subsequent injury which entitles the employee to additional benefits, paid simultaneously. The benefit payable because of the prior injury is reduced if the total of the two exceeds normal maximums.

Justification:

Florida Workers' Compensation Act, Section 440-15(5).

Recommendation:

Sec. 23.30.196 SUBSEQUENT INJURY

(a) The fact that an employee has suffered previous disability, impairment, anomaly, or disease, or received compensation therefore, shall not preclude him from benefits for a subsequent injury nor preclude benefits for death resulting therefrom. However, where a preexisting disease or anomaly is accelerated or aggravated by an accident arising out of and in the course of employment, only the acceleration of death or the acceleration or aggravation of the preexisting condition attributable to the accident shall be compensable with respect to permanent impairment or death. Compensation for temporary disability, medical, and wage-loss shall not be subject to apportionment.

(b) If a compensable permanent impairment, or any portion thereof, is a result of aggravation or acceleration of a preexisting condition, or is the result of merger with a preexisting impairment, an employee eligible to receive impairment benefits under AS 23.30.190 (a) shall receive such benefits for the total impairment found to result, excluding the degree of impairment existing at the time of the subject injury or which would have existed by the time of the impairment rating without the intervention of the compensable injury. The degree of permanent impairment attributable to the injury shall be compensated in accordance with AS 23.30.190 (a). As used in the paragraph, "merger" means the combining of a preexisting permanent impairment with a subsequent compensable permanent impairment which, when the effects of both are considered together, result in a permanent impairment rating which is greater than the sum of the two permanent impairment ratings when each impairment is considered individually.

(c) If an employee is receiving compensation for wage-loss suffers a subsequent injury causing temporary disability, both wage-loss benefits and temporary disability benefits shall be payable during the duration of temporary disability; however, the total benefits payable shall not exceed the maximum compensation rate in effect for temporary disability at the time of the subsequent injury. Any reduction in benefits due to such limit shall be applied first to the wage-loss benefits payable as a result of the prior injury.

(d) If an employee receiving wage-loss benefits suffers a subsequent injury causing an additional compensable wage loss, benefits for each wage

loss shall be payable; however, the total wage-loss benefits payable shall not exceed the maximum compensation rate in effect for wage-loss at the time of the subsequent injury. Any reduction in wage-loss benefits due to such limitation shall be applied first to the benefits payable as a result of the prior injury.

AS 23.30.200
TEMPORARY PARTIAL DISABILITY

Problem:

Existing wording not compatible with wage-loss.

Solution:

This section has been completely re-written to coordinate the benefit with wage-loss. The benefit is almost exactly the same as the wage loss benefit, but this form of compensation does not contemplate the employee's injury being so acute that a permanent impairment will exist after reaching maximum medical improvement.

Both the existing benefit and the recommended version contain a maximum period of entitlement of 5 years. The recommended section contains provisions not contained in the existing section:

1. A provision to reduce the benefit if the employee voluntarily reduces income or fails to accept employment available.

2. A provision requiring reporting of wages earned if the employee leaves the employment of the original employer.

Justification:

Adopted from the Florida Workers' Compensation Act, Section 440-15(4).

Recommendation:

Sec. 23.30.200 TEMPORARY PARTIAL DISABILITY

(a) In case of temporary partial disability, benefits shall be based on actual wage loss and shall not be subject to the minimum compensation rate set forth in AS 23.30.175 (a). The compensation shall be equal to 80 per cent of the difference between the employee's spendable weekly wages at the

time of injury and the spendable weekly salary, wages, and other remuneration the employee is able to earn. In order to simplify the comparison of the pre-injury spendable weekly wages with the salary, wages, and other remuneration the employee is able to earn, the division may by regulation provide for the modification of the weekly comparison so as to coincide as closely as possible with the injured worker's pay periods.

(b) The amount determined to be salary, wages, and other remunerations the employee is able to earn shall in no case be less than the sum actually being earned by the employee, including earnings from sheltered employment. In the event the employee voluntarily limits his or her income or fails to accept employment commensurate with his or her abilities, the salary, wages, and other remuneration the employee is able to earn shall be deemed to be the amount which would have been earned if the employee did not limit his or her income or accepted appropriate employment. Whenever compensation as set forth in paragraph (a) may be payable, the burden shall be on the employee to establish that any wage loss claimed is the result of the compensable injury.

(c) Such compensation shall be paid during the continuance of such disability, not to exceed a period of 5 years.

(d) If an injured employee, when receiving compensation for temporary partial disability, leaves the employment of the employer by whom he was employed at the time of the accident for which such compensation is being paid, he shall, upon securing employment elsewhere, give to such former employer an affidavit in writing containing the name of his new employer, the place of employment and the amount of wages being received at such new employment and until he gives such affidavit the compensation for temporary partial disability will cease. The employer by whom such employee was employed at the time of the accident for which such compensation is being paid may also at any time demand of such employee additional affidavits in writing containing the name of his employer, the place of his employment and the amount of wages he is receiving, and if the employee, upon such demand, fails or refuses to make and furnish such affidavit, his right to compensation for temporary partial disability shall cease until such affidavit is made and furnished.

AS 23.30.205

INJURY COMBINED WITH PRE-EXISTING IMPAIRMENT

Problem:

1. Cost. Each employer contributes 6 percent of paid claims to support the second injury fund which is utilized by only a few employers and carriers. Employers and their carriers who do not document pre-hire or the current employee medical status essentially forfeit their right to participate in the benefits of the fund. Those employers pay the 6 percent surcharge to support the fund and also the full amount of subsequent claims that do not qualify for reimbursement. Contribution to the fund should be universal as should the utilization.

2. The existing law requires that employers, in order to qualify for reimbursement from the fund, "must establish by written records that the employer had knowledge of the permanent physical impairment before the subsequent injury and that the employee was hired or retained after the employer acquired that knowledge". Pre-employment physicals are costly and for employers who hire the construction trades for short periods of time during projects, the cost can be enormous. Health questionnaires are often inaccurate as the employee fears the continuance of his job if his employer knows his physican condition.

3. The original purpose of the section was to encourage the hiring of the handicapped by relieving employers of the cost of subsequent injuries made more serious by the pre-existing handicap. In this regard the section fails to achieve its purpose as the non-reimbursed portion of the claim can exceed $100,000.

4. Reimbursement is allowed subsequent to 104 weeks. Even though a claim qualifies for reimbursement from the second injury fund the costs associated with the first 104 weeks can be staggering. Consider a case where medical costs are $30,000 during the first 104 weeks (not uncommon) and the employee is entitled to the maximum benefit in 1982 of $942 per week, or $97,968, for a total of $127,968 within the first 104 weeks. This is a high cost to pay, especially if the accident would not have occurred except for the existence of the preexisting handicap.

Solutions:

The cost will increase generally in proportion to the degree to which reimbursement qualifications are liberalized, which is in conflict with solving problems 2, 3, and 4. The cost of the benefit was considered as important as facilitating the hiring of the handicapped, and the resulting compromise recommendation is suggested.

In order to reduce costs, the cost associated with claims must be reduced which will be accomplished in part by the wage-loss program. Additionally, the apportionment provision (section 196 (a)) which refers to permanent total disability and death which is accelerated or aggravated by a preexisting disease or anomaly, was added to apportion to the employee that portion of the cost of disability associated with the aging process: degenerative back disease, arthritis, and others. These factors will reduce benefits in cases where the preexisting condition is not the result of an accident but the result of simply aging. All employers will share in the costs as they do now, but all employers will be able to share in the benefits of the fund equally as each employee with a preexisting condition will be registered with the division. The employer's ability to give physicals or his method of hiring will not determine second injury fund eligibility.

Rather than require employers to absorb the costs associated with documenting prior knowledge of the preexisting condition, a new requirement used successfully in a number of other states has been added. In order for an employer to obtain second injury fund benefits, he must register with the Workers' Compensation Division the name of the employee and a description of the handicap. This pre-registration along with the combined effects of the apportionment and second injury fund should make the employment situation better for the handicapped, decrease costs, and provide absolute knowledge of second injury fund application.

The issue of reimbursement being allowed after 104 weeks being considered too long and too costly was very difficult to analyze without an accurate projection of the cost impact of any change. Considerable support existed for reducing the time period down to 26 or 52 weeks or to base reimbursement upon a percentage (50, 60, 70, or 80 percent of all costs from the first day rather than 100 percent after 104 weeks). Without rating help from the NCCI, it was determined that the 104 week provision had to remain, subject to further study.

Justification:

This section is in part modeled after the Florida provision, but extensively editited, and the existing Alaska statute. The schedule of preexisting conditions has been liberalized slightly to conform with the model act produced by The Council on State Governments, the Workers' Compensation and Rehabilitation Law, Revised. That part of the section pertaining to pre-registration of handicaps was obtained from the Kansas act, although others could have been utilized.

Recommendation:

Sec. 23.30.205 INJURY COMBINED WITH PRE-EXISTING IMPAIRMENT

(a) Legislative intent. It is the purpose of this section to encourage the employment of persons who have existing physical impairments by protecting employers from excess liability for compensation and medical expense when an injury to a physically impaired worker merges with his preexisting permanent physical impairment to cause a greater disability, permanent impairment, or wage-loss than would have resulted from the injury alone. The division shall inform all employers of the existence and function of the second injury fund. This section shall not be construed to create or provide any benefits for injured employees or their dependents not otherwise provided by this chapter. The entitlement of an injured employee or his dependents to compensation under this chapter shall be determined without regard to this section, the provisions of which shall be considered only in determining whether an employer or carrier who has paid compensation under this chapter is entitled to reimbursement from the second injury fund.

(b) Definitions. As used in this subsection:

(1) "Permanent physical impairment" means any permanent condition due to previous accident or disease or any congenital condition which is, or is likely to be, a hindrance or obstacle to employment.

(2) "Merger" describes or means that:

(A) Had the permanent physical impairment not existed, the subsequent injury would not have occurred;

(B) The permanent disability, permanent impairment, or wage-loss resulting from the subsequent injury is materially and substantially greater than that which would have resulted had the permanent physical impairment

not existed and the employer has been required to pay, and has paid, permanent total disability, permanent impairment, or wage-loss for that materially and substantially greater disability; or

(C) Death would not have been accelerated had the permanent physical impairment not existed.

(c) If an employee who has a preexisting permanent physical impairment incurs a subsequent permanent impairment from injury arising out of and in the course of his employment which merges with the preexisting permanent physical impairment to cause a permanent impairment, wage-loss, total disability, or the need for medical and related benefits, the employer shall, in the first instance, pay all compensation provided by this chapter, but subject to the limitations in subsection (e), such employer shall be entitled to reimbursement from the second injury fund created by AS 23.30.040 for the compensation and medical and related benefits he has been required to provide under this chapter subsequent to those payable for the first 104 weeks.

(d) When death results. If death results from the subsequent permanent impairment contemplated in subsection (c), and it shall be determined by the board that the death resulted from a merger, the employer in the first instance will pay the funeral and death benefits prescribed by this chapter, but he shall be reimbursed from the second injury fund created by AS 23.30.040 for for compesation and medical and related benefits payable in excess of 104 weeks.

(e) Reimbursement Limitations

(1) In order to qualify under this section for reimbursement from the second injury fund the employer must, prior to the occurrence of a subsequent injury to an impaired or handicapped employee, file with the division, on a form prescribed by the division, a notice of the employment or retention of the impaired employee, together with a description of the impairment or handicap claimed.

(2) No condition shall be considered a "permanent impairment" unless it is one of the following conditions:

(A) Epilepsy

(B) Diabetes

(C) Cardiac disease

(D) Arthritis

(E) Amputated foot, leg, arm or hand

(F) Loss of sight of one or both eyes or a partial loss of uncorrected vision of more than 75 per cent bilaterally

(G) Residual disability from poliomyelitis

(H) Cerebral palsy

(I) Multiple sclerosis

(J) Parkinson's disease

(K) Cerebral vascular accident

(L) Tuberculosis

(M) Silicosis

(N) Psychoneurotic disability following treatment in a recognized medical or mental institution

(O) Hemophilia

(P) Chronic osteomyelitis

(Q) Ankylosis of joints

(R) Hyperinsulism

(S) Muscular dystrophies

(T) Arteriosclerosis

(U) Thrombophlebitis

(V) Varicose veins

(W) Heavy metal poisoning

(X) Ionizing radiation injury

(Y) Compressed air sequelae

(Z) Ruptured intervertebral disk, or

(AA) any permanent physical condition which, prior to the injury, constitutes a 20 per cent impairment of the body as a whole determined pursuant to AS 23.30.190 (a)(3).

(3) The second injury fund shall not be liable for any costs, interest, penalties, or attorneys' fees.

(4) An employer's or carrier's right to apportionment or deduction pursuant to AS 23.30.196 shall not preclude reimbursement from said fund except when the merger comes within the definition of paragraph (b)(2)(B) and such apportionment or deduction relieves the employer or carrier from providing the materially and substantially greater permanent disability benefits otherwise contemplated in said paragraphs.

(f). The second injury fund may not be bound as to any question of law or fact by reason of an award or an adjudication to which it was not a party or in relation to which the commissioner of labor was not notified at least 3 weeks before the award or adjudication, that the fund might be subject to liability for the injury or death.

(g) An employer or his carrier shall notify the commissioner of labor of any possible claim against the second injury fund as soon as practicable, but in no event later than 100 weeks after the employer or his carrier have knowledge of the injury or death.

AS 23.30.210
DETERMINATION OF WAGE-EARNING CAPACITY

This section is in direct conflict with the wage-loss theory and its repeal is essential.

Recommendation:

Sec. 23.30.210 DETERMINATION OF WAGE-EARNING CAPACITY

REPEALED

AS 23.30.215
COMPENSATION FOR DEATH

Problems and Solutions:

1. The $1,000 death benefit is inadequate. ACE recommends that the death benefit be increased to $2,500 from the existing $1,000. The $2,500 is recommended by the Division of Workers' Compensation in H.B. 159 along with a cost of living proposal. ACE supports the $2,500 as a more appropriate benefit but believes automatic escalators to be detrimental to proper rating. Future increases can be requested.

2. Remarriage penalty is considered unjust in today's society. If a widow or widower entitled to death benefits remarries two (2) years of benefit entitlement are paid in a lump sum and future benefits are forfeited. ACE recommends the deletion of the remarriage penalty.

Justification:

ACE recommendation.

Recommendation:

Sec. 23.30.215 COMPENSATION FOR DEATH

(a) If death results within one year after the accident or follows continuous disability and results from the accident within 5 years thereafter, the compensation is known as the death benefit and is payable in the following amounts to or for the benefit of the following persons:

(1) Reasonable and necessary funeral expenses not exceeding $2,500 [$1,000];

(2) If there is a widow or widower or a child or children of the deceased, the following percentages of the deceased employee's spendable [AVERAGE] weekly wages:

(A) 80 [66 2/3] per cent for the widow or widower with no children;

(B) 40 [33 1/3] per cent for the widow or widower with one child and 40 [33 1/3] per cent for the child;

(C) 80 [20] per cent for the widow or widower with two or more children, payable 1/3 to the widow or widower, and 2/3 divided equally among the children [AND 46 2/3 PER CENT DIVIDED EQUAILY AMONG THE CHILDREN];

(D) deleted

(E) 80 [66 2/3] per cent for an only child where there is no widow or widower;

(F) Deleted

(G) 80 [66 2/3] per cent, divided equally, if there are two or more children and no widow or widower.

(3) [IF THE WIDOW OR WIDOWER REMARRIES, SHE OR HE IS ENTITLED TO BE PAID IN ONE SUM AN AMOUNT EQUAL TO THE COMPENSATION TO WHICH THE WIDOW OR WIDOWER WOULD OTHERWISE BE ENTITLED IN THE TWO YEARS COMMENCING ON THE DATE OF REMARRIAGE AS FULL AND FINAL SETTLEMENT OF ALL SUMS DUE THE WIDOW OR WIDOWER.]

(4) If there is no widow or widower or child or children, then for the support of father, mother, grandchildren, brothers and sisters, if dependent upon the deceased at the time of the injury, 35 per cent of the spendable [AVERAGE] weekly wage of the deceased to such beneficiaries, share and share alike, not to exceed $20,000 in the aggregrate.

(b) In computing death benefits, the spendable [AVERAGE] weekly wage of the deceased shall be computed under AS 23.30.220 of this chapter and shall be paid in accordance with AS 23.30.155 of this chapter and subject to the weekly maximum limitation in the aggregate as provided in AS 23.30.175 of this chapter, but the total weekly compensation may not be less than $45 for a widow or widower nor less than $15 weekly to a child or $30 for children.

(c) All questions of dependency shall be determined as of the time of the injury, or death.

(d) Compensation under this chapter to aliens not residents (or about to become non-residents) of the United States or Canada is the same in amount as provided for residents, except that dependents in a foreign country are limited to widow or widower and child or children, or if there is no widow or widower and child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for a period of one year before the date of injury. The board, at its option, or upon the application of the employer or carrier, may commute all future installments of compensation to be paid to an alien dependent who is not a resident of the United States or Canada by paying or causing to be paid to him one-half of the commuted amount of the future installments of compensation as determined by the board.

(e) Death benefits payable to a widow or widower in accordance with (a) of this section shall abate as that person ceases to be entitled and does not inure to persons subject to continued entitlement. In the event a child ceases to be entitled, that child's share shall inure to the benefit of the surviving spouse subject to adjustment as provided in (f) of this section.

(f) Except as provided in (g) of this section, the death benefit payable to a widow or widower shall:

(1) five years following date of death of the deceased worker be reduced to 66 2/3 per cent of the benefit being then paid;

(2) eight years following date of death of the deceased worker be reduced to 50 per cent of the benefit being then paid;

(3) terminate 10 years following death of the deceased worker.

(g) The provisions of (f) of this section do not apply to a widow or widower who at the time of death of the deceased worker is permanently and totally disabled. The death benefits payable to a widow or widower are not subject to reduction under (f) of this section after the widow or widower has attained the age of 52 years.

(h) In the event a deceased worker is survived by children of a former marriage not living with the surviving widow or widower, then those children shall receive the amount being paid under a decree of child support; the difference between this amount and the maximum benefit payable under this section shall be distributed pro-rata to the remainder of those entitled.

(i) In the event the total amount of all benefits computed under (a)(2) of this section exceeds the maximum benefit provided in AS 23.30.175 of this chapter, the maximum benefit under AS 23.30.175 of this chapter shall be pro-rated among entitled survivors.

AS 23.30.220

DETERMINATION OF SPENDABLE [AVERAGE] WEEKLY WAGE

Problems:

1. The utilization of 66 2/3 percent of average weekly wage allows high wage earners to bring home practically the same after tax dollars while injured than they would working. A disincentive to return to work.

For low income wage earners who have fewer discretionary dollars, they are bring home considerably less than their normal after tax income when injured. (see Exhibit VII)

2. The average weekly wage is presently computed utilizing the highest earnings recorded over the past 3 calendar years. Employers who have jobs available avoid hiring employees who have work histories showing high prior earnings. Employers ordinarily willing to employ workers under a rehabilitation or retraining program can be hit with shock losses for subsequent injuries with compensation based on prior earnings.

3. Somewhat unique to Alaska are the North Slope jobs which utilize an extraordinary shift (3 weeks on, 3 weeks off). Normal formulas for computing average weekly wage can produce a windfall to the employee or the employer, or be detrimental to either.

4. Workers who are employed on a permanent basis working 8 A.M. - 5 P.M., five days a week, are paid based upon last year's wage, but should be paid on existing wage. All workers are entitled to compensation based upon existing rather than last year's wage.

5. Workers' compensation premiums are paid on existing wages but benefits paid often show no relationship to premiums which introduces

variability into the rating scheme.

6. Employees holding two jobs or who are self employed on a part- time basis, can draw benefits from one employer far in excess of normal wages paid. Employer's should know before hand of outside wages.

7. Employees who have no wage history because they are new to the work force, are always paid the minimum of $65 per week by carriers until the board hears the case and assigns a compensation rate.

Solutions:

1. As recommended in the model law drafted by The Council on State Governments, the Workmen's Compensation and Rehabilitation Law, Revised, when the maximum benefit exceeds 100 percent of the state average weekly wage (Alaska is 200 percent), average weekly wage should be dropped in favor of spendable weekly wage. Spendable weekly wage is gross wage less federal income and social security tax.

ACE recommends the use of 80 percent of the spendable weekly wage. (see Exhibit VIII) In comparing this benefit level with the existing benefit level, be aware that the recommended benefit is 80 percent of the current spendable weekly wage. The existing law bases average weekly wage on last year's wage which is generally lower than existing wages. The utilization of this formula will insure the same income replacement level for all wage earners, high and low.

2, 3 & 4. Utilizing an employees highest earnings during any of the three previous calendar years has some good and bad features depending upon the evaluator's point of view. Numerous possibilities were discussed, including basing temporary disability benefits on current wage and permanent disability benefits upon the average of the past 3 years. They were discarded in favor of the recommendation because of our desire to base the benefit on current wage rates rather than previous wages. An employee earning $35,000 on a new job is entitled to receive compensation based upon the existing wage, not $25,000, the salary earned in a previous job.

The recommendation covers every employee as fairly as possible, from the worker on annual, monthly, weekly, or hourly rates of pay; even the worker employed on an exceptional North Slope shift. If a current wage rate is not applicable and prior year wages need to be utilized, prior year wages are divided by 50 rather than 52 to approximate the effect of inflation. (see subsection (d)).

5. Compensation paid is more directly related to existing wage rates bringing a closer correlation between benefits and premiums.

6. The recommendation excludes a reference to self employment income in the computation of average weekly wage. However, subsection (n) makes the employer liable for compensation derived from other employment if the employer is aware of the other employment.

7. Employees who have no wage history, will now have compensation rates based upon actual earnings over the previous 13 weeks, or what he would have earned had he worked the past 13 weeks, eliminating the necessity for board hearings and the issuance of $65 minimum payment checks during the initial weeks of disability.

Justification:

The majority of this recommendation has been adopted from the model act prepared by The Council on State Governments, the Workmen's Compensation and Rehabilitation Law, Revised. Also adopted by Kansas, Kentucky, Idaho, and others.

Recommendation:

AS 23.30.220 DETERMINATION OF SPENDABLE [AVERAGE] WEEKLY WAGE

Except as otherwise provided in this chapter, the spendable weekly wage of the injured employee at the time of the injury is the basis for computing compensation, and shall be the employee's average weekly wage minus the deductions for federal income and social security taxes that the employee would pay if he were to receive his average weekly wage for a year and if he were to take the standard income tax deductions for the maximum number of dependents to which he is entitled for federal income tax purposes. The Division shall annually prepare formulas which shall be used to calculate an employee's spendable weekly wage on the basis of his average weekly wage and of his number of dependents.

(a) If at the time of the injury the wages are fixed by the week, the amount so fixed shall be the average weekly wage;

(b) If at the time of the injury the wages are fixed by the month, the average weekly wage shall be the monthly wage so fixed multiplied by twelve and divided by fifty-two;

(c)(1) If at the time of the injury the wages are fixed by the day, hour, or by the output of the employee, the average weekly wage shall be the wage most favorable to the employee computed by dividing by thirteen the wages said employee earned in the employ of the employer in the first, second, third, or fourth period of thirteen consecutive calendar weeks in the fifty-two weeks immediately preceding the injury.

(2) If the employee has been in the employ of the employer less than thirteen calendar weeks immediately preceding the injury, his average weekly wage shall be computed under the foregoing paragraph, taking the wages for such purpose to be the amount he would have earned had he been so employed by the employer the full thirteen calendar weeks immediately preceding the injury and had worked, when work was available to other employees in a similar occupation.

(d) Notwithstanding (a), (b), and (c) above, if an employee is scheduled to work a pre-determined number of days, weeks, or months and receives a pre-determined number of days, weeks, or months off, the employee's average weekly wage shall be determined by accumulating wages earned from the scheduled work and dividing by the total number of scheduled days, weeks, or months worked and given off.

(e) If at the time of the injury the wages are fixed by the year, the average weekly wage shall be the yearly wage so fixed divided by fifty-two;

(f) If at the time of the injury the hourly wage has not been fixed or can not be ascertained, the wage for the purpose of calculating compensation shall be taken to be the usual wage for similar services where such services are rendered by paid employees.

(g) In occupations which are typically seasonal or characterized by intermittent periods of employment and unemployment, and therefore normally cannot be carried on throughout the year, the spendable weekly wage shall be computed using one fiftieth of the total wages which the employee has earned from all occupations during the immediately preceding calendar year.

(h) When the employee is working under concurrent contracts with two or more employers and the defendant employer has knowledge of such employment prior to the injury, his wages from all such employers shall be considered as if earned from the employer liable for compensation.

(i) If the employee was a minor, apprentice or trainee when injured, and it is established that under normal conditions his wages should be expected

to increase during the period of disability, that fact may be considered in computing his average weekly wage.

AS 23.30.235
CASES IN WHICH NO COMPENSATION IS PAYABLE

Problems:

1. Requires that intoxication be the "sole" cause of the injury, which is almost impossible to show.
2. Intoxication is not defined.
3. Entire section is not effective in cases involving alcohol.
4. Employers go to great expense to establish safety rules to protect employees. Employees can wilfully violate rules and still receive compensation.
5. Employees can misrepresent his physical condition when applying for a job. When such misrepresentations result in the employer assuming an increased amount of risk, there is no recourse for the employer.

Solutions:

1, 2, & 3. Subsection (a) in the recommendation deletes the word "solely" in conjunction with the cause of alcohol related injuries. In its place is a double standard:

(a) "if the injury was occasioned by an employee under the influence of alcohol".

(b) "if there was at the time of injury 0.10 percent or more by weight of alcohol in the employee's blood ..."

This change will have broad implications for employee's on business trips or employees working in remote sites in Alaska, as many alcohol related injuries will not be covered by compensation. It should be remembered by the reader that employees will not be destitude because of this change as such accidents will be covered by non-occupational accident and sickness programs that virtually every employee has in his non-occupational benefit package.

This recommendation is adopted from Florida where it has been proven to be effective for several years

4. Almost every state includes provisions concerning a reduction or forfeiture of compensation when safety rules are willfully disregarded or ignored or when an employee injures himself while not using available safety devices. The wording employed by many states is similar, and the recommendation adopts common wording. Reviewing Larson, Workers' Compensation Laws on this subject reveals very limited success in proving willful intent.

5. The State of Alaska, for workers' compensation, is a "last employer" state. The last employer takes the employee as he finds him and any preexisting physical impairment which causes subsequent disability is the risk of the new employer.

Employers believe they have a right to be informed of an employee's actual physical condition when hired, as the unexpected cost of injury related to preexisting conditions can be a major loss. Employees, fearful of not being hired, often misrepresent their physical condition in employment applications. The provisions of this recommendation in subsection (c) allow an employer to discontinue the payment of compensation where an employee misrepresented his pre-hire physical condition which subsequently contributed to a claim. With an apportionment provision (Section 196) reducing the employer's liability when preexisting conditions are involved in an injury, and the registration of the employee and handicap with the second injury fund, the employer's willingness to hire the handicapped should improve considerably, thereby eliminating the need for an employee to misrepresent his physical condition.

This provision has been adopted from the Kansas law and conversations with adjusters there indicate it is only effecitve in those cases involving "gross" misrepresentation - our target.

Justification:

1, 2, & 3. Adopted from the Florida Workers' Compensation Act, Section 440.09(3).

4. Standard wording in almost all workers' compensation acts.

5. Kansas Workers' Compensation Act, Section 44.567 (2)(c).

Recommendation:

Sec. 23.30.235 CASES IN WHICH NO COMPENSATION IS PAYABLE OR IS REDUCED

(a) No compensation shall be payable if the injury was occasioned by an

employee under the influence of alcohol; by the influence of any narcotic drugs, barbiturates, or other stimulants which affected the employee to such an extent that the employee's normal faculties were impaired; or by the willful intention of the employee to injure or kill himself, herself, or another. If there was at the time of the injury 0.10 per cent or more by weight of alcohol in the employee's blood, it shall be presumed, in the absence of substantial evidence to the contrary, that the injury was occasioned primarily by the intoxication of the employee. Per cent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood.

(b) When the injury is caused by the willful disobedience of a safety rule or the willful failure to use a safety device, compensation as provided in this chapter shall be reduced 25 per cent.

(c) No compensation is payable if an employee, in connection with an application for employment or an employment medical examination or otherwise in connection with obtaining or retaining employment with the employer, knowingly

(1) misrepresents himself or herself as not having an impairment or handicap;

(2) misrepresents himself or herself as not having had any previous accidents;

(3) misrepresents himself or herself as not having previously been disabled or compensated in damages or otherwise because of any prior accident, injury or disease;

(4) misrepresents himself or herself as not having had any employment terminated or suspended because of any prior accident, injury or disease;

(5) misrepresents himself or herself as not having any mental, emotional or physical impairment, disability, condition, disease or infirmity; or

(6) misrepresents or conceals any facts or information which is reasonably related to the employee's possible subsequent claim for workers' compensation.

AS 23.30.236

RESIDENT EMPLOYEES

(A NEW SECTION)

Problem:

Employees working in remote sites are covered by workers' compensation 24 hours per day, and for employers whose primary business is at remote sites, the cost of claims resulting from injuries occurring during off duty hours is enormous. Testimony before legislative committees during the past two years has repeatedly brought to light the unfairness of charging the employer with such claims. The testimony, whether from employers, attorneys, or unions, was unanimous in that the employer should not have those claims charged to compensation. (see Exhibit IX, testimony, Alascom Inc., January 16, 1981)

Solution:

The situation in Alaska is the result of Supreme Court decisions, who undoubtedly had no other recourse as the workers' compensation act gave no legislative guidance in these cases. Therefore, in order to change the situation, legislative guidance is required.

The problem was analyzed as one which combines two common workers' compensation problems which have ample case law history; resident employees and recreational and social activities. Larson, Workers' Compensation Law, devotes section 22 to recreational and social activities and section 24 to resident employees. His summation of the laws of the states is easy to read and is concise. Larson states:

> § 22.00 Recreational or social activities are within the course of employment when
>
> 1. They occur on the premises during a lunch or recreation period as a regular incident of the employment; or
>
> 2. The employer, by expressly or impliedly requiring participation, or by making the activity part of the services of an employee, brings the activity within the orbit of the employment; or
>
> 3. The employer derives substantial direct benefit from the activity beyond the intangible value of improvement in employee health and moral that is common to all kinds of recreation and social life.
>
> § 24.00 When an employee is required to live on the premises, either by his contract of employment or by the nature of the

employment, and is continuously on call (whether or not actually on duty), the entire period of his presence on the premises pursuant to this requirement is deemed included in the course of employment. However, if the employee has fixed hours of work outside of which he is not on call, compensation is awarded usually only if the source of injury was a risk associated with the conditions under which claimant lived because of the requirement of remaining on the premises.

These two summations were combined into the recommended Section, 236 Resident Employees. Others have recommended that injuries which occur outside of normal work hours be excluded from coverage altogether but a cursory review of Larsons, Workers' Compensation Laws, reveals that many legitimate claims would be excluded at remote sites that would be covered under the same circumstances in urban employment.

Justification:

No other state has severe problems in this area which precluded ACE from seeking guidance from other state statutes. The recommendation is original, but the words are time tested.

Recommendation:

AS 23.30.236 RESIDENT EMPLOYEES

(a) When an employee is required to live on the premises, either by his contract of employment or by the nature of the employment, and is continuously on call, the entire period of his presence on the premises pursuant to this requirement is deemed included in the course of employment except when the source of the injury derives from an activity that is strictly personal to the employee. However, if the employee is not continuously on call, compensation and medical and related benefits shall not be paid unless

(1) the accident occurs on the premises during a lunch or recreational period which is a regular incident of the employment, or

(2) the employer has expressly or impliedly required participation, or made the activity part of the services of an employee bringing the activity within the orbit of employment, or

(3) the employer derives a substantial direct benefit from the activity beyond the intangible value of

(A) improvement in employee health or morale that is common to all kinds of recreation and social life, or

(B) recreation as an economic factor in industrial relations, and

(4) the source of the injury was a risk distinctly associated with the conditions under which the employee lived because of the requirement of remaining on the premises.

(b) In any case, notwithstanding (a), compensation for disability shall be limited to reasonable travel time both to and from the point where adequate medical treatment can be obtained and the number of days the employee was under the care of the physician.

AS 23.30.238
COORDINATION WITH OTHER BENEFITS
(A NEW SECTION)

Problem:

Employee's often submit claims that are denied by employers or carriers, and on appeal to the board or courts, the controversion is reversed and benefits awarded. In making a case for occupational benefits, the employee defeats a non-occupational claim under a group program. As a result, the employee finds both workers' compensation and group insurance non-responsive to the claim for injury. All benefits are denied and the appeal process can take weeks, months, or years. Occasionally, non-occupational plans step in and voluntarily pay but are hurt financially when employees fail to return the benefits when compensation is finally awarded. Employers and carriers cannot honor a group insurance company's request for reimbursement out of compensation due.

Solution:

The purpose of this section is to assure employees who submit controverted claims, that if compensation is denied, non-occupational group plans will pay, while at the same time protecting the non-occupational group insurer's access to future compensation awarded.

Justification:

Delaware model Workers' Compensation Act. Section 14.

Recommendation:

Sec. 23.30.238 COORDINATION WITH OTHER BENEFITS

(a) Sickness and/or Accident Health Insurance.

1. In any case where, due to a dispute over whether benefits are due to an employee under this chapter, benefits are not being paid by the employer or its workers' compensation carrier and the employee is covered by a sickness and/or accident insurance policy provided by the employer or a collective bargining unit of a type which would pay him benefits only if the injury is determined not to be compensable under this chapter, the sickness and/or accident carrier shall make all payments it would normally be required to make to the employee under its policy if the injury had been determined not to be compensable under this chapter, pending a final determination of compensibility; provided, however, that it shall be required to make such payments only to the extent they would also be required under this chapter if the injury is compensable.

2. If the injury is subsequently and finally determined to be compensable under this chapter, the party required to pay the workers' compensation claim shall, upon notification of the amount due, promptly pay to the sickness and/or accident carrier all sums paid by it to the injured employee, along with the carriers reasonable costs and attorneys' fees necessary to enforce this right if not promptly so paid; provided, however, that the obligation of the workers' compensation carrier to make such payment shall be solely limited to the payments required under this chapter.

3. All sums paid by the sickness and/or accident carrier pursuant to this subsection shall count toward the total compensation, if any, due to the injured employee under this chapter.

4. In no case shall this section be interpreted to relieve the sickness and/or accident carrier from any liability for payment otherwise due under its contract of insurance, including but not limited to its obligation to make supplemental payments in workers' compensation claims to the extent required by that contract of insurance.

AS 23.30.239

EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER WHO HAS RECEIVED OR IS ENTITLED TO RECEIVE UNEMPLOYMENT COMPENSATION

(A NEW SECTION)

Problem:

The Workers' Compensation Act has been called upon throughout the years to compensate employees after they reach the date of maximum medical improvement and before that point in time when employment opportunities improve and jobs become available. The practice is based upon the theory that a compensable injury caused a loss of the job, and therefore the unemployment is the result of the industrial injury and workers' compensation is proper until a new job is available.

Solution:

In such cases it is the belief of ACE that the primary benefit should be unemployment compensation and that workers' compensation, if still payable, shall be supplemental to the unemployment compensation. This provision is successful in other states in reducing employer costs.

Justification:

Adopted from the Florida Workers' Compensation Act, Section 440.15(11).

Recommendation:

Sec 23.30.239 EMPLOYEE ELIGIBLE FOR BENEFITS UNDER THIS CHAPTER WHO HAS RECEIVED OR IS ENTITLED TO RECEIVE UNEMPLOYMENT COMPENSATION

(a) No compensation shall be payable for temporary total disability or permanent total disability under this chapter for any week in which the injured employee has received, or is receiving, or is eligible for unemployment compensation benefits.

(b) If an employee is entitled to both compensation for wage-loss pursuant to AS 23.30.190(b) and unemployment compensation benefits, such unemployment compensation benefits shall be primary and the compensation for wage-loss shall be supplemental only, the sum of the two benefits not to

exceed the amount of wage-loss compensation which would otherwise be payable. For purposes of termination of wage-loss pursuant to AS 23.30.190(b)(3)(A), the term "payable" shall be construed to include payment of unemployment compensation benefits in lieu of compensation for wage-loss as provided in this section.

AS 23.30.250
PENALTY FOR MISREPRESENTATION

Problems:

1. Provision would apply only to someone providing false information to "obtain" a benefit; an employee. The provision should also apply to an adjuster who might mislead an injured employee.

2. The existing statute is not an effective tool in prosecuting someone suspected of defrauding the system.

Solution:

Reviewing the statutes of other states in conjunction with the information contained in Larsons, Workers' Compensation Laws, reveals that statutes vary widely. Their biggest attribute is the deterrent they pose to the person who might otherwise consider utilizing a deceptive tactic to further his own desire.

The recommendation should be adopted, and the provisions and penalty advertised, as people pay attention to the word "felony".

The provision is infinitely more complete than the existing statute which will contribute a great deal in enforcing the provision when needed.

Justification:

Adopted from the Florida Workers' Compensation Act, Section 440.37(1) and (2)(a).

Recommendation:

Sec. 23.30.250 PENALTY FOR MISREPRESENTATION

(a) Any person who wilfully makes a false or misleading statement or representation for the purpose of obtaining or denying any benefit or payment under this chapter, or who presents or causes to be presented any written or oral statement as part of, or in support of, a claim for payment or other

benefit pursuant to any provision of this chapter, knowing that such statement contains any false or misleading information concerning any fact or thing material to such claim, or who prepares or makes any written or oral statement that is intended to be presented to any employer, insurance company, or self-insured program in connection with, or in support of, any claim for payment or other benefit pursuant to any provision of this chapter, knowing that such statement contains any false or misleading information concerning any fact or thing material to such claim, is guilty of theft as defined in AS 11.46.100(3) and punishable as provided in AS 11.46.120 - 11.46.150 [A MISDEMEANOR, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $1,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH].

(b) All claim forms as provided for in this chapter shall contain a notice that clearly states in substance the following: "Any person who, knowingly and with intent to injure, defraud, or deceive any employer or employee, insurance company, or self-insured program, files a statement of claim containing any false or misleading information is guilty of a felony."

AS 23.30.265
DEFINITIONS

ACE has added five (5) new definitions and has altered the definitions of three terms.

The word "accident" was defined as it is now used in the definition of injury.

The phrase "date of maximum medical improvement" is added because it becomes a significant date in the wage-loss program; specifically section 190, Permanent Impairment and Wage-Loss. That date triggers the time period (20 day) limitation after which any lump sum impairment award is due and payable. In the wage-loss subsection it is the date when the wage-loss benefit begins as the employee is entitled to total temporary disability prior to that time.

The term "primary duties" is used in section 094, Rehabilitation. The term is used to differentiate between employees entitled to vocational rehabilitation and those who are not. If an employee can perform the primary duties of his occupation or any other occupation for which he is

qualified by education, training, and experience, he is not entitled to vocational rehabilitation.

The term "suitable gainful employment" is used in the Rehabilitation section to define the goal of the rehabilitation effort and add direction to future rehabilitation programs.

The term "substantial earning capacity" is primarily used in section 180, Permanent Total Disability. If after injury and after reaching the date of maximum medical improvement, an employee has a "substantial earning capacity", disability is not considered permanent and total. The wage-loss benefit would be payable in these cases rather than the permanent total benefit.

The definition of "injury" was also modified in that portion which addresses breakage or damage to prosthetic devices. The problem with the current definition is that it is not necessary to have an accident to the body in conjunction with or simultaneously with damage to teeth or prosthetic devices. Fillings falling out of teeth are covered at remote site operations, glasses falling off an employee's face are covered, all without an accident to the body. (see Exhibit IX) ACE believes the intent of the Workers' Compensation Act has been exceeded and requires tightening.

Originally requested in H.B. 159 by the Workers' Compensation Division, "pain clinic services" has been added in the definition of medical and related benefits. The definition of medical and related benefits also specifically included "physical rehabilitation", apparently to the exclusion of "vocational rehabilitation". Section 094, Rehabilitation covers both, and both should be considered medical, therefore necessitating the deletion of the word "physical".

The definition of "wages" has also been altered to clarify its meaning in regard to board, rent, housing, lodging or similar advantages received in remote site work and for clarification of the status of employee benefits.

The value of lodging in remote site work is substantial and including that value in wages would materially affect the employer's compensation costs. The value of lodging is normally included in wage calculations when the salary has been reduced to offset the cost of on-site housing when on-site housing is to the advantage of the employer. Wage rates have not been reduced for remote site employment and therefore the wage base for workers' compensation should not include such value.

Clarification of the status of employee benefits is also deemed desirable as it has not been addressed by the legislature or courts in Alaska. It has been discussed in terms of wages lost when an employee is totally and permanently disabled and thereafter looses his employer funded benefit package. Excluding benefits from the definition of wages allows employers and employees to bargain solutions to any remaining problem.

The words "in force at the time of hiring" have also been deleted as recommended in H.B. 159 proposed by the Workers' Compensation Division.

Recommendation:

Sec. 23.30.265 DEFINITIONS. as used in this chapter

(1) "accident" means only an unexpected or unusual event or result, happening suddenly, the results of which are neither expected or intended from the standpoint of the employee.

(2) "adoption" or "adopted" means legal adoption before the time of the injury;

(3) "board" means the Alaska Workers' Compensation Board;

(4) "child" includes a posthumous child, a child legally adopted before the injury of the employee, a child in relation to whom the deceased employee stood in loco parentis for at least one year before the time of injury, and a stepchild or acknowledged illegitimate child dependent upon the deceased, but does not include married children unless wholly dependent on him;

(5) "grandchild" means a child as defined in (4) of this section of a child as defined in (4) of this section;

(6) "brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but do not include married brothers and married sisters unless wholly dependent on the employee;

(7) "child," "grandchild," "brother," and "sister," include only persons who are under 19 years of age, persons who, though 19 years of age or over, are wholly dependent upon the deceased employee and incapable of self-support by reason of mental or physical disability, and persons of any age while they are attending the first four years of vocational school, trade school, or college, and persons of any age while they are attending high school;

(8) "compensation" means the money allowance payable to an employee or his dependents as provided for in this chapter, and includes the funeral benefits provided for in this chapter;

(9) "date of maximum medical improvement" means the date after which further recovery from, or lasting improvement to, an injury or disease can no longer resonably be anticipated, based upon reasonable medical probability;

(10) "death" as a basis for a right to benefits means only death resulting from an injury;

(11) "disability" means incapacity because of injury to earn the wages which the employee was receiving at the time of injury in the same or any other employment;

(12) "employee" means an employee employed by an employer as defined in paragraph (13);

(13) "employer" means the state or its political subdivison or a person employing one or more persons in connection with a business or industry coming within the scope of this chapter and carried on in this state;

(14) "injury" means accidental injury or death arising out of and in the course of employment, and an occupational disease or infection which arises naturally out of the employment or which naturally or unavoidably results from an accidental injury, and includes breakage or damage to eyeglasses, hearing aids, dentures, teeth, and [OR] any prosthetic devises which function as part of the body, but only when damage is shown to be part of, or in conjunction with and as a result of, an accident in the normal course of employment, and further includes an injury caused by the willful act of a third person directed against an employee because of his employment.

(15) "insurance director" refers to the person who heads the insurance division or section of the Department of Commerce and is charged with the administration of the state insurance laws;

(16) "married" includes a person who is divorced but is required by the decree of divorce to contribute to the support of his former spouse;

(17) "medical and related benefits" includes but is not limited to physicians' fees, nurses' charges, pain clinic services, hospital services,

hospital supplies, medicine and prosthetic devices, [PHYSICAL] rehabilitation, and treatment for the fitting and training for use of such devices as may reasonably be required which arises out of or is necessitated by an injury, and transportation charges to the nearest point where adequate medical facilities are available;

(18) "parent" includes stepparents and parents by adoption, parents-in-law, and a person who for more than three years before the death of the deceased employee stood in the place of a parent to him, if dependent on the injured employee;

(19) "permanent impairment" means any anatomic or functional abnormality or loss, existing after the date of maximum medical improvement, which results from injury;

(20) "physician" includes doctors of medicine, surgeons, chiropractors, osteopathys, dentists, and opteomyelits;

(21) "primary duties" are those activities which comprise the substantial amount of time for, and are essential to, the performance of that position after the employer has made reasonable accommodations for the worker's physical impairments;

(22) "reserve rate" means the unencumbered second injury fund balance on October 31 of each year as a percentage of disbursements from the second injury fund during the twelve month period ending on June 30 of the same calendar year.

(23) "self-insurers" means an employer who, instead of insuring his liability under this chapter as it provides, elects to pay directly the benefits provided for, and who has furnished to the board satisfactory proof of his financial ability to make the direct payments;

(24) "suitable gainful employment" means employment or self employment which is reasonably attainable in light of the injured individual's age, educational background, previous occupation, and injury and which offers an opportunity to restore the individual as soon as practical and nearly as possible to his average weekly earnings at the time of his injury;

(25) "substantial earning capacity" means that an employee is engaged in, or is physically capable of engaging in, gainful employment, including light work;

(26) "widow" includes only the decedent's wife living with or dependent for support upon him at the time of his death, or living apart for

justifiable cause or by reason of his desertion at such a time;

(27) "widower" includes only the decedent's husband living with or dependent for support upon her at the time of her death, or living apart for justifiable cause or by reason of her desertion at such a time;

(28) "prosthetic devices" includes but is not limited to eyeglasses, hearing aids, dentures, and such other devices and appliances, and the repairment or replacement of the devices necessitated by ordinary wear and arising out of an injury;

(29) "volunteer fireman" means an individual whose name is registered with the state fire marshal as a member of a regularly organized volunteer fire department or who serves with a full-time fire department on a temporary, voluntary basis;

(30) "regularly organized volunteer fire department" means a volunteer fire department registered with the state fire marshal which has official recognition and financial support from the political subdivision where it is situated;

(31) "volunteer policeman" means an individual who serves as a peace officer with a full-time police department of a general law or home rule municipality on a temporary, voluntary basis;

(32) "volunteer ambulance attendant" means an individual who serves as an ambulance attendant on a temporary, voluntary basis with a volunteer or full-time fire department or municipal ambulance service of a general law or home rule municipality;

(33) "wages" means the money rate at which the service rendered is recompensed under the contract of hiring, [IN FORCE AT THE TIME OF THE INJURY,] and includes the reasonable value to the employee of board, rent, housing, lodging, or similar advantage received from the employer, gratuities received in the course of employment from <u>other</u> [OTHERS] than the employer, <u>except the value of board, rent, housing, lodging or similar advantage received from an employer in conjunction with remote site employment, and excluding in any situation the cost or value of employee benefits provided voluntarily or by labor agreement by an employer;</u>

OCCUPATIONAL DISEASES

During the Legislative hearings considerable testimony was presented describing the inadequacy of the Workers' Compensation Act in meeting the needs of workers who suffer from an occupational disease known as asbestosis. The disease results from the inhalation of asbestos fibers causing damage to the lungs which is practically impossible to diagnose prior to death.

In the Alaska Workers' Compensation Act, the word "injury", by definition, includes occupational disease. For a normal or regular occupational disease the coverage provided appears adequate and responsive. Because of the peculiar traits of asbestosis, the coverage provided under the act has been demonstrated to be non-existent in time of need.

The ACE study has not been able to cope with this disease in that people experienced and knowledgable in this disease do not reside in Alaska. Further study is needed in order to make intelligent and meaningful recommendations on how it should be integrated into the workers' compensation system.

Therefore, we recommend that the Alaska legislature will continue to study this desease and its effects on Alaskan residents, and put together a recommended program for this group of Alaskans who so desperately need help.

EXHIBIT SCHEDULE

I. Florida's New Workers' Compensation System: An Interim Report, March, 1981.

II. National Council on Compensation Insurance, Graphs.

III. Workmen's Compensation and Rehabilitation Law, Revised, The Council on State Government, Lexington, Ky., 1974.

VI. Comparison of Permanent Partial Disability Schedule Awards and 1982 Impairment Values.

V. Guide to the Evaluation of Permanent Impairments, American Medical Association, 1977.

VI. Preliminary Report on the Wage-Loss Law in Florida, National Council on Compensation Insurance, 1981.

VII Alaska Income Replacement Levels, National Council on Compensation Insurance.

VIII. Comparison of 66 2/3 Percent of Average Weekly Wage with 80 Percent of Spendable Weekly Wage, National Council on Compensation Insurance.

IX. Alascom, Inc.'s Paper In Support of Worker's Compensation Committee of Alaska.

EXHIBIT I

FLORIDA'S NEW WORKERS' COMPENSATION SYSTEM: AN INTERIM REPORT

March 1981

(WITH OCTOBER 1981 ADDENDUM)

Prepared By:

BUREAU OF ECONOMIC ANALYSIS
DIVISION OF ECONOMIC DEVELOPMENT
FLORIDA DEPARTMENT OF COMMERCE

ADDENDUM

October 1981

Since the completion of this report in March 1981 there has been a second Workers' Compensation premium reduction ordered by the State Insurance Commissioner. This reduction can be described briefly.

The effective date of the rate reduction was July 1, 1981. On average, Workers' Compensation premiums paid to private insurance carriers were decreased 15.6%. Since the volume of premiums paid in a year in Florida is about $1 billion, that would mean a savings of $156 million for Florida employers annually.

The actual premium reduction varied by employment class. All 600 classes were guaranteed at least a 5% reduction. The manufacturing classes averaged a 22.7% decrease with rates for some manufacturing classes falling by as much as 48%.

This latest action was the third Workers' Compensation premium decline since the 1979 reforms. The first, a 15% across-the-board reduction was enacted by the Legislature as a part of the 1979 reform package. The Insurance Commissioner ordered an 11.4% rate reduction in January 1981 which actually translated into a 5.1% premium dollar reduction when other changes were considered.

Cumulatively, the impact of these premium reductions has been to lower premium rates by 36.4% and save Florida employers $325 million annually in premiums. The average Workers' Compensation premium rate is now at its lowest point since September 1975 and places the State only 23rd highest in the nation. Before the reforms, Florida had ranked among the five most expensive states in this regard.

Further premium reductions may be in the offing. As is indicated on pages 21-24 of this report, early indications of claims activity, total claim costs, attorney involvement and other factors are quite promising. The State Insurance Commissioner has requested another Workers' Compensation premium rate filing later this year to take effect January 1, 1982.

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I. OVERVIEW

At one time, Florida's Workers' Compensation program was a system seriously in need of fundamental reform. Injured workers genuinely entitled to assistance received inadequate benefits. Employers were overburdened with premiums while insurance carriers lost millions of dollars annually attempting to provide Workers' Compensation coverage. The State's efforts to attract new industry were severely hampered by the reputation of the Florida Workers' Compensation system as extremely costly to employers.

Study of the system indicated that its very structure encouraged subjectivity in benefit determination. This fact, in turn, provided incentives for exaggerated if not invalid claims, and for the unusually frequent involvement of attorneys and medical specialists. The inadequate authority and resources accorded those government agencies charged with overseeing Workers' Compensation further contributed to the problem.

These problems were directly addressed in sweeping changes to the Workers' Compensation law effective August 1, 1979. These reforms were aimed at making Florida's Workers' Compensation system affordable, equitable and efficient. Perhaps the most important change was a switch to the "wage-loss" concept in benefit determination. Under this concept, a worker disabled by an injury on the job would receive (in addition to coverage of his medical expenses) compensation based on the actual decrease in average wages he suffered as a result of his disability.

Among the more important additional changes were: 1) an increase in statutory benefit levels for injured workers; 2) fundamental revisions in the authority and responsibilities of the Bureau of Workers' Compensation; 3) an enhancement of the ability of both the citizenry and its government to participate in the rate-making process; 4) a shift, to the claimant, of responsibility for paying attorneys' fees; 5) the discouragement of lump sum settlements of claims; and, 6) an across-the-board 15 percent reduction in premium rates with further reductions anticipated as experience was gained under the new law.

Any future reductions in Workers' Compensation premium rates are likely to be ordered by the Florida Insurance Commissioner based on his evaluation of rate filings made by the insurance industry. (Direct action by the Legislature is always a theoretical possibility.) Not until June 1981 will the insurance industry make its first premium rate adjustment filing based directly on experience under the new law.

Nevertheless, the early indications are quite positive in regard to the Legislative objective of reducing the cost of the Workers' Compensation system. Substantial progress already has been made; available information encourages the belief that further premium rate reductions are a distinct possibility. At this point, the following observations are warranted:

1. The Workers' Compensation insurance industry has been able to absorb two sizable premium rate reductions. Estimates made at the time these rate reductions were put into effect suggest that they will result in combined premium savings of approximately $170 million annually for Florida employers. The two rate reductions marked the reversal of a long-term trend of rapidly increasing Workers' Compensation premiums in the State. Before the 1979 legislative action, Florida ranked 5th in the nation in terms of its premium rates for Workers' Compensation coverage. It now has fallen to 13th.

2. These significant premium reductions have occurred even while statutory benefits available to injured workers were being increased substantially. The maximum weekly benefit amount has gone from $130 in 1978 to $226 in 1981, moving Florida's rank among the states from 41st to 18th. The maximum period for benefit collection has been extended; the inflation adjustment used in benefit calculation, increased; and the schedule of fees for medical services, revised upward by nearly 30 percent.

3. Available analyses suggest that the new law is having its intended effects in terms of the costliness of Workers' Compensation claims.

   - A study commissioned by the Insurance Committee of the Florida House of Representatives found that, during the first five months of operation of the new law, the percentage of claims of the particularly expensive "permanent partial" injury type had declined significantly. So too had indemnity costs and the percentage of claims involving attorney representation. The proportion of workers returning to their same employer after recovery from their injury had increased.

   - A November 1980 analysis by the National Council on Compensation Insurance (NCCI) also found a decrease in the frequency of permanent partial injury claims. While concluding that available data did not yet provide an adequate basis for a premium rate adjustment decision, one preliminary finding was an indication of significant insurance carrier cost reductions resulting from experience under the new law.

   - A Division of Workers' Compensation comparison of 1979 and 1980 data revealed that, during the first full year under the new law, there was a 4 percent reduction in total premiums paid by employers in the State. The number of formal claims declined by 48 percent. The number of joint petition settlements of Workers' Compensation claims fell by 36 percent while benefits paid in these claims dropped by 18 percent--a savings of $15.7 million. The amount of attorneys' fees awarded in Workers' Compensation cases decreased by 10.6 percent.

As the first state in the nation to adopt the wage-loss concept as the basis for determining permanent disability benefits for injured workers, Florida is serving as an experimental model watched closely by other states. Perhaps the best guarantee that Florida's Workers' Compensation reforms will succeed is the number of determined and careful monitoring programs being conducted both inside and outside government.

II. WORKMEN'S COMPENSATION IN FLORIDA (1935-1979)

A System in Need of Reform

In 1935, the State of Florida established a Workmen's Compensation system designed to lend stability and predictability to an employer's obligations to his injured employees while, at the same time, insuring that the injured worker would receive prompt and adequate compensation for his injury.[1] By the 1970s, Workmen's Compensation had evolved into a system which was unsatisfactory from virtually every perspective.

Consider the plight of the parties directly involved in the Workmen's Compensation system prior to its reform in 1979:

The Injured Worker--The benefits available to the average injured worker in Florida were quite low compared to those available in other states. An analysis conducted by the National Council on Compensation Insurance (NCCI) revealed that Florida's "statutory benefits", that is the maximum benefit amounts and collection periods set by law, ranked the state 37th in the nation.[2] For example, while in most states an injured worker received 66-2/3 percent of his average weekly wage while disabled, in Florida he received 60 percent.

Furthermore, compensation claims were taking a long time to resolve. The Miami Herald, in a comprehensive analysis of Florida's Workmen's Compensation system, reported that many injured workers were forced to hire attorneys because their legitimate claims were not being paid on time.[3]

The Employer--The cost to Florida employers of carrying the required Workmen's Compensation insurance was extremely high. Florida's premium rates (the decimal fractions applied to payrolls to calculate premiums due) were the fifth highest in the nation in 1979 according to NCCI data.[4] These premium rates had increased 229 percent from 1970 to 1978 and further rate increases were being requested by the insurance industry.[5] In 1979, the total premiums paid by Florida employers ranked it seventh in the nation according to figures from the National Association of Insurance Commissioners.[6]

These ever-increasing premiums did more than just force up the cost of doing business in Florida. They also put the State's businesses at a disadvantage when bidding for contracts against out-of-state firms. Bids submitted by Florida firms reflected the unusually high Workmen's Compensation premiums.[7]

The Insurance Companies--During the five-year period extending from 1973 through 1977, insurance companies offering Workmen's Compensation coverage in the State experienced $205.1 million in net losses according to NCCI data.[8] Although investment returns did result in a 3 percent net profit in 1978, there had not been an underwriting profit in Florida Workmen's Compensation since the 1950s.[9]

The impact of this unsatisfactory system extended beyond those directly involved. Ultimately, all Floridians felt the effects of the escalating premiums. Producers of goods and services passed their increased operating costs on to consumers.

State efforts to diversify the Florida economy, to further develop the industrial base, were severely hampered by the costly Workmen's Compensation system. Premium rates paid by Florida employers were nearly triple those paid by Alabama, North Carolina and South Carolina--states very much in competition with Florida in efforts to attract new industries. The NCCI reported that the cost of claims from permanently and totally disabled Florida workers was double that of seven other southern states.[10] An "Economic Development Study" prepared by the Fantus Company for the Florida Council of 100 cited high Workmen's Compensation premium rates as a competitive disadvantage for the State in its effort to recruit industry.[11]

In their efforts to attract new industry to Florida, officials often were confronted with questions about the reputation of Florida's Workmen's Compensation system. Former Commerce Department Secretary Phil Ashler once described a standard industrial recruitment scenario demonstrating the obstacle posed by Florida's high Workmen's Compensation premiums. According to Ashler, a prospective employer typically would ask a series of questions about the adequacy of labor supply and other business conditions. As State officials responded to these questions, the attractiveness of Florida to the prospect would grow--until the issue of Workmen's Compensation was encountered. At that point, Florida's image suffered a setback.[12]

The Miami Herald reported that the Governor and Lieutenant Governor had similar experiences. While delivering a promotional speech in Chicago, Governor Bob Graham was interrupted by a firm's indignation over Florida's Workmen's Compensation rates. Lieutenant Governor Wayne Mixson lamented the effects of a costly Workmen's Compensation system on industrial recruitment.

> Several prospects that we've had, specific prospects that we've talked to in other states that have had the kind of industry or business that we would desire to locate in Florida, have been reluctant to make any commitment because of that, the workmen's comp.[13]

Further Defining the Problem

Florida's Workmen's Compensation system was costing employers and insurance companies far more than the typical benefits paid to the vast majority of injured workers warranted. Why was this the case?

In 1978, a study was conducted by the National Council on Compensation Insurance (NCCI) with the results printed by the Florida Association of Insurance Agents.[14] This analysis, which compared Florida's claim and benefit figures to those of Alabama and Georgia, identified the major elements of Florida's Workmen's Compensation problem.

1. Total medical benefits paid to injured workers in Florida were significantly higher than those paid in other states.[15] The average medical benefits paid, the proportion of cases in which specialized medical practitioners were used, the frequency with which injured workers were confined to a hospital and the average hospital bill in Florida were invariably higher than in Alabama and Wisconsin.

2. Benefits paid for impairment or disability in Florida were higher than for Alabama and Wisconsin despite Florida's comparatively low statutory benefits.

3. Workmen's Compensation activity in Florida featured an unusually great amount of litigation. The percentage of Florida cases in which attorneys were involved on the plaintiff side (20.8 percent) was far above that of Alabama (2.8 percent) and Wisconsin (3.0 percent). Attorneys typically became involved at an earlier point in Florida cases; Florida cases normally took a longer time to be resolved; and, a greater number of cases were reopened by plaintiff attorneys. According to the Division of Workers' Compensation, Florida Compensation lawyers took in $19.7 million in fees during 1978.[16]

4. The proportion of cases which involved "permanent partial" disabilities was far higher in Florida than in Alabama or Wisconsin. Furthermore this injury category was responsible for a disproportionately large share of the Workmen's Compensation benefits paid in the State.

Because this fourth item was perhaps the key finding, it deserves more detailed attention. In the table below, Florida's

distribution of Workmen's compensation by injury type is compared to those of Alabama and Wisconsin.

TABLE 1

PERCENTAGE DISTRIBUTION OF RESOLVED WORKMEN'S COMPENSATION CASES BY INJURY TYPE: FLORIDA, ALABAMA AND WISCONSIN (November-December 1977)

Injury Type	Florida	Alabama	Wisconsin	
Death	0.4	0.2	0.4	0.89
Permanent Total	0.8	0.1	0.5	0.15
Permanent Partial	30.0	7.1	9.0	24.16
Temporary Total	68.5	90.6	89.0	74.60
Temporary Partial	0.3	2.1	1.2	0.13

SOURCE: Florida Association of Insurance Agents, 1977 Workmen's Compensation Closed Claim Study, conducted by the National Council on Compensation Insurance, March, 1978.

Note that the proportion of resolved Florida cases which fall into the permanent partial category was more than three times the proportion recorded in Wisconsin and more than four times the Alabama figure.

The disproportionately large role of permanent partial injuries is just as striking when the distribution of benefits by injury type is examined as in Table 2.

TABLE 2

PERCENTAGE DISTRIBUTION OF BENEFITS PAID IN RESOLVED WORKMEN'S COMPENSATION CASES BY INJURY TYPE: FLORIDA, ALABAMA AND WISCONSIN (November-December 1977)

Injury Type	Florida	Alabama	Wisconsin	
Death	1.6	2.1	5.4	19.14
Permanent Total	10.8	1.9	2.2	2.73
Permanent Partial	67.2	37.5	40.8	66.91
Temporary Total	20.3	57.4	50.8	11.21
Temporary Partial	0.0	1.0	0.8	0

SOURCE: Florida Association of Insurance Agents, 1977 Workmen's Compensation Closed Claim Study, conducted by the National Council on Compensation Insurance, March, 1978.

As the table reveals, permanent partial injury cases accounted for 67.2 percent of medical and indemnity benefits paid in Florida but only 37.5 percent and 40.8 percent of Alabama and Wisconsin benefits, respectively.

Causes Underlying the Problems

The responsibility for these problems appeared to rest with the structure of Florida's Workmen's Compensation system itself. More specifically, it was a system which placed too much reliance on the subjective judgments required of doctors and of Judges of Industrial Claims. It was a system which encouraged the active involvement of attorneys and the granting of lump sum settlements by insurance companies. It was a system which provided government agencies with insufficient authority and resources with which to regulate the program in the public interest. Finally, it was a system which provided indemnity benefits to injured workers who had not actually suffered any loss in wages.

The subjectivity of procedures was most evident at the point of "maximum medical improvement" or MMI, i.e., the point of which a doctor decided that the injured worker had recovered to the greatest extent possible. At that point, it would be determined whether the worker had either: 1) no disability, 2) a partial disability which was nonetheless permanent (permanent partial), or 3) a permanent and total disability (permanent total).

As noted previously the permanent partial category was responsible for an unusually large number of cases and a disproportionately high level of benefits in Florida. If a worker had received a permanent partial disability in the form of an injury specified in the Florida Statutes (a "scheduled" injury), he received a specific number of weeks of compensation at 60 percent of his average weekly wage. These benefits were paid whether or not the worker had been able to resume employment at his previous wage or even higher.

For "unscheduled" injuries within the permanent partial category, a doctor assigned a percentage disability rating to the worker. This percentage disability rating then was multiplied <u>first</u> by a specified number of weeks (175 for a 1-to-10 percent rating, 350 for an 11-to-50 percent rating, and 525 for a 51-to-100 percent rating) and <u>then</u> by 60 percent of the worker's average weekly wage.

This rating system was not only highly judgmental, it also provided a strong incentive for attempting to increase the disability rating. Fred Karl, speaking for the Florida Association of Insurance Agents, provided an example of this. At the time his example was formulated, the maximum weekly benefit amount available to an injured worker was $130. Note the difference in benefits paid if the worker's disability rating were to be raised from 10 percent to 11 percent.

10% x 175 weeks @ $130 per week = $2,275
11% x 350 weeks @ $130 per week = $5,005

A one percentage point revision in the disability rating raised the benefits paid to twice the original amount. This was because, as was explained earlier, the 11 percent disability rating marked a threshold in the benefit structure. The disability rating increased by one percentage point, but, more significantly, the number of weeks of benefits paid jumped from 175 to 350. This latter change was primarily responsible for the huge jump in the benefit amount. A similar threshold existed at the 51 percent rating level.

The subjectivity did not stop with the doctor's disability rating however. In recognition of the fact that the same injury could affect the careers of two people in different occupations to a much different extent (for example, compare the ramifications of the loss of a finger to a lawyer as opposed to a pianist), the system had a second form of disability rating, wage diminution. The worker's lifelong wage earning capacity could be diminished by his injury. This contention would be presented to a Judge of Industrial Claims who would determine a diminution of wage earning capacity rating based on such factors as the age, occupation, education of the worker and other circumstances. In the end, the higher of the two disability ratings, the wage diminution rating from the judge or the physical disability (impairment) rating from the doctor, would determine the worker's benefits.

In other words, the system provided the injured worker with an incentive to obtain a higher disability rating. This incentive, combined with the subjectivity of the ratings themselves, resulted frequently in the use of legal counsel and the involvement of medical specialists. The NCCI study of two months' of resolved permanent partial cases in 1977 revealed that 71 percent of injured Florida workers were represented by an attorney. This proportion was more than twice the Alabama figure and four times that of Wisconsin.[17] Medical specialists, as opposed to general practioners, were involved in 63.4 percent of the Florida cases in which physicians were consulted. The corresponding percentages for Alabama and Wisconsin were 30.8 percent and 39.3 percent, respectively.[18] This suggested what the Miami Herald called "doctor shopping", an attempt to find the physician who would give a higher disability rating.[19]

While the role of subjective judgments in benefit determination was perhaps the most central deficiency in the system, there were other, often related problems.

1. Attorneys' fees were related to benefit and settlement amounts. Until 1978, the claimant paid no attorney's fees. Legislation in that year required that claimants pay 25 percent of the fees with certain exceptions. Thus, attorneys had an incentive to strive for the largest award possible unencumbered by concern about the claimant's ability to pay an attorney's fee.

2. According to the Miami Herald, many Judges of Industrial Claims tended to give the benefit of the doubt to the Workmen's Compensation claimants. That publication reported instances of compensation awards when there was, in fact, no injury.[20]

3. Insurance companies frequently faced lengthy and costly litigation. To extricate themselves, they tended to offer lump sum settlements or washouts of medical expenses to injured workers.[21]

4. The government agencies involved lacked the authority and resources to remedy the situation. The Bureau of Workmen's Compensation was too overwhelmed with paperwork to advise claimants on rights and procedures or to see that benefits were paid equitably and in a timely manner. The Department of Insurance had to rely on the National Council on Compensation Insurance, an insurance industry organization, to provide the statistical basis for evaluating rate adjustment requests.[22]

III. THE MAJOR ELEMENTS OF THE 1979 CHANGES TO THE WORKMEN'S COMPENSATION LAW

The Intent of the Legislature

It had become clear that rather fundamental changes were needed in Florida's Workmen's Compensation system. A joint Senate-House Select Committee was appointed and the Workmen's Compensation issue was identified as the key issue facing the 1979 Legislature.[23]

The overall goal of the legislative effort was to reduce the cost of Workmen's Compensation to employers. However, the aims of restoring equity in benefit awards and of reducing the delays in claims resolution were also important. In other words, it was hoped that the system could be made affordable, efficient and equitable.

Two major targets of reform were identified. The first was comprised of the indemnity benefit determination provisions in the existing law which required subjective estimates of disability by doctors and by Judges of Industrial Claims. This subjectivity had led to extensive litigation which, in turn, had been a major factor in the high cost of the system. The second target consisted of the administrative provisions used in handling a claim. The ineffectiveness of these provisions had resulted in delays in claims processing and had contributed to the extensive litigation characteristic of the system. An improved administrative structure was seen as increasing the equity of benefit determination by reducing the system's dependence on ". . . the vagaries of the adversary process."[24]

The Changes in the Law

By the end of the 1979 Legislative sessions, Florida had a new "Workers'" Compensation law. The major changes were the following.[25]

1. Florida became the first state to adopt a "wage-loss" concept for a considerable proportion of Workers' Compensation benefit determination. The switch to a wage-loss concept was intended to decrease dramatically the subjectivity involved in benefit determination.

   This change concerned the indemnity component rather than the medical services component of Workers' Compensation benefits. Recall that, under the old system, injured workers suffering a permanent and partial disability either were eligible for benefits specified by statute (scheduled injuries) or were compensated based on a disability rating (unscheduled injuries). Within the unscheduled category, workers received the higher of the physical impairment and the diminution of earning capacity ratings.

Under the new system, impairment benefits would be paid for certain severe injuries: amputation, 80 percent loss of vision (after correction), or serious head or facial disfigurement. However, indemnity benefits in the majority of cases were to be determined solely by the actual loss in wages experienced by the injured worker due to his disability.[26] Under the wage-loss concept, the injured worker would receive 95 percent of the difference between 85 percent of his pre-injury wages and his wages after maximum medical improvement. This rule translates into the proposition that the worker must have experienced at least a 15 percent wage loss. After the worker had collected wage-loss benefits for two years, his post-injury wages would be discounted to adjust for inflation.

2. The statutory benefit levels for injured workers were raised. The maximum weekly benefit amount was increased from 66-2/3 percent of the statewide average weekly wage to 100 percent of that figure.

3. The structure and authority of the agency responsible for overseeing the operation of the Workers' Compensation were changed in the interest of making that agency more administratively effective. The Bureau of Workmen's Compensation was upgraded to a Division within the Department of Labor and Employment Security. This Division was instructed to ". . .assume an active and forceful role" in administering the system.[27] Under the new law, the employer would report employee injuries directly to the Division rather than indirectly to the Division through the insurance carrier. Steps were to be taken to ensure that injured workers were fully and promptly informed of proper procedures and their rights under the law. For example, injured workers were to be mailed an informational brochure while those suffering injuries which might permanently disable them were to be contacted personally. The Workers' Compensation Division would become more actively involved in controverted claims issuing advisory opinions as to benefits payable in each case. The judges of industrial claims were retitled deputy commissioners. Appeals of rulings by the deputy commissioners would now go to the First District Court of Appeals rather than to the Industrial Relations Commission, abolished by the 1979 legislation. The main burden of workers rehabilitation was shifted from the Division to the insurance carrier and employer. Finally, the Division was required to examine claims files, report annually on carrier promptness of payment and notify the Department of Insurance of patterns of questionable claims handling techniques by carriers.

4. The ability of citizenry and government to participate in the rate-making process was increased. A Bureau of Workers' Compensation Rating was established within the Department of Insurance to provide analytical support to the Insurance Commissioner in his review of insurance industry rate filings. Insurance company reporting requirements were changed in order to facilitate analysis by the Department of Insurance. Meetings by insurance industry rate-making authorities were required to take place in Florida and in the "sunshine." Excessive profits by insurance companies were prohibited.

5. The responsibility for paying attorneys' fees was shifted entirely to the claimants. Previously the claimant was to pay 25 percent of the fees while the remaining 75 percent was paid by the employer or insurance carrier. Certain exceptions to the rule of claimant payment were set forth. For example, attorneys' fees for recovery of medical benefits were to be paid by the employer or insurance carrier.

6. "Washouts" of benefits were to be strongly discouraged. Prior to the 1979 legislation, all parties could agree to a one-time payment to the claimant for benefits, thereby ending or "washing out" the employer's liability. Washouts of medical benefits would be prohibited. Lump sum settlements of disability benefits would be barred until six months after maximum medical improvement and then permitted only in special circumstances.

7. A 15 percent, across-the-board reduction in premium rates was mandated by the statute. The Legislature expected changes in the Workers' Compensation law--particularly the switch to a wage-loss system of disability benefit determination--to result in a substantial decline in insurance carrier costs. This decline was expected to more than counter-balance the increases called for in compensation benefits. To avoid excessive insurance carrier profits, the 15 percent premium rate reduction was ordered.

IV. THE EARLY PERFORMANCE OF FLORIDA'S NEW WORKERS' COMPENSATION SYSTEM

Examining the Impact

The fundamental reforms made in the Workers' Compensation law in 1979 were intended to make the system more equitable and efficient in meeting the genuine needs of injured workers while at the same time, making the system less costly to employers and insurance carriers. The reforms have been in effect for twenty months as of this writing. Although the new system will not have been given a fair test until it has been in operation for a number of years, an examination of the early performance of the law is warranted. Essentially, the question to be asked is this: Does the new Workers' Compensation law appear to be having its intended effects?

The scope of this analysis will be limited to the effects on employer costs (which reflect insurance carrier costs to a substantial extent). Certainly, the new system will not be considered a success unless it results in the fast, efficient and equitable delivery of compensation and services to the injured worker. However, an evaluation of that aspect of the system's performance is considerably more complicated than an assessment of the impact of the new law on employer costs. An examination of available statistics--benefits paid, numbers of claimants, premium rates and amounts--can provide a good preliminary indication of the impact of the new law on costs.

Reductions Already Accomplished in Employer Premiums

As was reported in Section III, one element of the 1979 legislation was a 15 percent, across-the-board reduction in Workers' Compensation premium rates. Simplifying somewhat, premium rates are multiplied by the employer's payroll to determine his Workers' Compensation insurance premium. At the time this rate reduction was enacted, a legislative staff analysis estimated that it would save Florida employers $135-142 million annually.[28]

As of yet, the insurance industry has not filed for a premium rate adjustment based directly on performance of Florida's new Workers' Compensation law. Nevertheless, an insurance industry rate filing submitted in December 1980 is worth noting. That filing concerned changes to the expense program used in calculating premiums and to the transition program for switching to a "total payroll" concept in computing premiums. As approved by the State Insurance Commissioner on January 1, 1981, this filing resulted in average premium rate reductions of 11.4 percent overall.[29] The Department of Insurance estimated that this premium rate reduction would result in savings of $34 million to Florida employers.[30] The NCCI determined that Florida's average manual premium rate following this change would rank it 13th among the 45 states permitting private Workers' Compensation insurance in the nation.[31] As was noted earlier, Florida had ranked fifth in the nation prior to the 1979 legislation. While the 11.4 percent rate reduction was

not based directly on experience under the new law, it does seem to suggest an improved economic state for insurance carriers after over a year and a half under the new law.

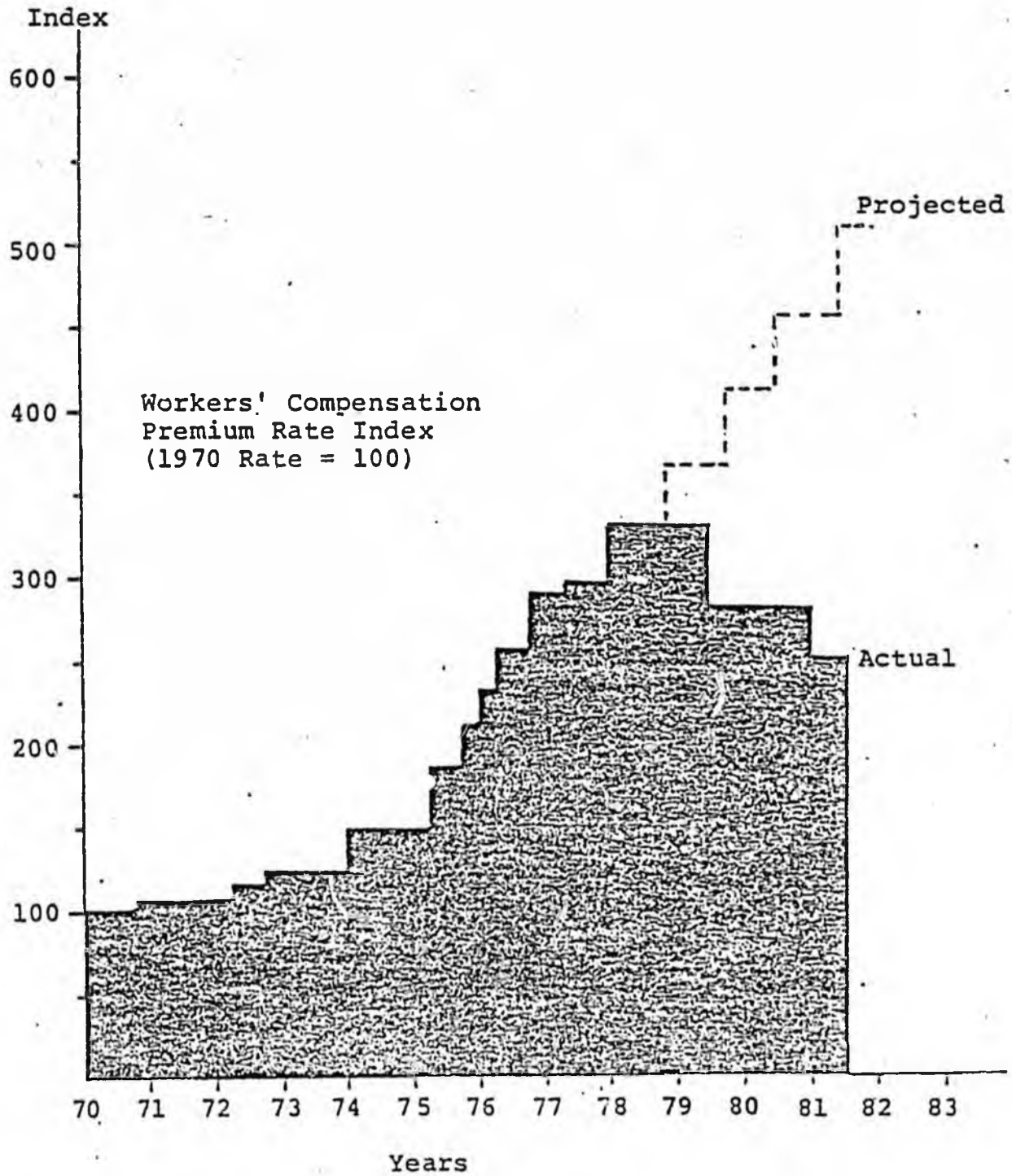
These premium rate reductions give early indication that the long-term trend of ever-increasing Workers' Compensation insurance premiums in Florida has been ended or perhaps even reversed. To demonstrate this development, an index of the overall Workers' Compensation manual premium rate has been developed. The average manual premium rate for all covered Florida employers, excluding those with self-insurance arrangements, as of January 1970 was set equal to 100.[32] Changes in the index over time then were calculated by applying the percentage changes in the overall manual premium rate reported at the time of the legislative action or the approved industry filing.[33] For example, an insurance industry filing for a rate increase was approved by the Insurance Commissioner and made effective August 1, 1970. This increase was estimated to have the effect, on the average, of raising Workers' Compensation premium rates by 7.2 percent. Thus, the value of the index was increased from 100 to 107.2 (100 + 7.2 percent) as of August 1, 1970.

In Figure 1, the trend in the manual premium rate index from 1970 to the present is portrayed. (The actual index trend is portrayed by the darkened area. The dashed lines are explained subsequently.) Note the rapid--even accelerating--rate of increase prior to the 1979 legislation. The 15 percent rate reduction ordered by the legislation was the first rate reduction of the decade. The second rate reduction, effective January 1, 1981, brought the premium rate index to its lowest level since September, 1976.

The reduced premium rate levels stand in stark contrast to what might have been the case had the Workers' Compensation legislation not been enacted. From January 1970 through July 1979, there were eleven premium rate increases affecting most or all classifications. That constitutes an average of one rate increase every 10.5 months. The average rate increase was 11.5 percent, compounded. Assuming that this trend had continued from the date of the final premium rate increase (effective January 1, 1978) prior to the 1979 legislation, the Workers' Compensation premium rate index would have stood at 457.0 in March 1981 rather than at its actual level of 248.3. The dashed-line bars in Figure 1 portray this possible path of the index had the 1979 changes to the Workers' Compensation law <u>not</u> been put into effect.

FIGURE 1

OVERALL TREND IN FLORIDA WORKERS' COMPENSATION PREMIUM RATES, 1970-1982: IMPACT OF NEW LAW



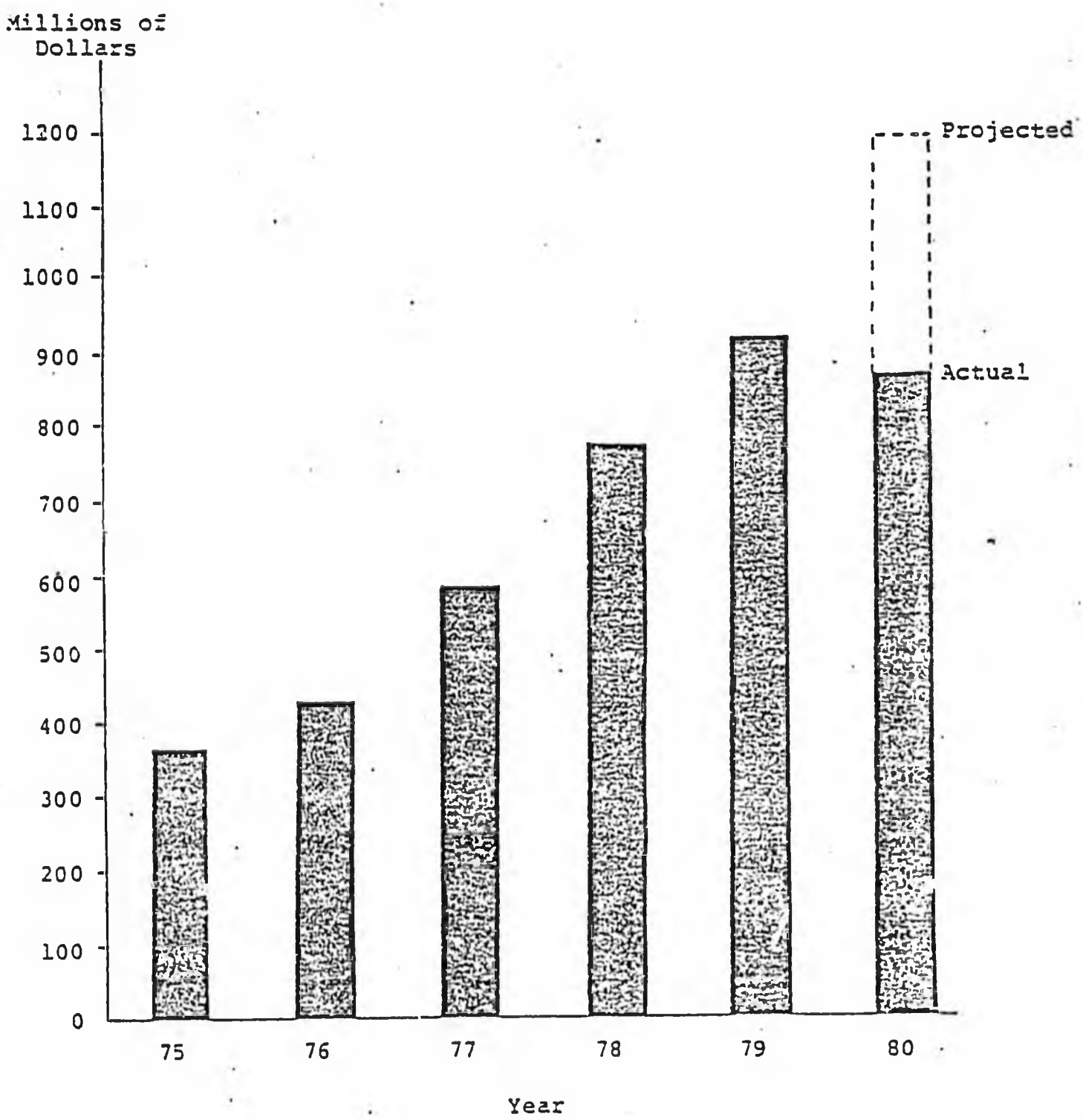
SOURCE: Historical rate increase data series provided upon special request by Bureau of Workers' Compensation Rating, Florida Department of Insurance. All index values, including hypothetical projections, calculated by Bureau of Economic Analysis, Florida Department of Commerce.

These premium rate reductions already have had an effect on actual Workers' Compensation premiums paid by Florida employers. Each year, the Division of Workers' Compensation within the Department of Labor reports the total premiums paid for Workers' Compensation coverage in the State.[34] In Figure 2, the historical trend in total premiums paid is shown. The darkened bars represent the actual premium totals for each year. Note the decrease in total value of premiums reported in 1980--the first full year affected by operation of the new law. This reduction occurred despite a 4.2 percent rise from 1979 to 1980 in the number of employees covered by Workers' Compensation and a 8.1 percent increase in the official average weekly wage in the State.

The dashed-line extension of the 1980 bar represents an estimate of the premium level which would have been attained without the 1979 legislation. The estimate assumes that the average annual percentage increase in premiums paid from 1975 through 1979 would have occurred once more in 1980. That average annual increase was 26.3 percent, compounded. Such an increase would have resulted in a 1980 premium total of $1.2 billion rather than the actual $877.6 million.

FIGURE 2

TREND IN WORKERS' COMPENSATION PREMIUMS REPORTED, 1975-1980: IMPACT OF THE NEW LAW

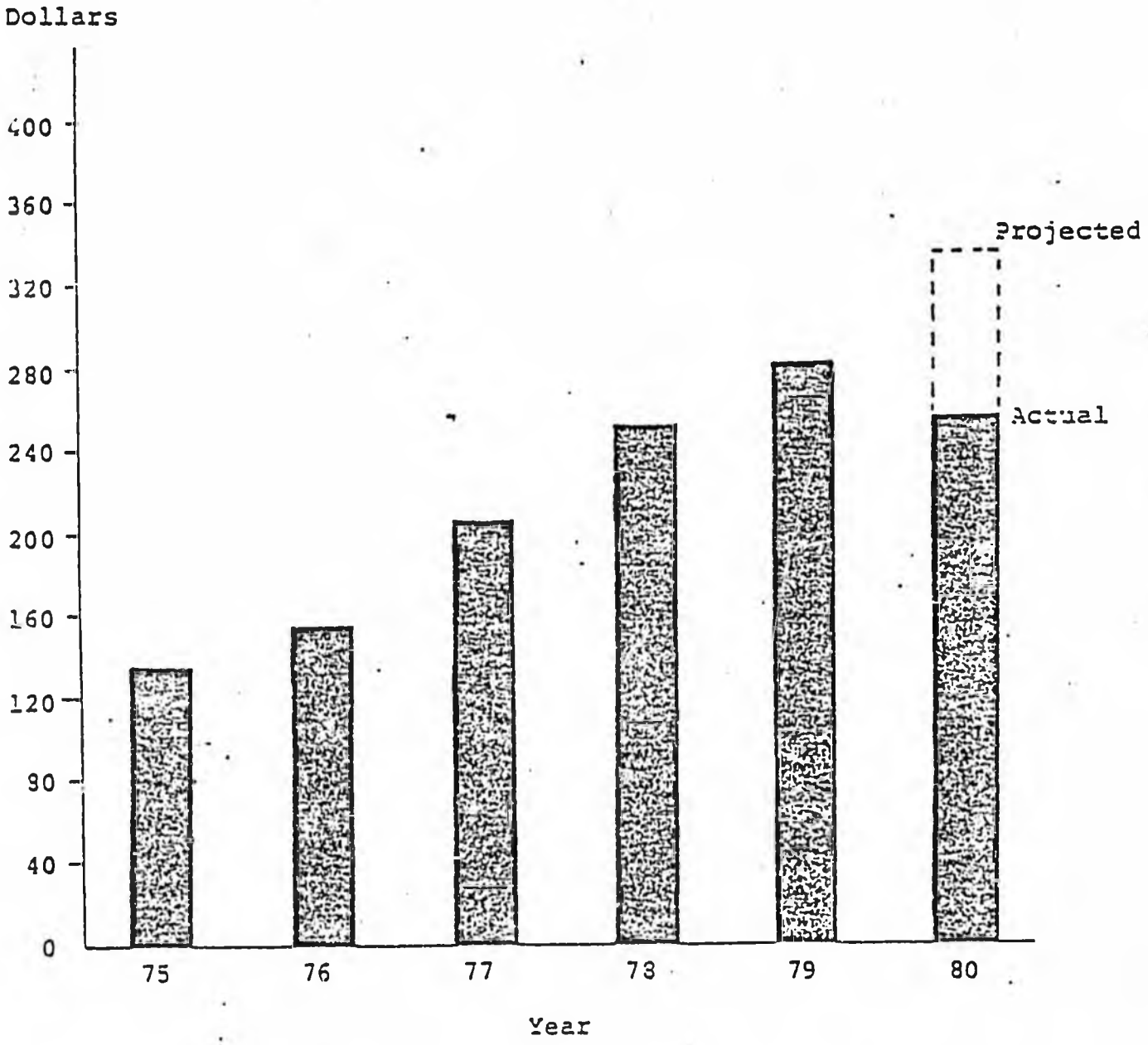


SOURCE: Actual historical data from 1977-1978 Cases Causes Costs, Division of Workers' Compensation, Department of Labor and Employment Security, 1979, p. 214 and by special request. 1980 projection by Bureau of Economic Analysis, Florida Department of Commerce.

Because the number of employees covered by Workers' Compensation is a major determinant of premiums paid, it might be expected that "controlling for" Florida's rapid employment growth might significantly alter the trend in Workers' Compensation costs. However, Figure 3 demonstrates that this is not the case. When the Workers' Compensation premiums paid per covered employee figure is plotted over time, the trend appears quite similar to that of total premiums paid (Figure 2). Once again, the rapid rise in premiums from 1975 to 1979 is clearly evident as is the positive effect of the 1979 legislation. On the average, Florida employers paid substantially less in Workers' Compensation premiums for each of their employees in 1980 than they would have without the new law.[35]

FIGURE 3

TREND IN WORKERS' COMPENSATION
PREMIUMS PER COVERED EMPLOYEE, 1975-1980:
IMPACT OF THE NEW LAW



SOURCE: Actual historical data from 1977-1978, Cases Causes Costs, Division of Workers' Compensation, Department of Labor and Employment Security, 1979, p. 214 and by special request. 1980 projection by Bureau of Economic Analysis, Florida Department of Commerce.

Increasing Benefits While Decreasing Premiums

It is important to note that these positive developments in terms of employer costs have taken place at the same time that benefits available to injured workers were being increased rather dramatically. The fact that the maximum weekly benefit amount was increased from 66-2/3 percent of the statewide average weekly wage to 100 percent of that figure has been mentioned. This maximum benefit amount was increased from $195 to $211 as of January 1, 1980, and increased again to $228 as of January 1, 1981. The NCCI has reported that these changes moved Florida from 37th place to 18th place in the nation in this regard.[36]

Other benefit increases were a direct or indirect result of the 1979 legislation. The maximum period for collecting wage-loss benefits, following maximum medical improvement, was raised from 350 to 525 weeks. The annual inflation adjustment used in calculating wage-loss benefits was increased from 3 percent per annum to 5 percent per annum. An overall 29.3 percent increase was made in the schedule of medical fees.[37] The medical fee schedule is to be revised annually.

Many of these benefit changes concern "maximum" benefits available. They are aimed at ensuring that injured workers receive just and adequate medical benefits and disability compensation for their injuries. Continued monitoring and careful examination of experience of the new law will be necessary in order to determine whether the wage-loss concept and the other benefit changes are indeed achieving the objectives for which they were established.

The Possibility of Further Premium Reductions: Early Signals

It was the hope of the Governor and the Legislature that the 1979 amendments to the Workers' Compensation law would result in further premium reductions in subsequent years. More specifically, the use of an objective wage-loss system of disability benefit determination and the deemphasis of subjective disability ratings were expected to result in considerable cost savings through a reduction in controverted claims, the decreased use of attorneys and medical specialists, a lower frequency of unjustified claims, and so on. These savings would be reflected in the experience of insurance carriers and ultimately result in premium reductions.

Comprehensive data pertaining directly to the possibility of further premium rate reductions will be available in June of this year. At that time, the insurance industry, through the National Council on Compensation Insurance, will make its first "experience filing" under the new law. This request for a rate adjustment (or, if no adjustment is requested, this "informational filing") will reflect 100 percent of the first full calendar year's experience under the new law and 83 percent of the 1979 policy year experience, five month's of which came under the new law.[38] It is, in effect, the average of the experiences during these two conceptual years which will serve as the basis for any rate adjustment. The final determination on any Workers' Compensation premium rate adjustment, unless the Legislature decides to directly mandate a reduction as in 1979, will be made by the State Insurance Commissioner, after considering supporting material submitted by

the NCCI, public comments and the advice of the Workers' Compensation Rating Bureau within the Department of Insurance.

Until those data are available it is necessary to rely on information from other sources to obtain an indication of possible future rate reductions. Three sets of preliminary data were available at the time of this writing

Data Call by Florida House of Representatives, Committee on Insurance--In January, 1980, the Committee on Insurance of the Florida House of Representatives issued to the top fifteen Workers' Compensation Carrier Groups in the State a request for claims data.[39] Two samples of data were requested, one consisting of 30 percent of the population of time claims with injury dates between August 1, 1979 and December 31, 1979; the second, the same proportion of claims having injury dates ranging between August 1, 1978 and December 31, 1978. The former sample thus concerned the first five months of operation of the new law. The latter sample covered the same months in the preceding year, while the old law was still in effect. The five insurance carriers responding had written 22 percent of Florida's Compensation Insurance. The actuarial consultant hired by the Committee to conduct the study, Dr. Lena Chang, described the sample of respondents as a "good cross representation" with regard to the company size and the mix of mutual versus stock companies.[40]

In her report to the Insurance Committee, Dr. Chang compared the distribution of Workers' Compensation claims under the new law to that under the old law, for a number of different dimensions. She cited several instances in which the comparison indicated that the intent of the new law was being achieved.

1. The percentage of claims of the permanent partial injury type appeared to have decreased dramatically under the new law. Such claims comprised 24.0 percent of all claims for the five-month survey period under the old law (1978), but only 6.7 percent of claims under the new law. As was discussed in Section II, the permanent partial category was the foremost problem area under the old system accounting for an inordinate amount of Workers' Compensation claim costs.[41]

2. Total indemnity costs, including wage-loss and impairment benefits, were 25.8 percent lower in the new law period.

3. The percentage of claims involving attorney representation decreased from 13.0 percent prior to the new law's enactment to 4.1 percent during the first five months of operation under the new law.

4. The time lag from the date of injury to the first reporting date was reduced by seven days. This suggested faster notification and initial processing of Workers' Compensation claims.

5. The proportion of workers returning to their same employer after recovery from their injury increased 9 percent (from 74 percent to 83 percent). Dr. Chang theorized that the new wage-loss system may have been responsible for this development.

Several other findings were presented in Dr. Chang's report. Some further supported the impression that the 1979 amendments were having their intended effects in terms of cost reductions. Other findings showed no definite trend. One comparison, that concerning medical costs, appeared to contradict the intent of the law. However, Dr. Chang attributed at least a part of this unexpected trend to technical adjustments by the insurance companies which would not ultimately affect premium levels.[42]

Early Analysis by the National Council on Compensation Insurance (NCCI)--On November 12, 1980, the NCCI staff presented to the Florida Classification and Rating Committee (an insurance industry board) an analysis of the need for a Workers' Compensation premium rate adjustment.[43] The analysis was based on a supplementary data call to insurance carriers issued during the summer.

On the advice of the NCCI staff, the Classification and Rating Committee decided to postpone a decision on whether to file for a rate adjustment based on experience under the new law until May 1981. The major reason for this was the fact that, at that time, data concerning only 51 percent of experience under Florida's new law was available for analysis. The insurance industry representatives preferred to wait until a more complete picture of the effects of the new law was available.

Despite this decision, the preliminary analysis prepared by the NCCI did include notable findings. First, as with the study prepared for the Florida House of Representatives discussed previously, the data indicated a significant drop in the proportion of Workers' Compensation claims of the permanent partial injury type. According to a NCCI statistical table, the proportion of claims in the permanent partial injury category fell from 20.0 percent prior to enactment of the 1979 legislation to 6.9 percent under the new law. Thus, further evidence was provided of a lower frequency for this particularly costly type of claim. Second, the analysis suggested that, if it were possible to consider experience alone, a 17.3 percent premium level reduction would have been warranted. This indicates considerable claim costs reductions from the perspective of the insurance carriers. However, it is not possible to consider experience alone. At the time the analysis was prepared, it was estimated that the expense of a series of scheduled benefit increases would slightly outweigh the cost savings stemming from claim cost experience.

1980 Data From the Division of Workers' Compensation--The Secretary of the Department of Labor and Employment Security presented a report to the Commerce Committee of the Florida Senate on March 3, 1981. This report included a discussion of the progress made by

the Division of Workers' Compensation in implementing the reforms mandated by the 1979 legislation. It also contained evidence of the effects of the new law on Workers' Compensation claims activity.

This statistical evidence was in the form of comparisons between calendar year 1980 and calendar year 1979 figures.

1. The number of formal Workers' Compensation claims filed fell dramatically from 1979 to 1980.[44] During the former year, 24,082 such claims were reported while only 12,472 were received during the latter year. That is a decline of 11,610 or 48.2 percent.

2. A substantial decrease was also experienced in the number of joint petitions and washouts. The number of such petitions fell from 15,422 in 1979 to 9,806 in 1980--a 36.4 percent drop.

3. The amount of benefits awarded in these joint petitions fell from $91.7 million in 1979 to $76.0 million in 1980. This amounted to an 17.1 percent reduction and a $15.7 million savings in benefits paid.

4. The amount of attorneys' fees awarded in controverted claims for Workers' Compensation fell from $18.9 million in 1979 to $16.9 million in 1980, a 10.6 percent decline.[45] The 1980 figure was 20.3 percent below the highest yearly attorney fee figure ever recorded, $21.2 million in 1977. In 1978, the Legislature began to shift to the claimant the responsibility for attorney fee payment. This trend was continued in the 1979 legislation as has been discussed.

Again, it is important to remember that the further premium rate reductions in all probability will be decided by the State Insurance Commissioner based primarily on his evaluation of a rate filing by the insurance industry. The positive trends suggested by the House Insurance Committee Report, the NCCI analysis and the 1980 data from the Division of Workers' Compensation will not necessarily translate into further rate reductions when all factors are considered. Nevertheless, those desiring further Workers' Compensation premium rate reductions in Florida should be encouraged by the data available at this point.

V. THE FUTURE OF FLORIDA'S WORKERS' COMPENSATION SYSTEM: MAKING SURE IT WORKS

Florida as a Model

The 1979 amendments to Florida's Workers' Compensation law were fundamental reforms to the system. As has been noted, Florida became the first state to adopt the wage-loss concept as the basis for long-term disability benefits for injured workers.

The nature of such reforms has given the Florida Workers' Compensation system the status of an experimental model. The ultimate success of that model is of great interest to other states. Representatives from the States of Washington, California and Delaware have visited Florida to observe the Workers' Compensation system in operation. The Director of the Division of Workers' Compensation has been invited to appear before legislative committees in several states to explain the wage-loss system and administrative reforms.[46]

Monitoring the System's Effectiveness

Perhaps the most important factor in determining the ultimate success of Florida Workers' Compensation system will be the determination of those who participated in its reforms--both inside and outside government--to monitor closely its operation. The Florida Legislature assured continued monitoring of the Workers' Compensation system by statute and by the Legislature's own activities. Several business, professional and labor organizations also have demonstrated their intent to continue their scrutiny of the system.

An example of a monitoring program established by statute is the Medical Utilization and Peer Review program.[47] Under this program, Workers' Compensation claim histories would be examined for possible instances of needless medical tests or treatment and of excessive charges for medical services. Ultimately, physicians involved in over-utilization of medical services would be subject to review by a committee of their peers. By February of this year, the Division of Workers' Compensation was able to report substantial progress toward establishing this program. A program budget had been prepared, positions established and a program director hired. The Division had entered into a contractual agreement with the Florida Medical Foundation to provide peer review services.[48]

The activities of Legislative Committees constitute another form of governmental monitoring of the Workers' Compensation system. Following the passage of the 1979 legislation, the Speaker of the House of Representatives officially charged the Committee on Insurance with the responsibility for legislative oversight of the implementation of the new law. The Insurance Committee Chairman delegated this responsibility to the Subcommittee on Oversight. That subcommittee has met periodically over the months since then obtaining detailed progress reports from the

Division of Workers' Compensation and hearing testimony from other interested parties.[49] The subcommittee has issued two calls for claims data from the insurance carriers. The results of the first call have been discussed in some detail earlier in this report.

The Senate Commerce Committee also has maintained an active program of monitoring the success of the Workers' Compensation system. The Division of Workers' Compensation data reported in Section IV was largely taken from testimony offered before that committee.[50]

Just as important to the success of the new system will be the efforts of organizations outside government. Naturally, the insurance industry, through the National Council on Compensation Insurance, will play a central role in future developments--particularly as regards future premium rate changes. The direct and continuing role of the NCCI has been apparent in the frequent reference to that organization throughout this report.

Associated Industries of Florida, which describes itself as "the voice of business" in the State, was very much involved in the 1979 reforms to the Workers' Compensation law and has remained in close touch with the implementation process. This business association issues periodic newsletters on potential problems in the law and recently has commissioned an analysis of a sample of Workers' Compensation claims filed during the first year of the new law's operation.[51]

The Florida Association of Insurance Agents, very active in promoting the adoption of the wage-loss concept, has begun a two-year program of monitoring the total effectiveness of Florida's Workers' Compensation system. The efficiency of claims processing, rehabilitation services and safety programs are early subjects of study.[52]

Having participated directly in the efforts leading to the 1979 Workers' Compensation legislation, the Florida AFL-CIO has continued its involvement in the Workers' Compensation program. The labor organization's major emphasis has been in monitoring the efficiency and equity with which injured workers have been provided their benefits. The current monitoring technique used is to randomly select case files then to telephone the claimants asking whether they have been satisfied with the way their case has been handled by the employer, the insurance carrier and the Division of Workers' Compensation.[53]

Notes

[1]For an excellent discussion of the theory underlying Florida's Workmen's Compensation system and Worker's Compensation systems in general, see: William E. Sadowski, Jack Herzog, R. Terry Butler and Ruth L. Gokel, "The 1979 Florida Workers' Compensation Reform: Back to Basics," Florida State University Law Review 7 (Fall 1979): 641-649.

[2]"The Payoff for Pain: A Look at Florida's Workmen's Compensation System," reprinted from The Miami Herald, 18 March through 25 March 1979, p. 2.

[3]Ibid., p. 11.

[4]Ibid., p. 2.

[5]Florida Department of Insurance, History of Florida Workers' Compensation Rate Revisions Since 7/1/70, special table prepared for this report, January 28, 1981.

[6]Florida Association of Insurance Agents, Workmen's Compensation Wage-Loss Reform Conferences: January 16-February 9, 1979, p. 10.

[7]"Payoff for Pain," Miami Herald, p. 5.

[8]Ibid., p. 11.

[9]Florida Association of Insurance Agents, Wage-Loss Conferences, p. 14.

[10]"Payoff for Pain," Miami Herald, p. 2.

[11]The Fantus Company, Economic Development Study: The State of Florida (Ft. Lauderdale: The Florida Council of 100, 1978), p. 6.

[12]Florida Association of Insurance Agents, Wage-Loss Conferences, p. 5.

[13]"Payoff for Pain," Miami Herald, p. 5.

[14]National Council on Compensation Insurance, 1977 Workmen's Compensation Closed Claim Study (Tallahassee: Florida Association of Insurance Agents, 1978).

[15]Previously, the comparatively low statutory benefits in Florida were noted. Here, the medical benefits paid to injured workers are described as ". . .unusually high compared to those paid in other states." This apparent paradox is resolved by noting that the benefits were claimed more often, and more frequently up to their maximum allowable limits, than in other states. As a result, the total amount of benefits paid was much higher in Florida.

[16]Division of Workers' Compensation, 1977-1978 Cases Causes Costs: Analysis of Work Injuries Covered by Workers' Compensation (Tallahassee: Department of Labor and Employment Security, 1979), p. 23.

[17]NCCI, Closed Claim Study, p. 6.

[18]Much of the discussion of compensation determination is based on an analysis presented by Fred Karl, Florida Association of Insurance Agents, Wage-Loss Conferences, pp. 30-33. The data for medical specialist involvement is from the NCCI Closed Claim Study, p. 2.

[19]"Payoff for Pain," Miami Herald, p. 16.

[20]Ibid, p.2.

[21]Ibid., pp. 11.

[22]Ibid., pp. 19-20, 24.

[23]Ibid., p. 2.

[24]Sadowski et al., "The 1979 Florida Workers' Compensation Reform," p. 650. The preceding discussion of legislative intent is based primarily on this same source, pp. 649-654.

[25]The following discussion of the major changes in the Workers' Compensation law is based on Sadowski et al., "The 1979 Florida Workers' Compensation Reform," pp. 654-686 and two "Staff Analyses and Economic Impact Statements," prepared by the Senate staff, April 18 and June 4, 1979.

[26]Actually, those workers who suffer the impairment injuries previously described would be able to collect wage-loss benefits in addition to their impairment benefits.

[27]Florida Statutes, Section 440.44.

[28]Senate, "Staff Analysis," April 18, 1979, p. 9.

[29]The 11.4 percent reduction in the manual premium rate was partially counter-balanced by other changes affecting other determinants of the premiums paid by employers. When all changes are considered, the actual reductions in premiums paid was an estimated 5.1 percent.

[30]Florida Department of Insurance, "Commissioner Gunter Approves Workers' Compensation Rate Cut of $34 Million," statement released to the press January 6, 1981.

[31]Letter from Bob Hilton of National Council on Compensation Insurance to Florida Insurance Commissioner Bill Gunter, December 2, 1980.

[32]An index is used here rather than the actual average manual premium rate. The National Council on Compensation Insurance estimates the overall premium rate impact, in terms of a percentage change, for each approved rate filing. However, the

National Council is hesitant to provide a calculated average manual rate due to the complications which would arise in attempting to weigh the different premium rates for each of the 500 or so employment classifications and due to the possibility of misleading comparisons with the overall rates of other states. The historical trend of the index used here is, in all probability, identical to the trend of the actual manual rate if that data were available.

[33]Florida Department of Insurance, History of Rate Revisions.

[34]Data provided Bureau of Research and Planning, Division of Workers' Compensation, Department of Labor and Employment Security, Special Request, March 16, 1981.

[35]The hypothetical 1980 value was calculated by applying the average compounded rate of increase from 1975 through 1979 in premium amount paid per employee to the 1979 value for premium per employee.

[36]Letter from Bob Hilton to Bill Gunter, December 2, 1980 (previously cited). This ranking also was confirmed in a letter from Clifford Wess, National Council on Compensation Insurance, to Dennis Harmon, Florida Department of Commerce, March 4, 1981.

[37]National Council on Compensation Insurance, Memorandum to Florida Classification and Rating Committee: Exhibit I, November 12, 1980.

[38]Ibid.

[39]Memorandum from Lena Chang, Actuarial Consultant, to the Honorable William Sadowski, Chairman, Committee on Insurance, Florida House of Representatives, August 8, 1980, "Preliminary Report on Committee Study of the New Workers' Compensation Law."

[40]Ibid, pp. 2-3.

[41]The decrease in the claims share accounted for by the permanent partial category was accompanied by an increase in the proportion held by the temporary total category. The number of claims in this category also increased absolutely. Historically, the temporary total injury type claim has not had the extreme claim costs associated with it that has the permanent partial category. Nevertheless, trends in this category probably will be closely watched for problems.

[42]Chang memorandum to Sadowski, p. 4.

[43]NCCI Memorandum to Florida's Classification and Rating Committee. This committee is comprised of representatives of insurance carriers which sell Workers' Compensation insurance in Florida. The insurance industry bases its rate filing decisions on the recommendations of this committee.

[44]A formal claim is a claim filed by an injured worker with the Division of Workers' Compensation. The filing of such a claim indicates that the worker is dissatisfied with the benefits he has received.

[45]If the unrounded data are used, this percentage change is 10.3 percent. This particular data was provided upon special request by the Bureau of Research and Planning, Division of Workers' Compensation, Department of Labor and Employment Security, March 19, 1981.

[46]Testimony of Wallace Orr, Secretary, Department of Labor and Employment Security, before Senate Commerce Committee, "St[illegible] of Florida's Workers' Compensation Law," March 3, 1981, pp.3-4.

[47]Section 440.13(3)(C-D), Florida Statutes.

[48]Department of Labor and Employment Security, Division of Workers' Compensation, "Response to the Report of the Subcommittee on Overview, Committee on Insurance, Florida House of Representatives," February 1981, p. 17.

[49]Florida House of Representatives, Committee on Insurance, Subcommittee on Oversight, "Legislative Oversight of the Implementation of the 1979 Reform of Florida's Workers' Compensation Law," April 1980.

[50]Testimony by Secretary Orr, pp. 3-4.

[51]An example is the Special Notice issued by Associated Industries of Florida, February 19, 1981 entitled: "Report to the Governor and Legislature on the Implementation of the New Workers' Compensation Law."

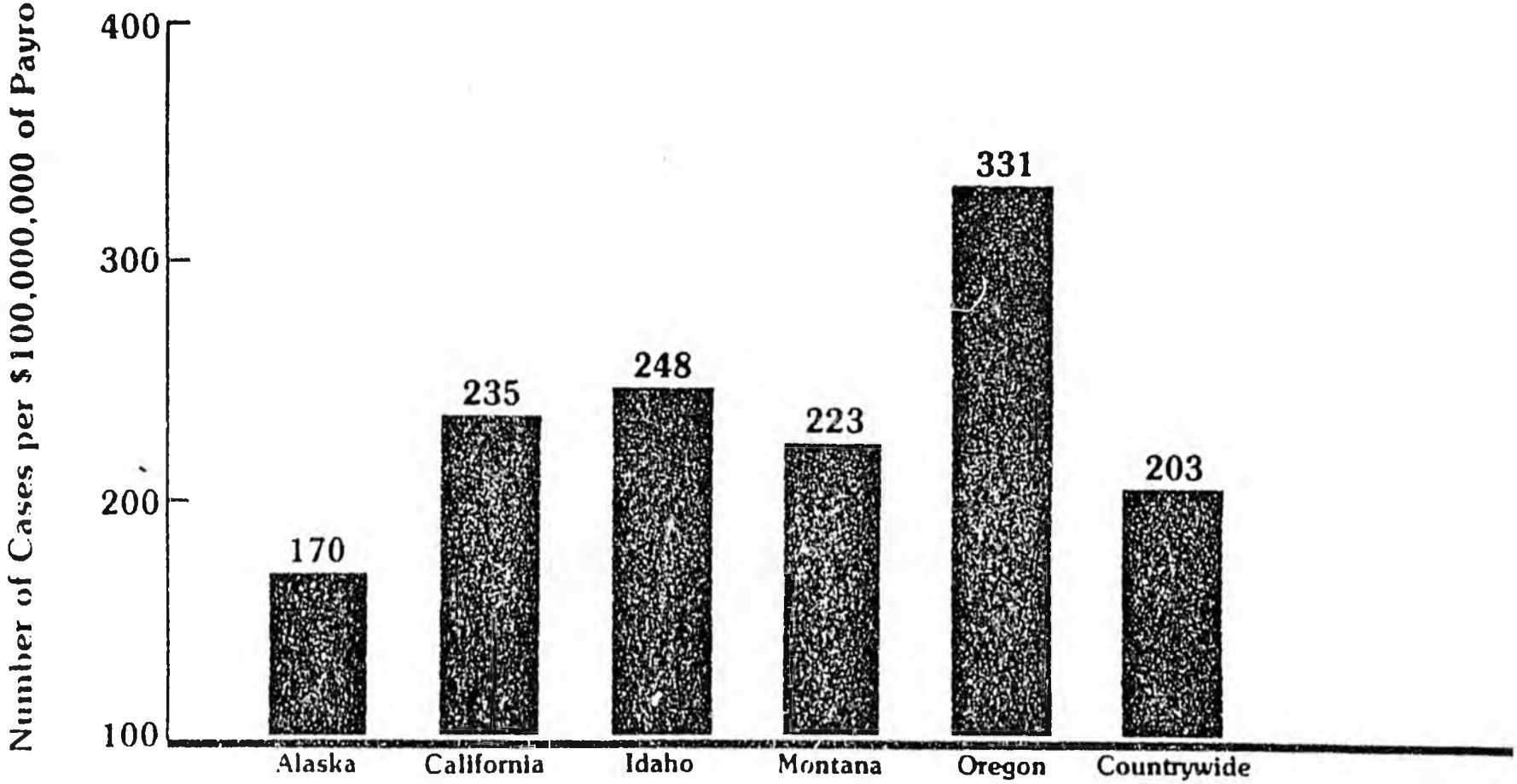
[52]Telephone conversation with Jim Brainerd, Florida Association of Insurance Agents, March 27, 1981.

[53]Telephone conversation with Ken Cooper, Florida AFL-CIO, March 27, 1981.

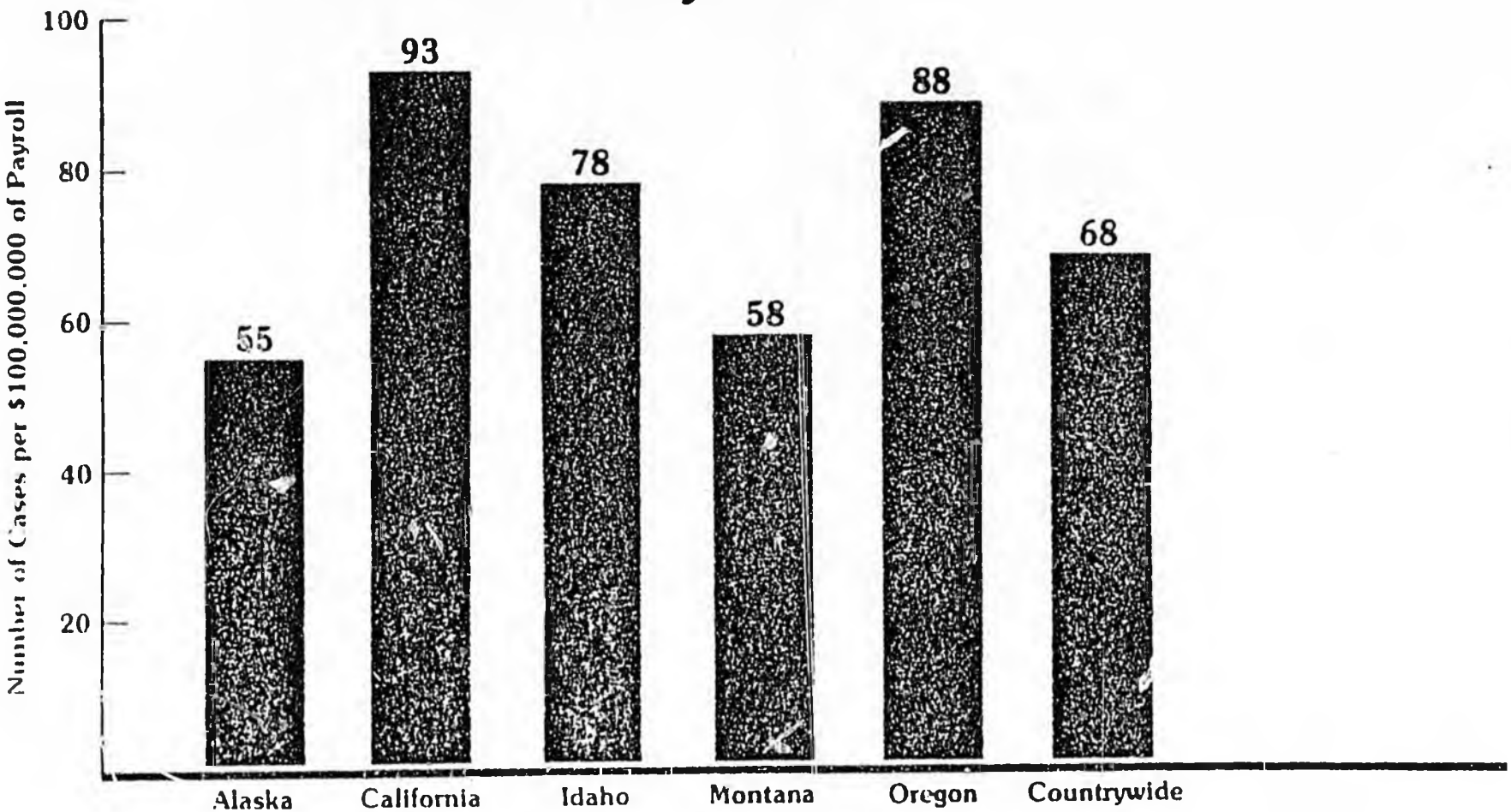
EXHIBIT II

OCCI

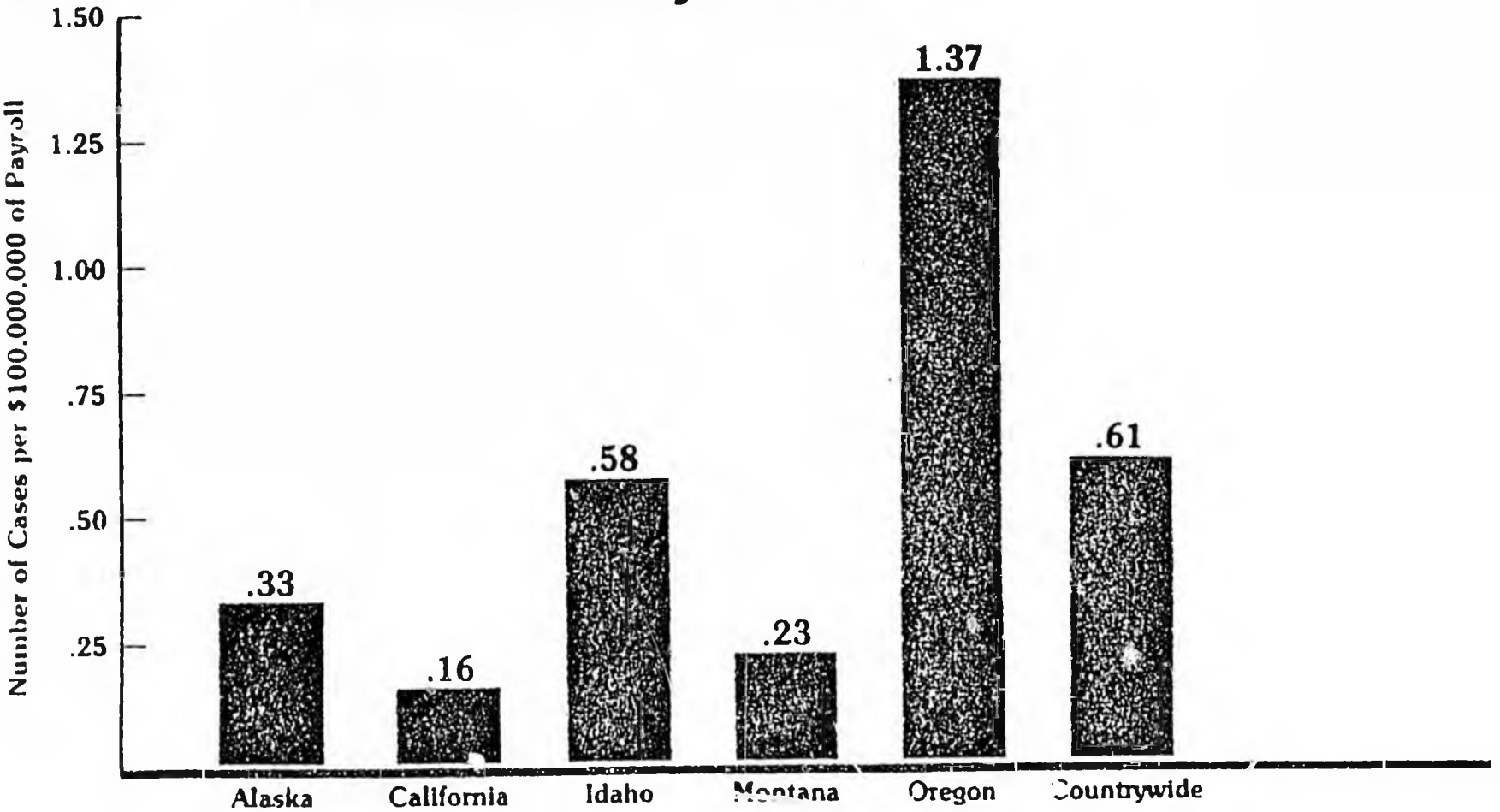
Frequency of Temporary Total Disability Cases



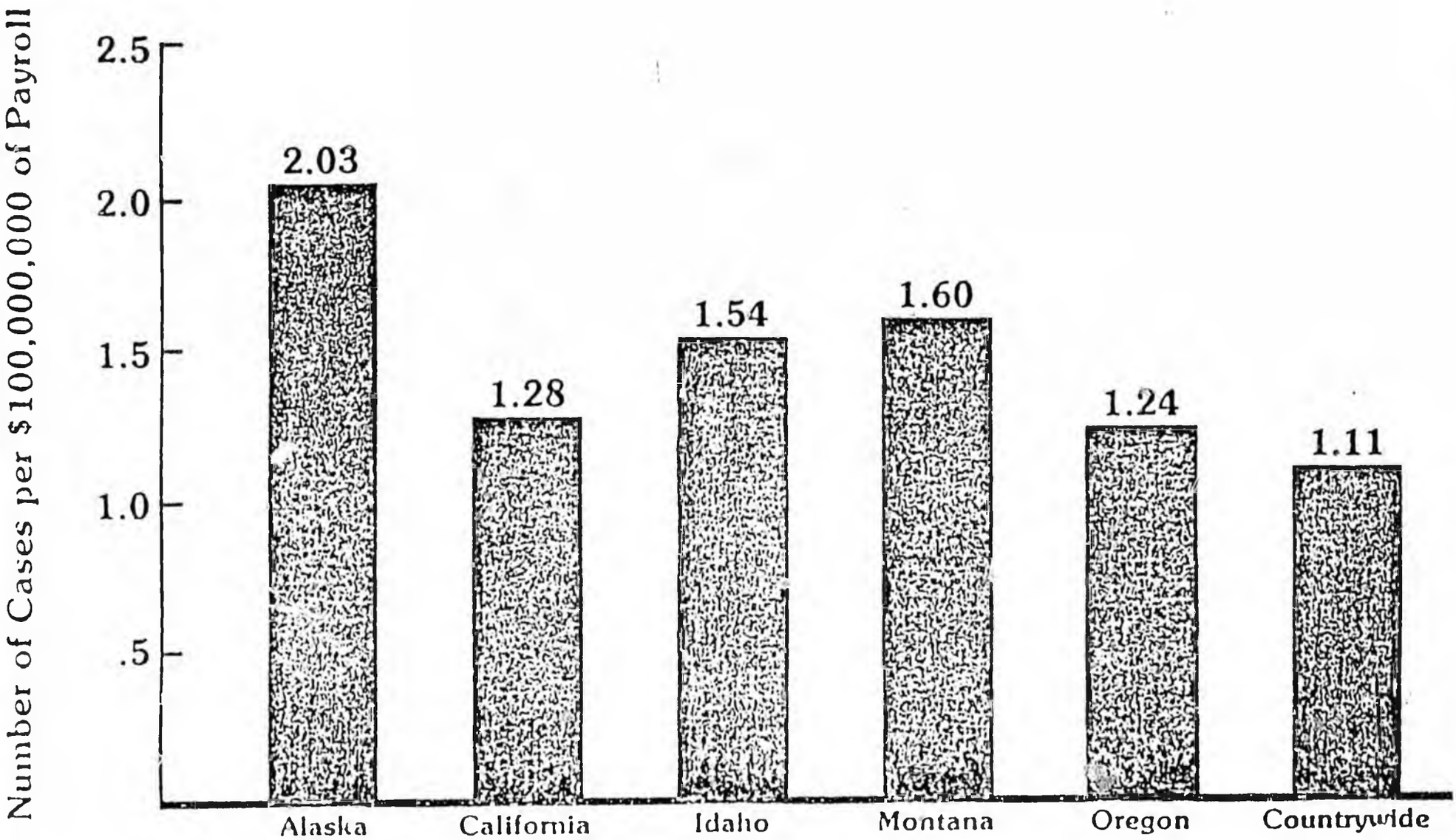
Frequency of Permanent Partial Disability Cases



Frequency of Permanent Total Disability Cases



Frequency of Death Cases



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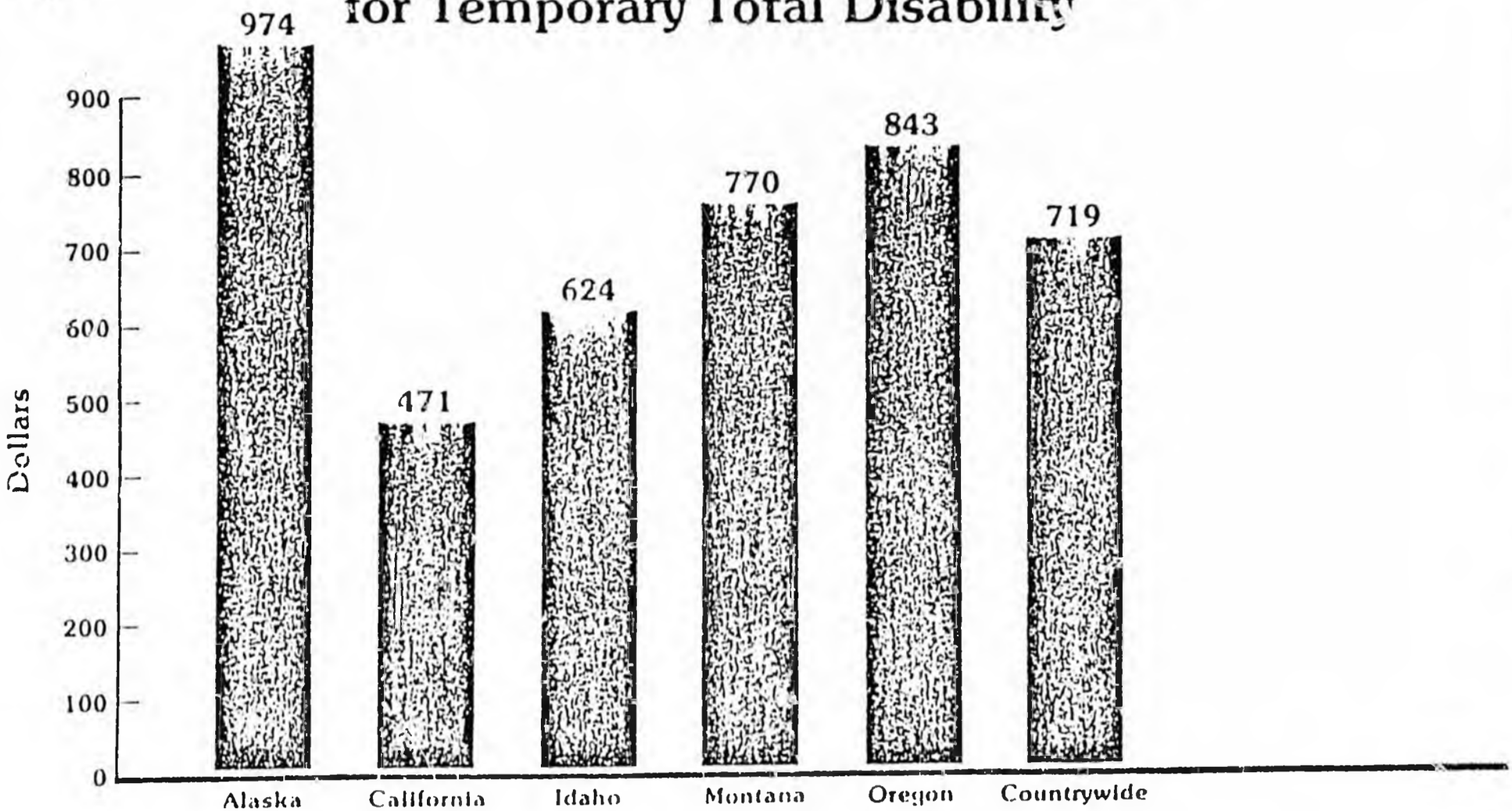
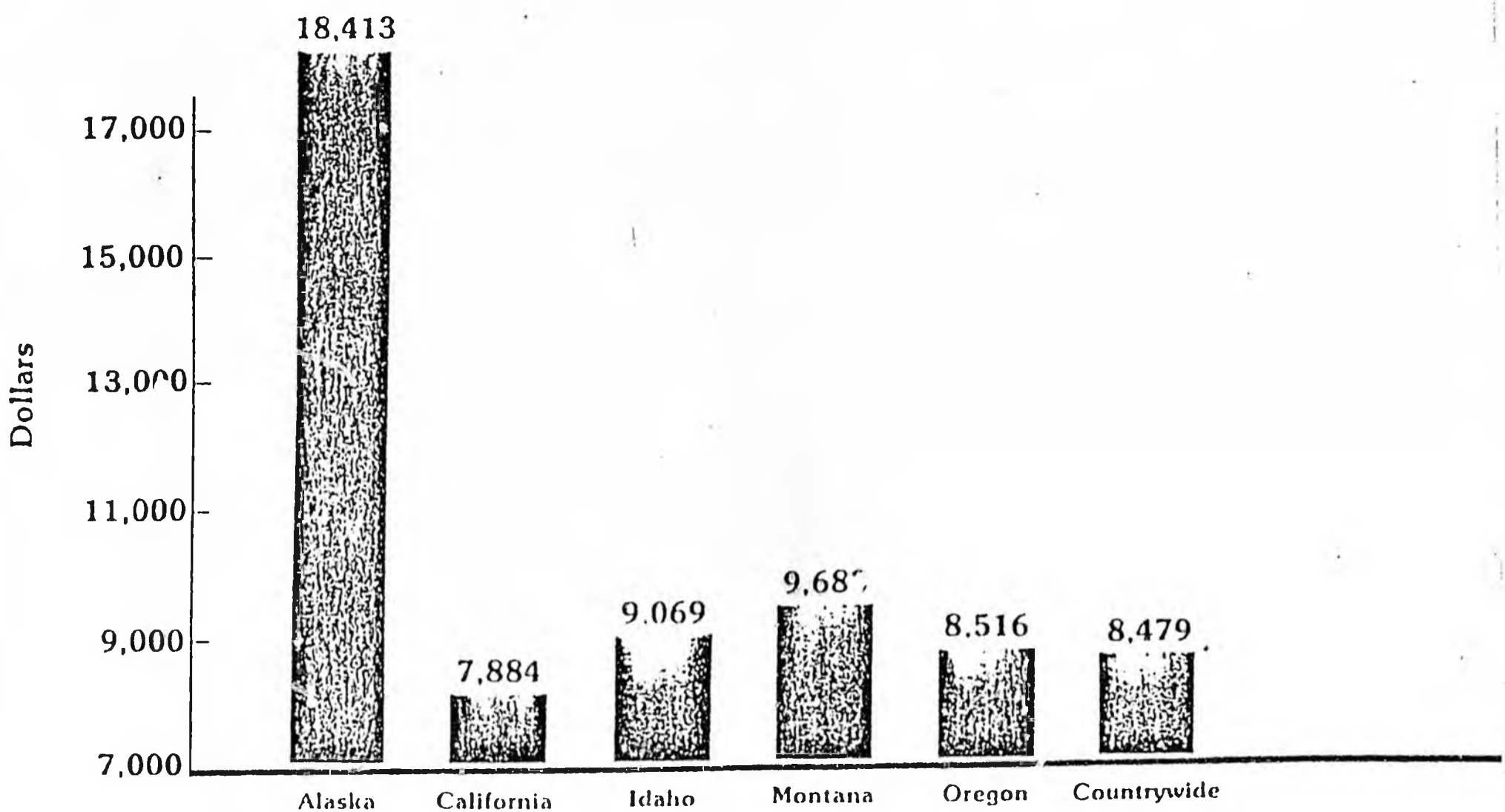
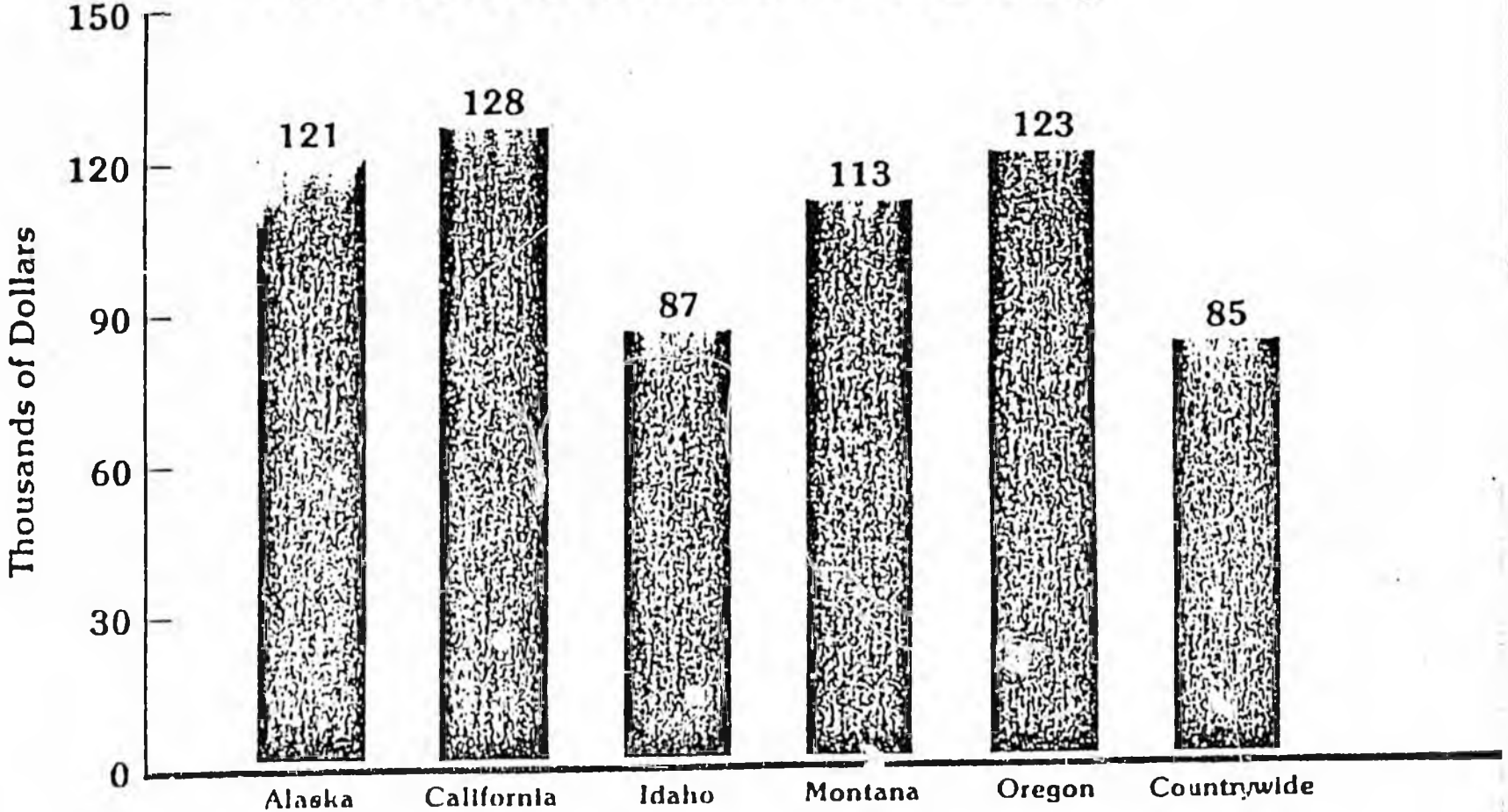
Comparison of Average Cost Per Case for Temporary Total Disability



Comparison of Average Cost per Case for Permanent Partial Disability



Comparison of Average Cost Per Case for Permanent Total Disability



Comparison of Average Cost Per Case for Death Benefits

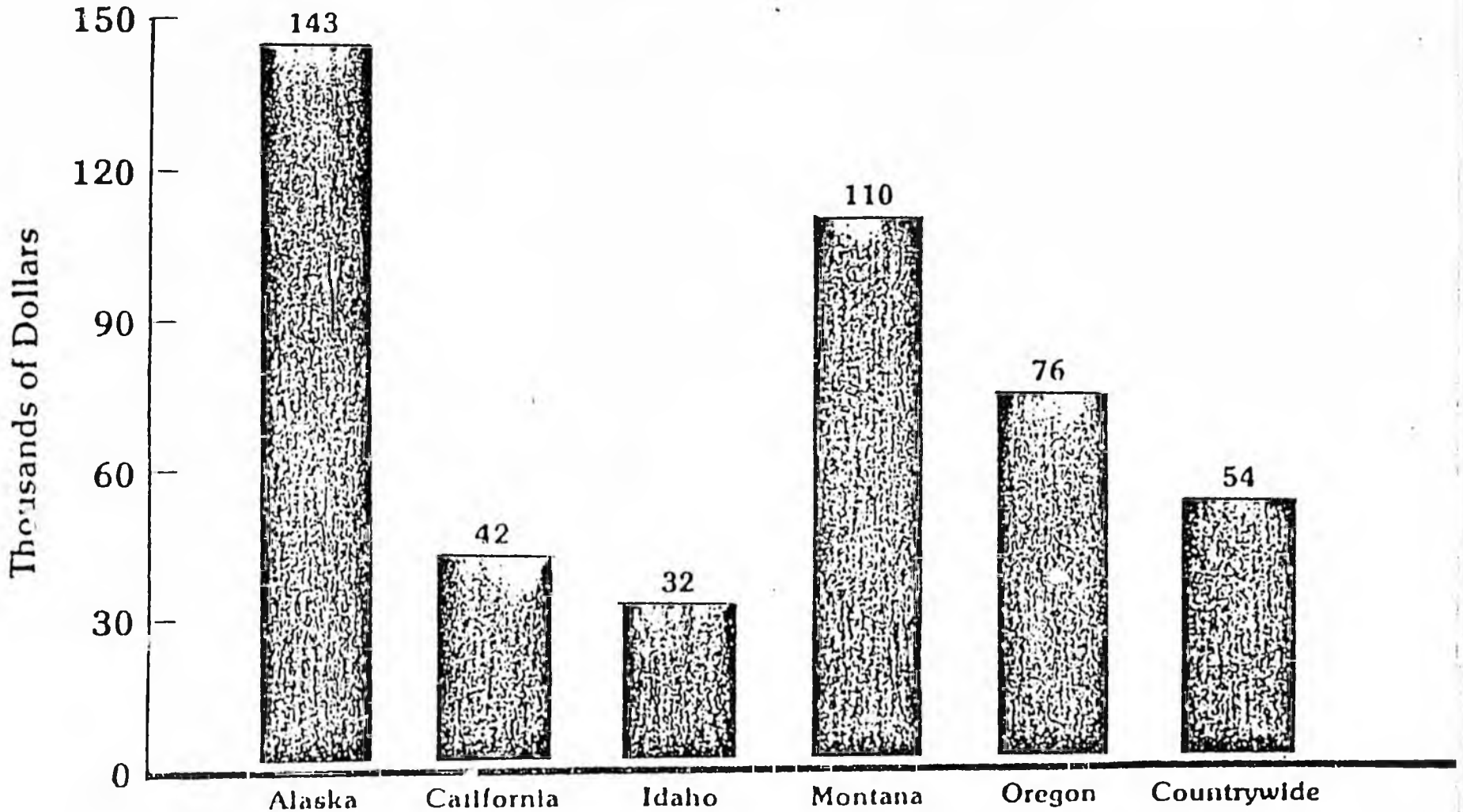


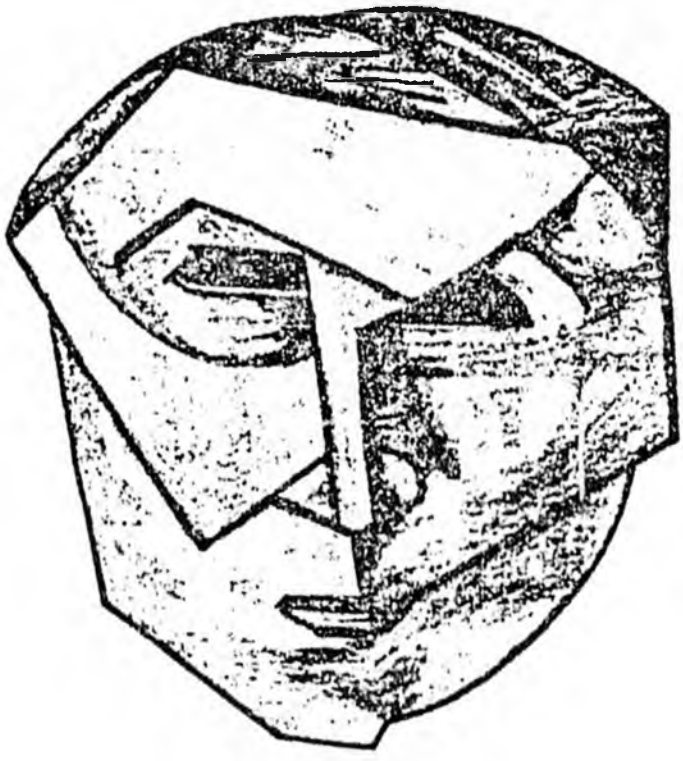
EXHIBIT III

WORKMEN'S COMPENSATION AND REHABILITATION LAW

(Revised)

THE COUNCIL OF STATE GOVERNMENTS
Lexington, Kentucky

Workmen's Compensation and Rehabilitation Law



Revised

The Council of State Governments

Published July 1974 by
The Council of State Governments
Iron Works Pike, Lexington, Kentucky 40511

Printed in the United States of America

RM-[illegible]
Price: $4.[illegible]

Foreword

Early in this century the States pioneered in the development of workmen's compensation laws. The enactment and administration of such laws thus became a standard state function and a traditional state responsibility. By the same token, the Council of State Governments has long had an interest in helping the States to improve and perfect their programs for workmen's compensation.

A little more than a decade ago the Council, through its Committee on Suggested State Legislation, drafted a "Workmen's Compensation and Rehabilitation Law," with the advice and guidance of an outstanding advisory committee. Portions appeared in both the 1963 and 1965 volumes of *Suggested State Legislation;* and the fully integrated act was subsequently published in a single volume, together with a comprehensive commentary.

In early 1973, sensing the need for further action by the States to improve their workmen's compensation laws in light of the findings of a National Commission on State Workmen's Compensation Laws, the Council again established an Advisory Committee on Workmen's Compensation Laws with representation from nationally recognized experts in the field. Senator Wilfrid J. Ullrich of Indiana was designated as Chairman of the Advisory Committee, thus assuring coordination with the Council's Committee on Suggested State Legislation (of which Senator Ullrich is also Chairman).

The Advisory Committee's first task was to prepare a report for immediate consideration by the States, including specific amendatory legislation that adequately met all major recommendations of the National Commission. That report, *Workmen's Compensation: A Challenge to the States,* was issued in February 1973 while there was still time in most States for preliminary legislative review. As a further step, the Advisory Committee agreed to review the entire text of the Council's earlier model act and to incorporate therein appropriate amendments which would assure that a State enacting them would meet in full all recommendations of the National Commission.

This further work of the Advisory Committee is incorporated in the present report, providing an integrated and updated Workmen's Compensation and Rehabilitation Law for consideration by State Legislatures. No attempt was made to revise the earlier commentary, which is still in print and available to those who are not familiar with it. As will be noted later, in Introductory Comments by the Advisory Committee, it has not been our intention to change basic provisions of the earlier version of the draft law. To do so would have delayed for at least a year the printing of this report, and it was believed that the original version still stood the test of time in most respects.

The hard work and superb assistance and guidance rendered by members of the Advisory Committee are most deeply appreciated by the Council of State Governments. Without these dedicated persons there would be no report to issue, and all of us would be the losers.

Brevard Crihfield
Executive Director
The Council of State Governments

Lexington, Kentucky
June 1974

Advisory Committee on Workmen's Compensation Laws of the Council of State Governments

Chairman

Senator Wilfrid J. Ullrich
403 Main Street
Aurora, Indiana 47001

John J. Bachalis, Vice President
New Jersey Manufacturers Association
P.O. Box 2708
Trenton, New Jersey 08607

John F. Burton, Jr.
Graduate School of Business
University of Chicago
Chicago, Illinois 60637

Lindsey Cowen, Dean
The Backus School of Law
Case Western Reserve University
Cleveland, Ohio 44106

Harry W. Dahl, Executive Director
International Association of Industrial Accident Boards and Commissions
P.O. Box 3016
Des Moines, Iowa 50316

Charles F. Eason
Office of the General Manager
U.S. Atomic Energy Commission
Washington, D.C. 20545

Carl N. Everstine, Director
Department of Legislative Reference
P.O. Box 348
Annapolis, Maryland 21404

Robert M. Gilmore, President
International Association of Industrial Accident Boards and Commissions
Fourth Floor,
1601 Second Avenue Building
Seattle, Washington 98101

Senator Steny H. Hoyer
6108 Old Silver Hill Road
District Heights, Maryland 20028

R. H. Hubbard
General Electric Company
570 Lexington Avenue
New York, New York 10022

Andrew Kalmykow, Counsel
American Insurance Association
85 John Street
New York, New York 10038

Howard G. Kulp, Jr.
Uniform Law Commissioner
518 Market Street
Camden, New Jersey 08102

Ben Novicoff, Presiding Judge
Workmen's Compensation Court
P.O. Box 94845
Lincoln, Nebraska 68509

Donald L. Ream
Office of Workmen's Compensation Programs
U.S. Department of Labor
Washington, D.C. 20210

James Stickles
Director of Workmen's Compensation
American Mutual Insurance Alliance
20 North Wacker Drive
Chicago, Illinois 60606

A. Grant Whitney
American Society of Insurance Management
308 East Fifth Street
Charlotte, North Carolina 28201

Introductory Comments by the Advisory Committee

All members of the Council of State Governments' Advisory Committee on Workmen's Compensation, whose names appear on the opposite page, are pleased to have been of assistance to the Council in preparing this revised version of the *Workmen's Compensation and Rehabilitation Law* and the predecessor report entitled *Workmen's Compensation: A Challenge to the States.* We hope that our efforts will be of assistance to all those who are interested in an equitable and adequate workmen's compensation program.

Purpose of the Committee

The Council's Advisory Committee wants to make clear the purposes of this revision effort. In the mid-1960s, an earlier Advisory Committee on Workmen's Compensation prepared a *Workmen's Compensation and Rehabilitation Law.* This law was drafted over a period of four years and was published with a Section by Section Commentary by Arthur Larson, chairman of the Advisory Committee. This law has been of great value during the last decade.

The Occupational Safety and Health Act of 1970 established the National Commission on State Workmen's Compensation Laws, which submitted its *Report* to the Congress and to the President on July 31, 1972. The *Report* criticized many aspects of state workmen's compensation programs and made 84 specific recommendations for a modern workmen's compensation program. Nineteen of the recommendations were designated as essential. The National Commission urged that compliance of the States with the 19 recommendations should be evaluated on July 1, 1975, and, if necessary, Congress with no further delay in the effective date should guarantee compliance with these essential recommendations.

The *Report* of the National Commission has had a salutary effect on state workmen's compensation programs. The National Commission, however, did not attempt to translate its recommendations into statutory language. Further, a number of the recommendations were either not covered in, or were at least partially inconsistent with, the language in the *Workmen's Compensation and Rehabilitation Law* as published in the 1960s. This new Advisory Committee was constituted to revise the original law solely to the extent necessary to accommodate the recommendations of the National Commission. No effort was made to duplicate the substantial task which faced the original Advisory Committee when it drafted an entirely new statute. Nor did this Advisory Committee consider the merits of the recommendations of the National Commission. Our purpose was strictly to provide language which would permit a State to follow the recommendations of the National Commission if it wished to do so. While our responsibility was therefore narrowly defined, we believe that the result will be of value in many States.

Because of the immediacy of the July 1, 1975, deadline when States will be evaluated in terms of their compliance with the 19 essential recommendations of the National Commission, our first priority was the preparation of statutory language encompassing these recommendations. The result was the February 1973 publication of *Workmen's Compensation: A Challenge to the States.* Our second task was the preparation of language covering all 84 of the recommendations of the National Commission, and the result is the current publication, entitled the *Workmen's Compensation and Rehabilitation Law* (Revised). Unlike the original edition, we have not prepared a commentary. However, the great bulk of the original draft was not affected by our revision efforts and, therefore, the commentary on the original law will be useful to many using the revised edition. The original law with the accompanying commentary is still available from the Council of State Governments.

medical opinion is necessary.

(3) Advise on the gathering of statistics, the maintaining of records and the rendering of reports under this act and under rules and regulations adopted by the Director.

(4) Assist in keeping physicians currently informed of this act and of rules and regulations adopted by the Director and of their responsibilities thereunder.

(5) Advise and assist in the achievement of impartiality in medical testimony in workmen's compensation cases.

(6) Encourage the expansion and improvement of existing rehabilitation facilities and the development of additional facilities to insure optimal rehabilitation in workmen's compensation cases.

(7) Recommend improvement in the methods of measuring physical impairment in workmen's compensation cases.

(8) Recommend improvements in this act and in rules and regulations adopted by the Director and in their administration to insure optimal medical care and rehabilitation.

(9) Advise the Director with respect to the constitution and operation of the Disability Evaluation Unit.

(f) The Director, after consultation with the Medical Advisory Committee, shall establish a Disability Evaluation Unit[5] under the supervision of the Medical Director. The Unit shall, at the request of the Director, report to him its findings and determination on such questions as the etiology of a disease and the extent of a worker's impairment or disability due to a work-related injury or disease.

Section 13. [*Rehabilitation.*]

(a) One of the primary purposes of this act shall be restoration of the injured employee to gainful employment. To this end there is hereby created a Rehabilitation Unit within the Agency which shall be composed of specialists in medical and vocational rehabilitation to be appointed by the Director.

(b) The Unit shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public. The Director, in consultation with the Unit, shall approve as qualified such facilities, institutions and physicians as are capable of rendering competent rehabilitation service to seriously injured employees. No facility or institution shall be considered as qualified unless it is specifically equipped to provide rehabilitation services for persons suffering either from some specialized type of disability or general type of disability within the field of occupational injury and is staffed with trained and qualified personnel, and

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5. The establishment of a Disability Evaluation Unit may not be necessary in those States where the volume of claims does not warrant such an organizational component.

with respect to physical rehabilitation, unless it is supervised by a physician qualified to render such service. No physician shall be considered qualified unless he has had the experience and training specified by the Director.

(c) An employee who has suffered an injury covered by this act shall be entitled to prompt medical rehabilitation services. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. If such services are not voluntarily offered and accepted, the Director on his own motion, or upon application of the employee or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, and after affording the parties an opportunity to be heard, the Director, in consultation with the Unit, may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service he may deem necessary, be provided at the expense of the employer.

(d) Where rehabilitation requires residence at or near the facility or institution away from the employee's customary residence, reasonable cost of his board, lodging or travel shall be paid for by the employer.

(e) Refusal to accept rehabilitation pursuant to an order of the Director shall result in loss of compensation for each week of the period of refusal.

(f) The Director and the Rehabilitation Unit shall cooperate on a reciprocal basis with the vocational rehabilitation section of the [Department of Education] and the employment service of the [Division of Employment Security].

Section 14. [*Burial Expense.*] If death results from the injury, the employer shall pay the cost of burying in an amount not to exceed [$] to any person who performed such service or incurred the liability for the service, whether or not the employee leaves dependents within the meaning of this act. Any such person is hereby authorized to file a petition with the Director for the fixing of the amount of the service and for an order requiring the employer to pay the cost of the service. If death occurs while the employee is away from his usual place of business or residence, the employer will be liable for the reasonable cost of transportation of the body to the employee's place of residence within the United States or Canada.

EXHIBIT IV

EXHIBIT IV

Amputation	% of Whole Man	1982 Cash Benefit Paid in Addition to Wage-Loss	Existing Maximum Benefit
Both arms	84%	$39,564	$87,360
Arm - at shoulder	60%	28,200	43,680
Arm - at elbow	57%	26,447	43,680
Arm - between elbow & wrist	54%	25,434	43,680
Hand - at wrist	54%	25,434	33,600
Both hands	79%	37,209	67,200
Both legs	64%	30,144	80,640
Leg - at hip	40%	18,040	40,320
Leg - at knee	36%	16,956	40,320
Leg - between knee & ankle	28%	13,188	40,320
Foot - at ankle	28%	13,188	28,700
Arm & leg	76%	35,796	84,000

EXHIBIT V

GUIDES TO THE EVALUATION OF PERMANENT IMPAIRMENT

American Medical Association

Committee on Rating of
Mental and Physical Impairment

Foreword

The ad hoc Committee on Medical Rating of Physical Impairment was created by the Board of Trustees of the American Medical Association in September 1956. The Committee was directed to establish a series of practical guides for the rating of physical impairment of the various body systems. As the work of the Committee progressed, it was determined that the name was restrictive; in November 1963 the name was changed to Committee on Rating of Mental and Physical Impairment.

With the assistance of the outstanding consultants and members of subcommittees listed ahead, a series of thirteen "Guides to the Evaluation of Permanent Impairment" was developed and published in the Journal of the American Medical Association. The subject matter, with dates of publication in JAMA, includes: Extremities and Back, Special Edition, February 15, 1958; Visual System, 168: 475-485, September 27, 1958; Cardiovascular System, 172:1049-1060, March 5, 1960; Ear, Nose, Throat, and Related Structures, 177:489-501, August 19, 1961; Central Nervous System, 186:24-35, July 6, 1963; Digestive System, 188:159-171, April 13, 1964; Peripheral Spinal Nerves, 189:128-142, July 13, 1964; Respiratory System, 194:919-932, November 22, 1965; Endocrine System, 198:195-208, October 10, 1966; Mental Illness, 198:1284-1296, December 19, 1966; Reproductive and Urinary Systems, 202:624-636, November 13, 1967; Skin, 211:106-112, January 5, 1970; and Hematopoietic System, 213:1314-1324, August 24, 1970.

During the past 14 years, physicians and others have requested over 225,000 reprints of the individual "Guides." This wide acceptance and use of the "Guides" has been most gratifying.

The "Guides" have been reviewed periodically to insure their continuing value. The revised material as published in this single volume supersedes all previous individually published "Guides."

The text of the extremities and back guide has undergone the most revision, with new material on the carpometacarpal joint of the thumb, flexion-extension of the elbow joint and knee joint, vertebral fractures, and percentages of impairment in the cervical region. The percentages of impairment for respiratory disorders have also been changed. A new table for rating hearing impairment has been derived for use when hearing tests are recorded on audiometers calibrated in accordance with the new American National Standard Institutes–specifications for audiometers (ANSI, S3.6-1969). Other changes also have been made throughout the book.

With the publication in this single volume of the entire series of updated "Guides" which cover all the body systems–the whole man–the Association is providing authoritative material to assist physicians and others in discharging a responsibility to their patients, clients, or applicants who are seeking benefits from the various agencies and programs serving the disabled.

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Oscar A. Sander, M.D.; Milwaukee, Wisconsin
Frederick A. Stam, J.D., Secretary; Chicago, Illinois

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*deceased

Preface

Evaluation or rating of permanent disability has long been recognized as an important and complex subject. In the past much confusion has resulted from inadequate understanding by physicians and others of (a) the scope of medical responsibility in the evaluation of permanent disability and (b) the difference between "permanent disability" and "permanent impairment."

It is vitally important for every physician to be aware of his proper role in the evaluation of permanent disability under any private or public program for the disabled. It is equally important for him to have the necessary authoritative material to assist him in competently fulfilling his particular responsibility—the evaluation of permanent impairment. It is the purpose of this and other reports of the Committee on Rating of Mental and Physical Impairment to correct a past confusion of terms and to provide a series of practical guides to the evaluation of various types of permanent impairments.

The following explanation of generally used terms in programs for the disabled is provided.

(1) *Permanent Impairment.*—This is a purely medical condition. Permanent impairment is any anatomic or functional abnormality or loss after maximal medical rehabilitation has been achieved, which abnormality or loss the physician considers stable or nonprogressive at the time evaluation is made. It is always a basic consideration in the evaluation of permanent disability.

(2) *Permanent Disability.*—This is not a purely medical condition. A patient is "permanently disabled" or "under a permanent disability" when his actual or presumed ability to engage in gainful activity is reduced or absent because of "impairment" which, in turn, may or may not be combined with other factors. A permanent condition is found to exist if no fundamental or marked change can be expected in the future.

(3) *Evaluation (Rating) of Permanent Impairment.*—This is a function that physicians alone are competent to perform. Evaluation of permanent impairment defines the scope of medical responsibility and therefore represents the physician's role in the evaluation of permanent disability. Evaluation of permanent impairment is an appraisal of the nature and extent of the patient's illness or injury as it affects his personal efficiency in one or more of the activities of daily living. These activities are self-care, communication, normal living postures, ambulation, elevation, traveling, and nonspecialized hand activities.

(4) *Evaluation (Rating) of Permanent Disability.*—In the last analysis, this is an administrative and not solely a medical responsibility and function. Evaluation of permanent disability is an appraisal of the patient's present and future ability to engage in gainful activity as it is affected by such diverse factors as age, sex, education, economic and social environment, in addition to the definite medical factor—permanent impairment. The first group of factors has proved extremely difficult to measure. For this reason, permanent impairment is in fact the sole or real criterion of permanent disability far more often than is readily acknowledged. However, in actual practice the final determination of permanent disability is an administrative decision as to the patient's entitlement.

Competent evaluation of permanent impairment requires adequate and complete medical examination, accurate objective measurement of function, and the avoidance of subjective impressions and such factors as age, sex, or employability.

The Committee on Rating of Mental and Physical Impairment believes that permanent impairment cannot vary because of the circumstances of its occurrence or the geographical location of the patient at the time. Furthermore, unlike disability, permanent impairment can be measured with a reasonable degree of accuracy and uniformity, as it is evidenced by loss of structural integrity, loss of functional capacity, or persistent pain that is substantiated by clinical findings.

The Committee is familiar with the various formulas developed in the past for use in evaluation of permanent disability. These formulas are usually administrative devices which equate specific medical criteria to specific percentages of permanent partial or total disability (loss of working or earning capacity). From the medical standpoint the medical criteria may undeniably represent various anatomic or functional impairments. However, it is unrealistic to presume that all of these impairments, especially those of a minor nature, will necessarily at some time result in disability. Although a number of valuable contributions have been made in the past, the Committee has found no comprehensive practical system of the type necessary for the evaluation of permanent impairment by individual body systems or of the whole man. For this reason, the Committee undertook to prepare a series of "Guides." All of the "Guides" have been developed after careful study of the literature and views of recognized authorities.

Each guide contains recommended percentage values related to the criteria provided. The use of numerical values is preferred because of difficulty in communication and variability in interpretation of such terms as "slight," "marked," and "moderate." Numerical values provide a practical means of expressing and calculating the extent of permanent impairment and encourage accurate, equitable, and uniform evaluation. Methods of calculating impairment

are uniform, are explained in detail with examples, and require a minimum of computation. Generally, when a single impairment is involved, the percentage value may be read directly from the text or transposed to a relative value of a unit of the body or of the whole man by referring to appropriate tables.

When two or more impairments are involved, however, the value of each impairment must be ascertained and transposed to a common denominator, such as the whole man. Thereafter, these values must be combined rather than added. A Combined Values Chart is provided by which any combination of impairments may be easily assessed. The method generally used to combine various impairments is based on the principle that each impairment acts not on the whole part but on the portion which remains after the preceding impairment has acted. For purposes of computation, the source and chronology of the impairment values are immaterial.

After the values of all impairments involved have been computed and transposed to a common denominator, the final impairment value, whether the result of single or combined impairments, should be expressed in terms of the nearest 5%.

associated loss of sensation. However, consideration was not given for loss of sensation in establishing the values for ankylosis and restricted motion for the hand, which is both a prehensile and sensory organ. Therefore, when evaluating impairment of the hand, it is necessary to refer to Chapter II page 49 The Peripheral Spinal Nerves, in addition to the following material.

Special Consideration–Since the basic tasks of everyday living are more dependent upon the preferred upper extremity, dysfunction of the non-preferred upper extremity results in less impairment than dysfunction of the preferred extremity. Therefore, when the impairment of an upper extremity has been determined to be between 5% and 50%, this value should be reduced by 5% if the impairment is of the non-preferred upper extremity. If the value is 51% to 100% impairment of the upper extremity, the value should be reduced by 10% for the non-preferred extremity before converting to whole man impairment.

TABLE 1 – AMPUTATIONS

	Impairment of:			
	Digit	Hand	Upper Extremity	Whole Man
Forequarter amputation				70%
Disarticulation at shoulder joint			100%	60%
Amputation of arm above deltoid insertion			100%	60%
Amputation of arm between deltoid insertion and elbow joint			95%	57%
Disarticulation at elbow joint			95%	57%
Amputation of forearm below elbow joint proximal to insertion of biceps tendon			95%	57%
Amputation of forearm below elbow joint distal to insertion of biceps tendon		100%	90%	54%
Disarticulation at wrist joint		100%	90%	54%
Midcarpal or mid-metacarpal amputation of hand		100%	90%	54%
Amputation of all fingers except thumb at metacarpophalangeal joints		60%	54%	32%
Amputation of thumb at metacarpophalangeal joint or with resection of carpometacarpal bone	100%	40%	36%	22%
At interphalangeal joint	75%	30%	27%	16%
Amputation of index finger at metacarpophalangeal joint or with resection of metacarpal bone	100%	25%	23%	14%
At proximal interphalangeal joint	80%	20%	18%	11%
At distal interphalangeal joint	45%	11%	10%	6%
Amputation of middle finger at metacarpophalangeal joint or with resection of metacarpal bone	100%	20%	18%	11%
At proximal interphalangeal joint	80%	16%	14%	8%
At distal interphalangeal joint	45%	9%	8%	5%
Amputation of ring finger at metacarpophalangeal joint or with resection of metacarpal bone	100%	10%	9%	5%
At proximal interphalangeal joint	80%	8%	7%	4%
At distal interphalangeal joint	45%	5%	5%	3%
Amputation of little finger at metacarpophalangeal joint or with resection of metacarpal bone	100%	5%	5%	3%
At proximal interphalangeal joint	80%	4%	4%	2%
At distal interphalangeal joint	45%	2%	2%	1%

TABLE 2 – MULTIPLE DIGITS

All Joints	Amputated	Impairment of Hand Ankylosed in: Full Extension	Position of Function	Full Flexion
Thumb	40%	30%	25%	38%
Thumb, Index	65%	53%	45%	63%
Thumb, Index, Middle	85%	71%	61%	83%
Thumb, Index, Ring	75%	62%	53%	73%
Thumb, Index, Little	70%	58%	49%	68%
Thumb, Index, Middle, Ring	95%	80%	69%	93%
Thumb, Index, Middle, Little	90%	76%	65%	88%
Thumb, Index, Ring, Little	80%	67%	57%	78%
Thumb, Index, Middle, Ring, Little	100%	85%	73%	98%
Thumb, Middle	60%	48%	41%	58%
Thumb, Middle, Ring	70%	57%	49%	68%
Thumb, Middle, Little	65%	53%	45%	63%
Thumb, Middle, Ring, Little	75%	62%	53%	73%
Thumb, Ring	50%	39%	33%	48%
Thumb, Ring, Little	55%	44%	37%	53%
Thumb, Little	45%	35%	29%	43%

All Joints	Amputated	Impairment of Hand Ankylosed in: Full Extension	Position of Function	Full Flexion
Index	25%	23%	20%	25%
Index, Middle	45%	41%	36%	45%
Index, Middle, Ring	55%	50%	44%	55%
Index, Middle, Little	50%	46%	40%	50%
Index, Middle, Ring, Little	60%	55%	48%	60%
Index, Ring	35%	32%	28%	35%
Index, Ring, Little	40%	37%	32%	40%
Index, Little	30%	28%	24%	30%
Middle	20%	18%	16%	20%
Middle, Ring	30%	27%	24%	30%
Middle, Ring, Little	35%	32%	28%	35%
Middle, Little	25%	23%	20%	25%
Ring	10%	9%	8%	10%
Ring, Little	15%	14%	12%	15%
Little	5%	5%	4%	5%

SHOULDER JOINT

When Two or More Ranges of Motion are Involved

Restricted Motion:

1. Calculate *separately* and record impairment of upper extremity contributed by each range of motion.

2. ADD impairment of upper extremity values contributed by ALL ranges of motion. The sum of these values is impairment of upper extremity contributed by shoulder joint.

Example–Two Ranges of Motion	*Impairment of Upper Extremity*
30 degrees active *FORWARD ELEVATION*	= 13%
30 degrees active *BACKWARD ELEVATION*	= 1
20 degrees active *ABDUCTION*	= 14
20 degrees active *ADDUCTION*	= 1
(13 + 1 + 14 + 1 = 29)	29%
Example–Three Ranges of Motion	
20 degrees active *INTERNAL ROTATION*	= 3%
20 degrees active *EXTERNAL ROTATION*	= 11
FORWARD ELEVATION, BACKWARD ELEVATION, ABDUCTION, and *ADDUCTION* restricted as above	= 29
(3 + 11 + 29 = 43)	43%

Ankylosis

1. Calculate *separately* and record impairment of upper extremity contributed by ankylosis in each position.

2. The *largest* ankylosis impairment value is impairment of upper extremity contributed by shoulder joint.

Example	*Impairment of Upper Extremity*
Shoulder joint ankylosed at:	
60 degrees *FORWARD ELEVATION*	= 55%
20 degrees *EXTERNAL ROTATION*	= 40

The largest ankylosis impairment value is 55%; therefore, upper extremity is 55% impaired by ankylosed shoulder joint.

UPPER EXTREMITY

When Two or More Units are Involved

1. Calculate *separately* and record impairments of upper extremity contributed by each unit (hand, wrist joint, elbow joint, and shoulder joint).

2. Combine impairment values, using combined values chart, to ascertain impairment of upper extremity contributed by two or more units.

Example–Two Units	*Impairment of Upper Extremity*
Hand	= 40%
Wrist	= 30
(40 combined with 30 = 58)	58%

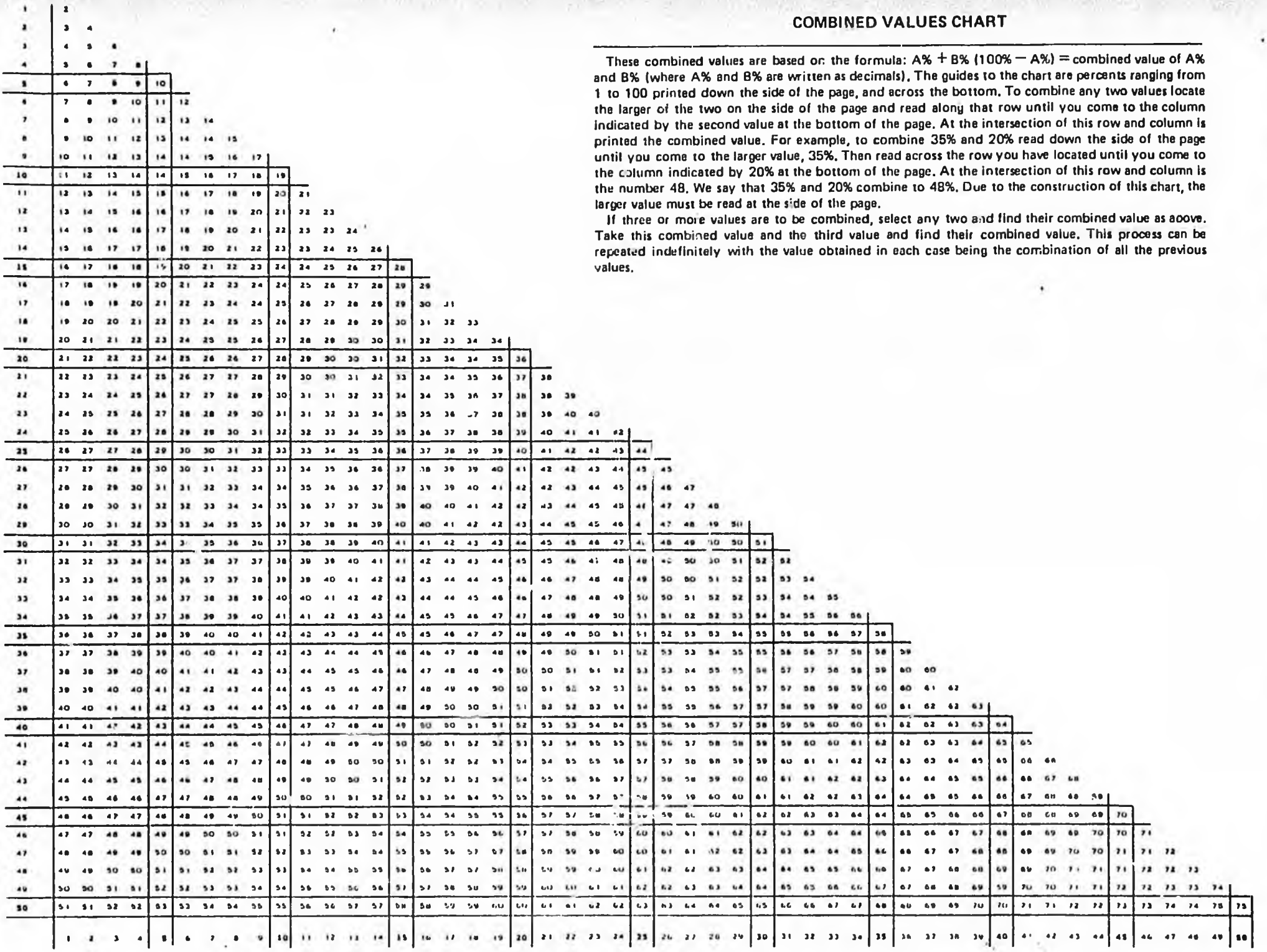
TABLE 22–AMPUTATIONS–LOWER EXTREMITY

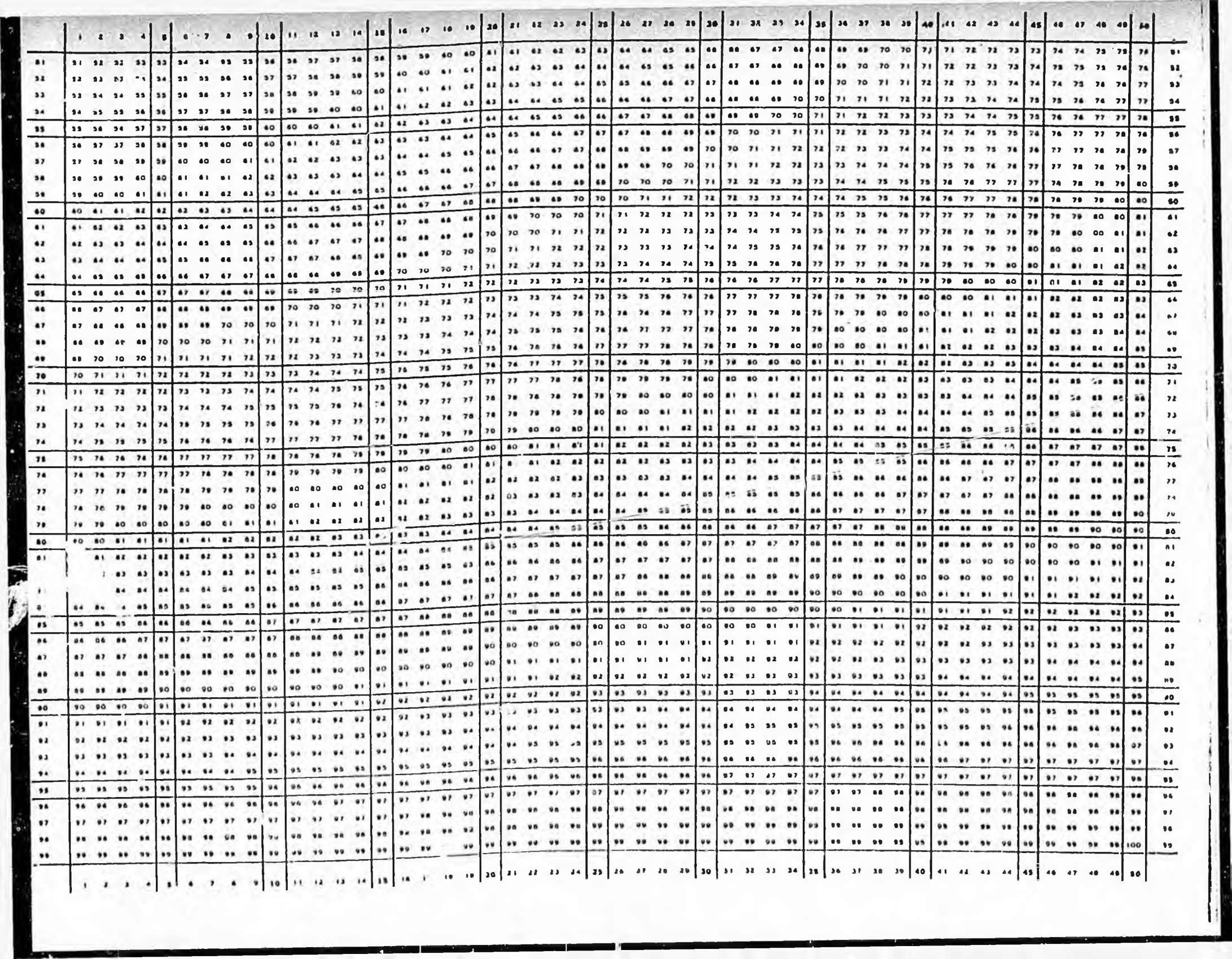
	Impairment of			
	Digit	Foot	Lower Extremity	Whole Man
Hemipelvectomy				50%
Disarticulation at hip joint			100%	40%
Amputation above knee joint with short thigh stump (3" or less below tuberosity of ischium)			100%	40%
Amputation above knee joint with functional stump			90%	36%
Disarticulation at knee joint			90%	36%
Gritti-Stokes amputation			90%	36%
Amputation below knee joint with short stump (3" or less below intercondylar notch)			90%	36%
Amputation below knee joint with functional stump			70%	28%
Amputation at ankle (Syme)		100%	70%	28%
Partial amputation of foot (Chopart's)		75%	53%	21%
Mid-metatarsal amputation		50%	35%	14%
Amputation of all toes at metatarsophalangeal joints		30%	21%	8%
Amputation of *Great Toe*				
With resection of metatarsal bone		30%	21%	8%
At metatarsophalangeal joint	100%	18%	13%	5%
At interphalangeal joint	75%	14%	10%	4%
Amputation of *Lesser Toe* (2nd-5th)				
With resection of metatarsal bone		5%	4%	2%
At metatarsophalangeal joint	100%	3%	2%	1%
At proximal interphalangeal joint	80%	2%	1%	0%
At distal interphalangeal joint	45%	1%	1%	0%

COMBINED VALUES CHART

These combined values are based on the formula: A% + B% (100% − A%) = combined value of A% and B% (where A% and B% are written as decimals). The guides to the chart are percents ranging from 1 to 100 printed down the side of the page, and across the bottom. To combine any two values locate the larger of the two on the side of the page and read along that row until you come to the column indicated by the second value at the bottom of the page. At the intersection of this row and column is printed the combined value. For example, to combine 35% and 20% read down the side of the page until you come to the larger value, 35%. Then read across the row you have located until you come to the column indicated by 20% at the bottom of the page. At the intersection of this row and column is the number 48. We say that 35% and 20% combine to 48%. Due to the construction of this chart, the larger value must be read at the side of the page.

If three or more values are to be combined, select any two and find their combined value as above. Take this combined value and the third value and find their combined value. This process can be repeated indefinitely with the value obtained in each case being the combination of all the previous values.





COMBINED VALUES CHART *(Continued)*

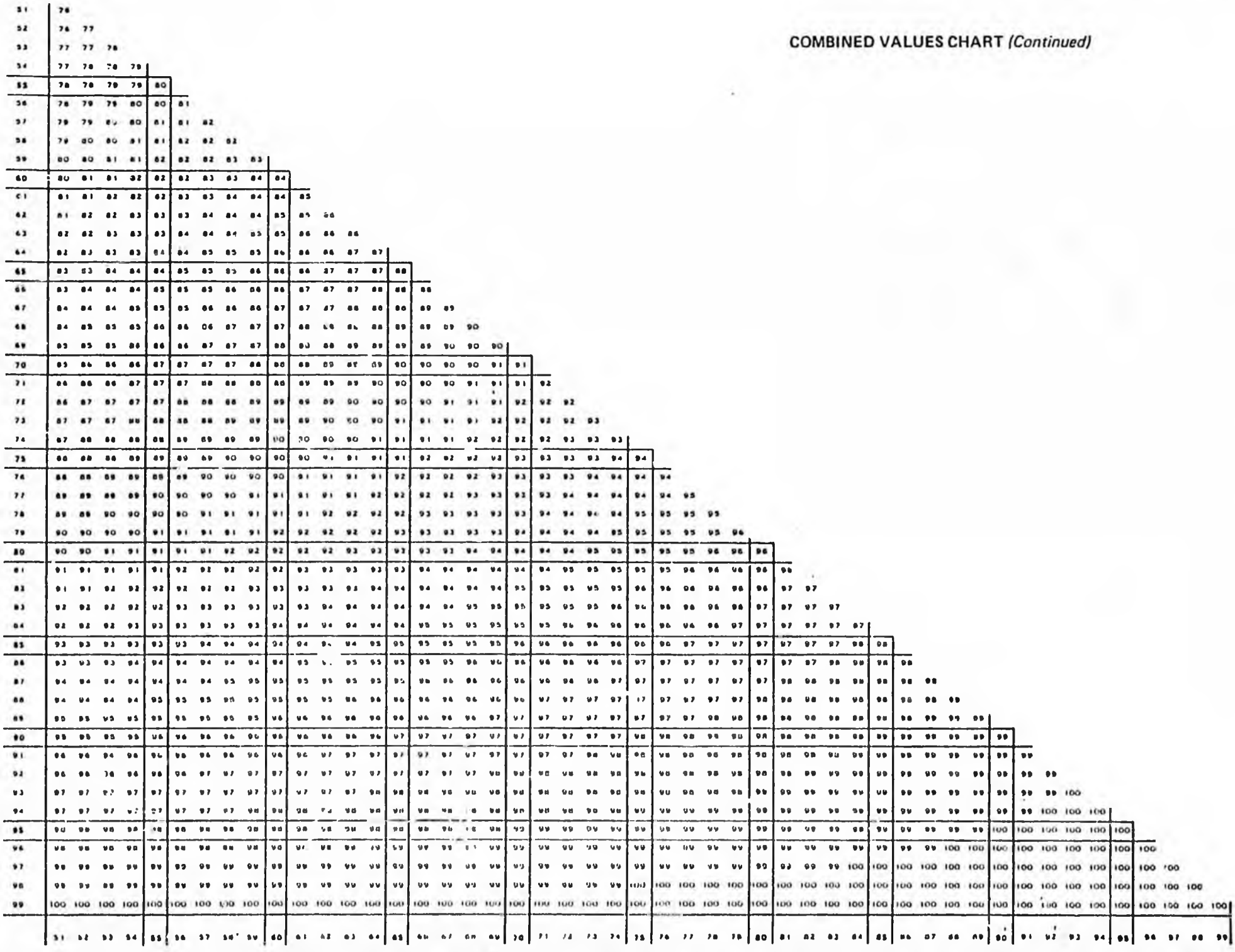


EXHIBIT VII

ALASKA

Income Replacement Levels
Worker, Non-Working Spouse
and Two Children

Worker's Gross Weekly Wage	(1) Net Pay	(2) Weekly Benefit	(3) Weekly Benefit as a Percentage of Net Pay
$200	$175	$133	76%
300	251	200	80%
400	322	267	83%
500	394	333	85%
600	463	400	87%

ALASKA

Income Replacement Levels

Worker, Working Spouse and Two Children

Worker's Gross Weekly Wage	Spouse's Gross Weekly Wage	(1) Net Income Before Injury	(2) Net Income After Injury	(2) as a Percentage of (1)
$200	$200	$322	$309	96%
300	200	394	375	95%
400	200	463	442	96%
500	200	527	509	97%
600	200	590	575	98%

EXHIBIT VIII

NATIONAL COUNCIL ON COMPENSATION INSURANCE

ALASKA

Total Disability Benefit Under Present Alaska Law*

Weeky Earnings	Weekly Benefit	Weekly Earnings	Weekly Benefit
100	66.67	575	383.35
125	83.34	600	400.02
150	100.01	625	416.69
175	116.67	650	433.36
200	133.34	675	450.02
225	150.01	700	466.69
250	166.68	725	483.36
275	183.34	750	500.03
300	200.01	775	516.69
325	216.68	800	533.36
350	233.35	825	550.03
375	250.01	850	566.70
400	266.68	875	583.36
425	283.35	900	600.03
450	300.02	925	616.70
475	316.68	950	633.37
500	333.35	975	650.03
525	350.02	1000	666.70
550	366.69	-	-

* All benefits listed are prior to Minimum and Maximum limitations and any reduction due to receiving Social Security Benefits. Benefits paid are 66 2/3% of workers gross wage.

NATIONAL COUNCIL ON COMPENSATION INSURANCE

ALASKA

Total Disability Benefits 80% of Spendable Earnings**

Weekly Earnings	Single+	Married- 2 Exemptions*	Married- 4 Exemptions++
100	68.28	72.68	74.68
125	83.59	88.55	92.87
150	98.02	104.10	108.42
175	113.65	120.53	124.85
200	127.60	135.60	140.16
225	142.43	151.71	156.59
250	155.34	166.30	171.42
275	170.17	181.77	187.53
300	182.44	195.64	201.80
325	196.47	211.11	217.27
350	208.02	224.18	231.14
375	221.57	238.85	246.53
400	232.56	251.52	259.20
425	246.11	266.19	273.87
450	256.94	278.86	286.54
475	269.69	293.53	301.21
500	279.48	305.24	313 88
525	292.23	318.95	328.47
550	302.02	330.18	339.70
575	314.98	344.10	353.62
600	326.10	356.42	366.18
625	340.18	370.98	381.22
650	351.30	382.82	393.22
675	365.42	397.38	407.78
700	378.02	408.98	419.62

NATIONAL COUNCIL ON COMPENSATION INSURANCE

ALASKA

Total Disability Benefits 80% of Spendable Earnings** (Con't.)

Weekly Earnings	Single+	Married- 2 Exemptions*	Married- 4 Exemptions++
725	390.62	423.06	434.18
750	403.22	434.18	445.54
775	415.82	448.26	459.62
800	428.42	459.38	470.74
825	441.02	473.46	484.82
850	453.62	484.58	495.94
875	466.22	498.70	510.06
900	478.82	511.30	522.66
925	491.42	523.90	535.26
950	504.02	536.50	547.86
975	516.62	549.10	560.46
1000	529.22	561.70	573.06

+Worker and no dependents.

*Worker and spouse.

++Worker, spouse, and 2 children.

**All benefits listed are prior to Minimum and Maximum limitations and any reduction due to receiving Social Security Benefits. Benefits are 80% of spendable income. Spendable income is gross wages less Federal Income Tax and FICA only. FICA tax for 1981 is 6.65% of annual wages not exceeding $29,700. Federal Income Taxes effective October 1, 1981 are used.

EXHIBIT IX

ALASCOM, INC.'s PAPER

IN SUPPORT OF THE POSITION OF

WORKER's COMPENSATION COMMITTEE OF ALASKA

Alascom management has had an opportunity to review the position paper, dated December 13, 1980, of the Worker's Compensation Committee of Alaska (WCCA). Alascom supports the position taken by the WCCA.

Perhaps, for the record, it should be explained that Alascom is Public Utility. Its chief source of revenue is long distance telephone calls. In its ten years of existence, its number of employees has tripled to approximately 1400 and the number of calls it handles increased almost six-fold to over 32,000,000 calls a year.

At Alascom, the Safety Administrator is directly involved in the administration of all worker's compensation claims. So, as Safety Administrator, I've been asked to bring to your attention four (4) different Alascom cases that illustrate excesses permitted by the current statutes and are relevant to WCCA's position. The four cases are representative. They do not constitute the total experience of Alascom. A brief description of those four cases follows:

1. Too Liberal Bunk House Rules Interpretation

An Alascom employee, assigned to a remote site, drove off the road and was injured after "bartending" at a friend's party. The employee claimed he had had only three beers and fell asleep while driving.

The Workmen's Compensation Board awarded full benefits. Their decision was based on several comparable cases and decisions. We feel the interpretation was liberal to the point of removing employee incentive to remain healthy.

In our opinion, when an employee disregards his own safety, and defies the laws of self-preservation, the employer should not be held responsible for actions committed outside his regular work assignment.

2. A Search for a Physician to Support Claim

An Alascom employee reported a hip injury, claiming his foot slipped from a step ladder. Medical examination indicated he had had hip surgery as a fourteen year old and additional surgery was again indicated because of the natural growth of the bones (and body). At the request of the employee, a second medical opinion confirmed the original diagnosis and again indicated that there was no connection between the alleged slip from the ladder and the distress the employee was suffering.

Unsatisfied with these medical opinions, the employee started his search for a doctor who would support his claim. We do not know how many doctors the employee talked to before he found one willing to support his claim, but he did find one in Southern California and brought suit against Alascom.

Alascom prevailed and the Workmen's Compensation Board made no award to the employee. Time and expenses incurred by Alascom, however, were not recoverable.

3. Unqualified Medical Opinion and Treatment

Alascom's relationship with the medical profession has been very good. It is the rare exception in which we are in disagreement with any of their decisions or recommendations for any of our employees.

Within the last year however, we had an employee who selected a chiropractor to treat a disease that was, in the opinion of qualified medical people, not related to the chiropractor's speciality. Despite qualified medical opinion to the contrary, both the employee and the chiropractor claimed the disease was the result of an industrial accident. Alascom feels that expenses incurred in incidents of this type are wasteful.

4. Double or Greater Payments

Alascom has had an employee who was collecting allowable absence (sick) pay while working at a job with similar physical requirements outside the Company. He filed for workmen's compensation payments covering the same period of time. Despite the outcome, Alascom once again suffers costs that are wasteful.

Finally, Alascom's position is virtually identical to that of the WCCA. We wish to see the legitimate entitlement of the injured Alaskan worker preserved. We do, however, question the wisdom of any act that makes it financially attractive to be injured, or levies wasteful burdens upon the employer. All of Alascom's worker's compensation expenses are passed along to the consumer. As a public utility we feel a strong obligation to the consumer to control, reasonably, all costs.

In conclusion, we ask that you review those provisions of the Worker's Compensation Act that permit injured employees to abuse a worthwhile benefit. We hope your consideration will lead to an equitable fine tuning of the law.

John Marcum
1-16-81

WORKMEN'S COMPENSATION
Accidents Covered by Barricks Rule
1980

Date	Occupation	Site	Description	Days Lost
01/02	Maint. Supt.	SP	Slipped on stairway (L) knee & foot injury	9
01/13	Site Admin	SP	Slipped in bathroom Compressed 5 & 6 toe	37
08/24/79	Cook	FY	Slipped on steps Hurt back	48
02/03	Utilityperson	TC	Playing basketball Twisted ankle	2
02/14	Fire Chief	FY	Hit bowling bag Broke (R) little finger	16
02/24	Utilityperson	FY	Playing football Sprained (L) knee	52
02/29	Log Spec	IM	Playing basketball Broken (R) ankle	252
03/12	Util Plt Op/Mech	CN	Fell from chair Injury (R) elbow	18
03/28	Pwr Plt Opr	CB	Hand caught between door and jam	0
03/30	Sta. Supv.	FY	Hit (L) wrist on table answering phone in room	3
02/28	Radar Tech	CR	Filling fell from tooth	17
03/22	Weather Observ.	CR	Lost in trackmaster Frostbite both feet	140
05/25/78	Util Plt Opr	CR	Allergic reaction to Valium	0
04/18	Medical Tech	IM	Playing basketball Torn ligament (R) foot	36
04/21	Kitchen Helper	IM	Broke lower front tooth Eating carrot	17
04/24	Admin Clerk	SP	Lost consciousness fell cut chin	1
04/23	Pwr Plt Opr	CB	Eating - filling fell out of tooth ?	10

Workmen's Compensation
Accidents Covered by Barricks Rule
1980 - Page 2

Date	Occupation	Site	Description	Days Lost
05/01	Sta. Supv.	CB	Eating breakfast Broke tooth	0
05/18	Comm Nav-Aid	TC	Riding 3 wheeled scooter Sprained (R) ankle	0
05/26	Equip Op/Mech	IM	Riding 3 wheeled scooter Injured (L) shoulder	27
06/16	EES	PHQ	Dropped trunk in Taxi Contusion (R) hand	0
06/15	Crypto Tech	TC	(R) front tooth snapped at gum line	9
06/15	Radar Tech	TA	Concussion suspect Motorcycle wreck	13
06/15	Cook	IM	Fell - walking Broken knee	48
05/18	Chef	IM	Motorcycl_ wreck Injury (R) foot	3
07/12	Admin Clerk	TA	Motorcycle wreck Trauma (R) side face	23
07/13	Radar Tech	SP	Injury head & neck Fell from truck	0
07/14	Medical Tech	CB	Motorcycle wreck Broken (R) leg	48
07/17	Maint. Supt	TA	Motorcycle wreck Injury (R) leg & ribs	0
07/09	Med. Tech	PHQ	Fell in airport Injury back, shoulder	22
07/21	Asst Cook	KO	Hit by softball (L) shoulder injury	0
07/22	Utilityperson	CR	Fell on steps Injury (R) side	2
07.	Admin Clerk	CN	Slipped on wet hallway Sprained (L) ankle	0

Workmen's Compensation
Accidents Covered by Barricks Rule
1980 - Page 3

Date	Occupation	Site	Description	Days Lost
07/31	Equip Op/Mech	TC	Accident 3 wheel vehicle Injury (R) hip/pelvis	54
07/31	Log Spec	TC	Accident 3 wheel vehicle Injury (R) side/back	28
08/04	Utilityperson	IM	Playing basketball Injury (R) eye	4
08/09	Sta. Supv.	IM	Eating evening meal Bridge facing broke	0
08/12	Radar Tech	SP	Broke-up fight. Fracture (R) ring finger	9
08/17	Baker	KO	Motorcycle wreck Rib injury	18
08/21	Bldg Mech	FY	Playing volleyball Injured (R) thumb	0
08/18	Comm Nav-Aid	CB	Fell over coffee table Injured (L) knee	9
08/25	Admin Clerk	CN	Eating lunch - broke tooth on hamburger	3
09/15	Radar Tech	CN	Eating dinner - fractured (L) molar on hamburger	5
08/30	Bldg Mech	CL	Struck by 3 wheel bike Sprained (R) shoulder & ankle	30
09/18	Comm Cntr Opr	IM	Playing Volleyball Twisted (R) ankle	21
10/21	Fire Chief	CR	Eating lunch Bit down on chicken bone	0
09/25	Admin Clerk	CR	Bowling - dislocated middle (R) finger	0
10/28	Medical Tech	CR	Bowling - (R) foot contusion	0
11/09	Heav Plt Op	TC	Snowmachine accident Fractured (R) ankle	48

Workmen's Compensation
Accidents Covered by Barricks Rule
1980 - Page 4

Date	Occupation	Site	Description	Days Lost
11/03	Admin Clerk	IM	Fell down steps Injured (R) foot	0
11/28	Htg Plt Opr	CR	Fell in Airport Hit upper back & head	0
12/08	Htg Plt Opr	CA	Deplaning in Bethel Fell on upper back	48
12/09	Pwr Plt Foreman	CR	Fell on ice Sprained (L) wrist	15

TOTALS:	37 Lost time claims	1145 days
	16 No lost time	
	53 Total Claims	1145 total lost days

WORKMEN'S COMPENSATION
Accidents Covered by Barricks Rule
1979

Date	Occupation	Site	Description	Days Lost
01/03	Utilityman	CL	Playing basketball Sprained (R) ankle	20
01/11	Fire Chief	FY	Stubbed foot on chair Broken (L) small toe	0
12/03	Log Spec	CR	Playing Volleyball Sprained (R) foot	25
01/24	Tel/TV Tech	CL	Indulging in horseplay Sprained (R) ankle	5
12/14	Head Chef	CN	Stepped in shower drain Bruised (R) heel	0
05/29/78	Admin Clerk	CB	Hit desk-back injury	0
02/07	Comm Cntr Opr	TC	Bowling - Toe injury	9
03/05	Asst. Cook	TC	Fell down stairway Injured tail bone	5
04/04	Util Plt Op/Mech	CB	Playing basketball Torn achilles tendon	60
05/12	Admin Clerk	CR	Crown off (L) molar	3
05/19	Head Chef	FY	Fell on dormitory steps Bruised (R) foot	0
06/11	Htg Plt Opr	CL	Wrestling in gym (R) knee strain	0
06/23	Cook	CL	Fell-cleaning room scalp laceration	2
06/30	Radar Tech	CB	Riding motorcycle Broken (R) leg	36
06/30	Admin Clerk	TA	Riding motorcycle Broken (R) arm	36
07/01	Administrator	CL	Jogging Sprained (L) ankle	0
07/05	Bldg Mech	CB	Motorcycle wreck Broken collarbone	14

Workmen's Compensation
Accidents Covered by Barricks Rule
1979 - Page 2

Date	Occupation	Site	Description	Days Lost
07/05	Utilityman	CB	Motorcycle wreck Broken (R) wrist	16
07/14	Bldg Mech	CL	Playing basketball Sprained (L) thumb	0
08/03	Weather Observ.	CN	Hit hand against wall (broken)	0
07/20	Htg Plt Opr	CN	Kicking high Sprained (L) hand	0
07/21	Bldg Mech	TA	Broke tooth on hamburger	0
07/23	Weather Observ.	CN	In bar - hit hip on table leaving room	2
08/18	Chef	SP	Motorcycle wreck Kidney/muscle strain	8
08/24	Bldg Mech	SP	Bowling - Muscle strain (R) forearm	0
09/09	Admin Clerk	TA	Motorcycle accident (L) leg injury	0
10/04	Pwr Plt Opr	CR	Slipped on gym floor (L) ankle injury	12
10/03	Telephone Tech	CA	Fell over electrical cord in room	0
11/02	Medical Tech	FY	Wrist injury Playing basketball	0
11/11	Comm Cntr Opr	SP	Playing basketball Twisted (R) ankle	2
08/14	Kitchen Helper	CR	Water burn in shower	0
11/16	Radar Tech	TA	Snowmachine accident Head & hip injured	0
12/16	Admin Clerk	CB	NAF vehicle ran off road Neck/back injury	3

Workmen's Compensation
Accidents Covered by Barricks Rule
1979 - Page 3

Date	Occupation	Site	Description	Days Lost
12/26	Comm Nav-Aid	CB	Stubbed (L) toe un-jamming bowling pin.	2

TOTALS:	18 Lost time claims	260 days
	16 No lost time	
	34 Total Claims	260 total lost days

WORKMEN'S COMPENSATION
Accidents Covered by Barrier's Rule
1978

Date	Occupation	Site	Description	Days Lost
01/23	Head Chef	TC	Climbing a rope in gym Slipped - rope burn (R) foot.	0
02/26	Pwr Plt Opr	CN	Slipped on water in hall going to work - bruised coccyx.	1
01/29	Htg Plt Opr	TC	Playing basketball Knee injury (R)	0
01/31	Asst. Cook	TC	High Blood Pressure Stress of job	3
02/26	Util Plt Op/Mech	TC	Playing basketball (R) knee injury	58
03/13	Site Admin	CB	Hyperventilation syndrome	2
05/07	Kitchen Helper	KO	Playing basketball Sprained (L) ankle	4
05/15	Equip Op/Mech	TC	Abdominal Pain and Lower Chest Pain	5
04/28	Cook	SP	Possible TB Exposure	3
05/28	Bldg Mech	CN	Coronary	Death
05/27	Asst. Cook	SP	Fall off motorcycle Back injury	1
05/28	Crypto Tech	CB	Removing boots Slipped disc lower back	26
05/29	Admin Clerk	IM	Fell from motorcycle Broken (R) wrist	4
05/28	Admin Clerk	CL	Hiking on day off - fell on ice -	2.5
05/26	Equip Op/Mech	CL	Exposed to TB	1
05/17	Htg Plt Op/Mech	SP	Hiking - (R) toe injury	17
06/10	Util Plt Op/Mech	FY	High Blood Pressure	6

Workmen's Compensation
Accidents Covered by Barricks Rule
1978 - Page 2

Date	Occupation	Site	Description	Days Lost
07/04	Weather Obsv.	IM	Hang gliding Torn ligament (R) knee	4
06/07	COMM Cntr Opr	FY	Lifting weights in gym Sprained (R) wrist	3
07/15	Equip Op/Mech	CR	Motorcycle accident Possible (L) rib fracture	3
07/18	Bldg Mech	CR	Broken 3rd molar Eating Cherry Pie	3
07/23	Maint. Supt.	SP	Playing softball Sprained (L) ankle, Broken (R) ankle	14
07/23	Kitchen Helper	SP	Playing softball Bruised (R) knee	8
01/13	Head Chef	CH	TB	90
07/04	Equip Op/Mech	TC	Twisted knee Slipped on rock - walking	12
08/06	COMM NAV-AID	CB	Slipped in shower (R) knee injury	42
08/16	Utilityman	IM	Hang gliding - running along road - twisted (R) ankle.	6
09/08	Bldg Plt Op/Mech	CH	Foreign object in (L) eye In room - woke up	1
09/09	Head Chef	SP	Observing work being done 4X4 dropped on (L) foot	22
09/08	COMM NAV-AID	FY	Gastritis	2
09/23	Administrator	TA	Playing basketball Broken (R) ankle	5
09/25	Bldg Plt Foreman	CL	Walking in high wind from bldg to bldg. Broken ankle	70
09/27	Bldg Mech	KO	Fight - hit in mouth Broken front teeth	3

Workmen's Compensation
Accidents Covered by Barricks Rule
1978 - Page 3

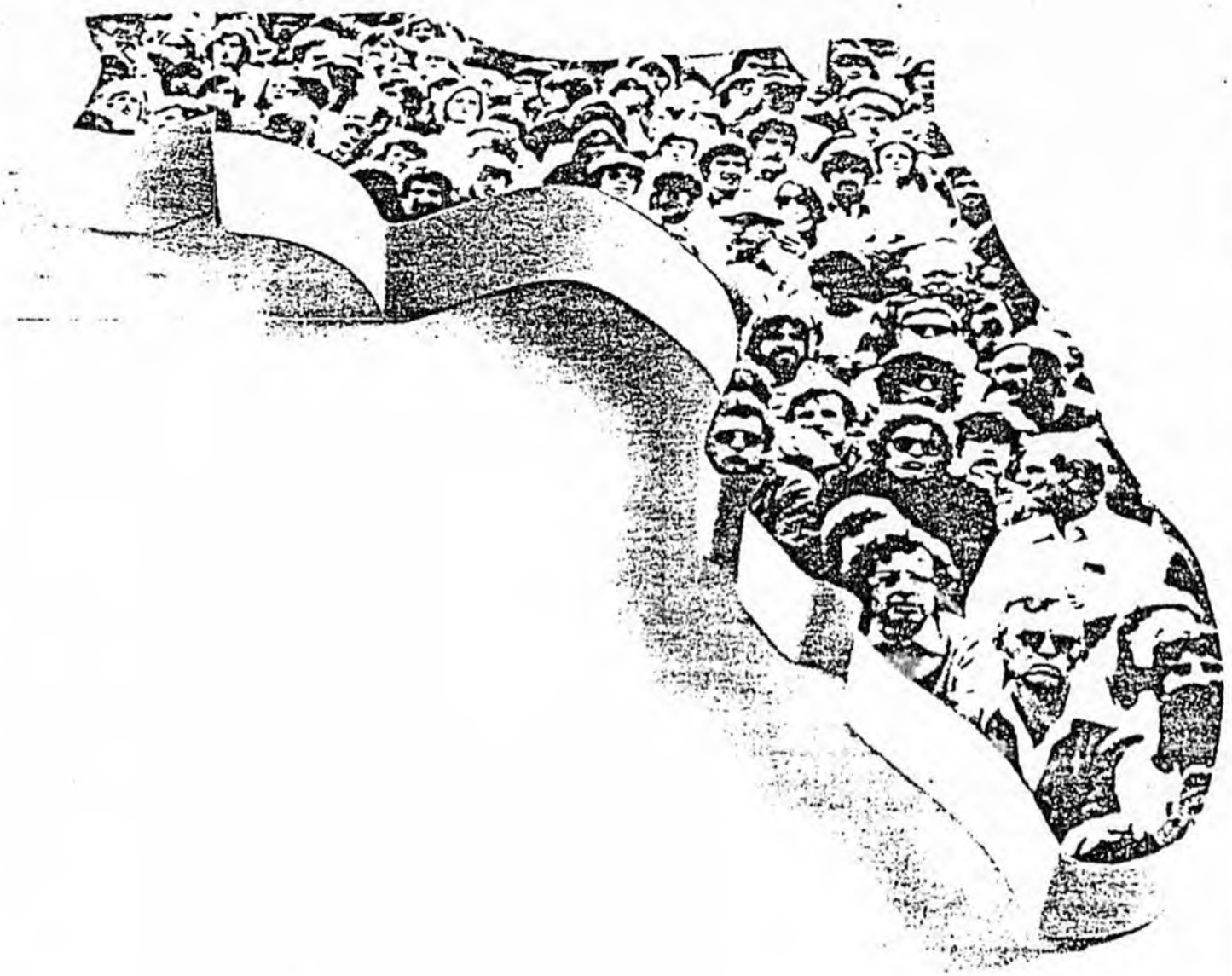
Date	Occupation	Site	Description	Days Lost
10/25	Utilityman	IM	Running across gym to movie - fell bruised lower back.	0
11/05	Bldg Mech	CA	Dizziness. low blood pressure.	5
11/26	Site Medic	MD	Playing basketball Fractured Tibia (L)	0
11/29	Weather Obsv.	TA	Plane Crash	120
11/23	COMM Cntr Opr	SP	Leaving latrine, hit by door on (R) forearm	5
12/06	Kitchen Helper	CB	Playing basketball Laceration (L) eyebrow	0
04/28	Cook	CA	Fight Broken denture	0
12/14	Bldg Mech	CA	Vehicle accident going to airport.	0
12/14	COMM Cntr Opr	CA	Vehicle accident going to airport.	0
12/11	Medical Tech	CB	Neurosis from job pressure	0
10/29	Head Chef	TC	Rib injury - hit rib on pencil sharpner reaching for medicine	3

TOTALS:
1 Death
34 Lost time claims 554.5 days
9 No lost time
44 Total Claims 554.5 total lost days

EXHIBIT VI

National
Council
on Compensation
Insurance

Preliminary Report on The Wage-Loss Law in Florida



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Preface

There has been a great deal of interest expressed concerning the effect which the August 1, 1979 wage-loss law has had on the workers' compensation system in Florida. While it is still too soon to come to any definitive conclusions about how the wage-loss law is working and will work in the future, the National Council on Compensation Insurance (NCCI) will present in this report information about the Florida workers' compensation system which we have gathered continuously since August 1, 1978. We must caution that this information is only of a preliminary nature and will be subject to change as time allows more information to become available. At the same time, the following information does allow the reader to draw some early impressions on how the new system is working.

The workers' compensation system is concerned with injuries to people. The extent of each injury cannot be immediately assessed, since each individual is unique and makes unique demands on the employer and/or its insurance company, whose job it is to protect the worker's economic and medical welfare after his or her injury has occurred. Because of these unique needs it is always difficult for an insurance company to estimate what economic and medical assistance an injured worker will require in the future. This problem is compounded in Florida since the companies have so little experience, at this time, with the wage-loss system. Therefore we must again stress that these observations about the workers' compensation system in Florida are only preliminary.

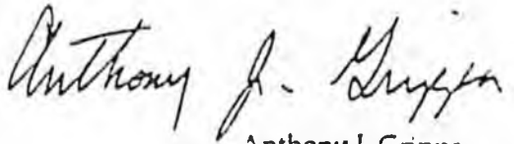
The NCCI gathers information about the workers' compensation system continuously under the Call for Detail Claim Information. As more information becomes available and as the insurance companies have a longer time in which to evaluate each individual claim, the NCCI will be able to make more definitive observations about how the Florida wage-loss law is working. While everyone would like to know what is happening under the wage-loss law it is not possible at this time for anyone to make more than preliminary observations.

Even outside Florida there is interest in the effect of the wage-loss law on the workers' compensation system. Interested parties in other states would like to know how wage-loss would effect the workers' compensation system in their state. However, even these preliminary observations which we have made concerning the effect of the August 1, 1979 Florida wage-loss law cannot be assumed to apply to other states. Each state's workers' compensation system has statutory and administrative differences. Also the economic, political, and social conditions in each state have an immeasurable effect on the workers' compensation system. Thus, another state could adopt exactly the same law as is currently in effect in Florida and have an entirely different experience.

When viewing individual claim characteristics of wage-loss and/or impairment cases, one must remember that both the immaturity of such cases, as well as the relatively small number of cases to date, means that such observations cannot be regarded as conclusive.

We believe that one goal of the new legislation governing the workers' compensation system which became effective August 1, 1979 was to increase benefits to the more seriously injured worker while decreasing other system costs through more efficient administration. While it is too early to be conclusive, based on our observations, which follow, it appears that the Florida workers' compensation system has significantly moved in that direction.

Finally we would like to express our appreciation to all the insurance company claims people who have devoted substantial time and effort to supplying the NCCI with complete and accurate information under the NCCI Call for Detailed Claim Information.



Anthony J. Grippa
Senior Vice President,
Actuarial Operations

June 10, 1981

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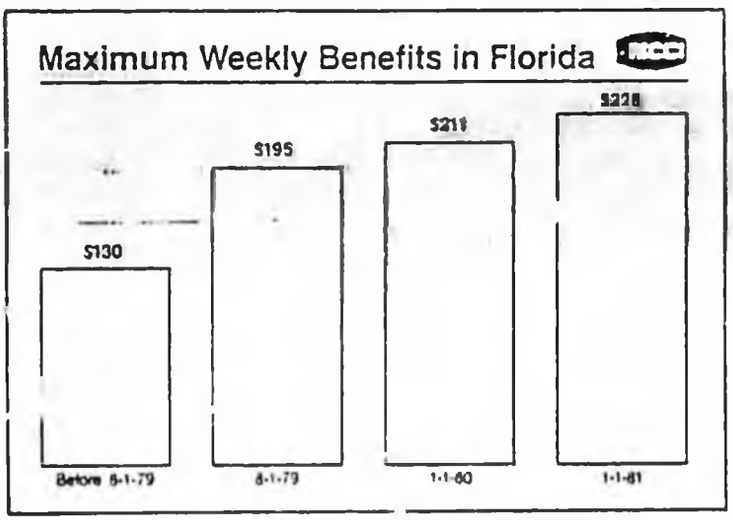
General Background

Florida and the Wage-Loss Law

This is a preliminary report on the use of the Detailed Claim Call in Florida to monitor the effects of the new legislation governing the workers' compensation insurance system which became effective August 1, 1979. This law change was intended to improve an existing situation in which a number of workers with relatively minor injuries were receiving large awards under the permanent partial award provisions of the law. Under the old statute, additional doctor visits and attorney litigation were encouraged since the worker could receive greatly increased benefits with a higher disability rating. These problems had been identified in various studies including the 1977 NCCI Closed Claim study in Florida. Anyone interested in an in-depth review of the Florida workers' compensation system prior to the August 1, 1979 law will find the summary of this study by the Florida Association of Insurance Agents to be extremely helpful. We believe that one goal of the new law is to increase benefits to the truly injured employee while cutting overall costs by decreasing excessive litigation and administrative costs. In this connection the maximum weekly benefit, for example, was increased from $130 to $195 August 1, 1979, and has continued to be further increased each January 1.

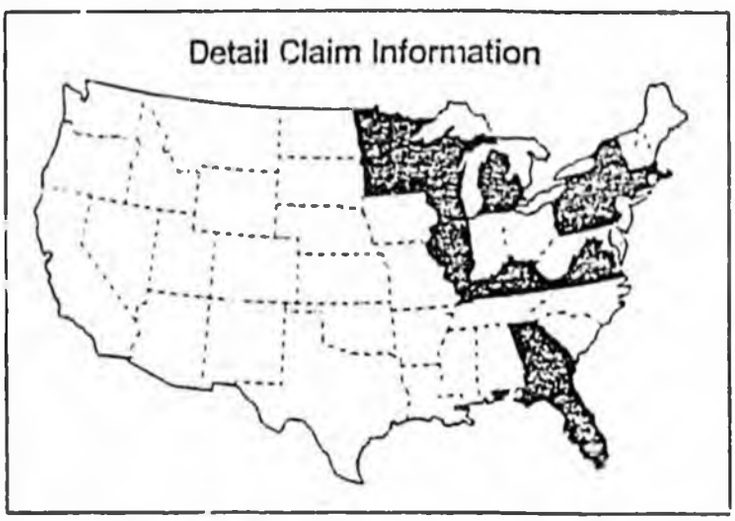


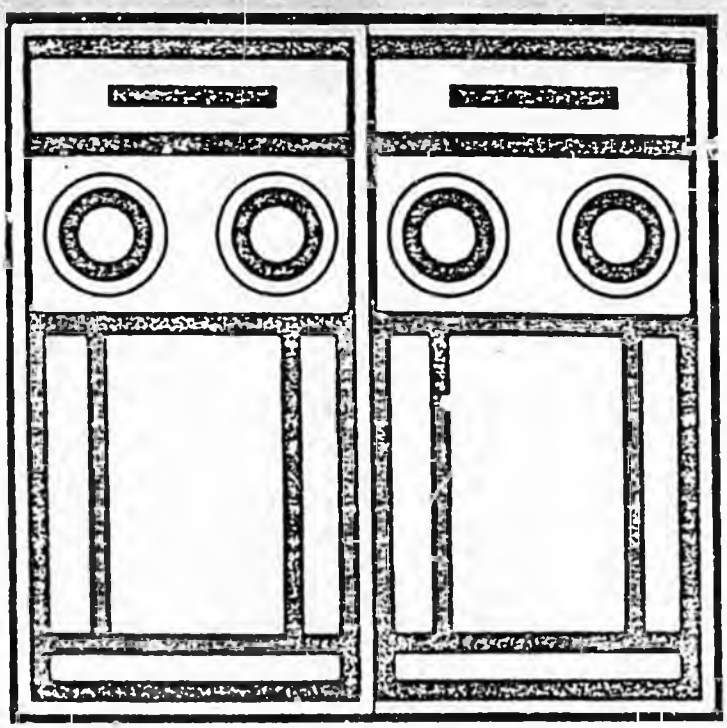
Availability of Data

Traditional Data Systems The traditional statistical data used for ratemaking purposes is primarily designed to accumulate information covering the costs and premiums of the workers' compensation system. This ratemaking data does not explain the social aspects which affect costs.

National Council on Compensation Insurance Detail Claim Information System With the Detailed Claim Information, derived from the call, we are concerned with cost factors, but we are also able to look beyond pure statistics to an analysis of causative factors.

Background A "call" is a request for specific information which the NCCI directs to its member and subscriber companies also known as carriers. The Call for Detailed Claim Information, which began April 1, 1979, is a continuous random sampling of workers' compensation lost time claims. Twelve states—Connecticut, Florida, Georgia, Illinois, Kentucky, Massachusetts, Michigan, Minnesota, New York, Pennsylvania, Virginia and Wisconsin—were chosen for the survey. To provide sufficient data for a meaningful analysis of the Florida workers' compensation system prior to the August 1, 1979 law, the Call for Detailed Claim Information began, in Florida, on August 1, 1978. In order to achieve a representative bias free scientific random sampling and lend credibility to statistical tests which were to be used on the data, all insurance companies whose contributions added up to 99.5% of the premium volume for all those employers whose workers are covered by insurance companies in each state were required to participate. To reduce costs the Call for Detailed Claim Information utilizes a mathematical technique known as sampling. Information about the entire population of claims is extracted from a representative sample of all claims. The sample is scientifically constructed to insure that the sample will be truly representative of the population as a whole. Presently in Florida companies are required to select at random 10% of their indemnity claims to be included in the Call for Detailed Claim Information. The procedure for insuring random scientific sampling is monitored by the NCCI.





Modifications to Call for Detailed Claim Information In order to gather data which will enable a meaningful analysis of the working of the new Florida law, modifications were made in Florida to the Call for Detailed Claim Information. First, an additional retroactive call was made for claims reported between August 1978 and March 1979. This retroactive call was necessary to provide a meaningful base of information about the claims experience in Florida under the provisions of the old law.

Second, the rules for completing the standard call applicable to Florida claims occurring after August 1, 1979 were changed. The classification of benefits as permanent partial was removed. The new benefit classifications which became effective August 1, 1979, namely wage-loss and no impairment benefit, wage-loss and impairment benefit, and impairment and no wage-loss benefit were added. To qualify for a wage-loss benefit a worker must suffer a permanent impairment which results in a loss of at least 15% of his preinjury wages, after the worker has reached the point of maximum medical improvement. In the case of a permanent impairment due to amputation, loss of 80% or more of vision, after correction, or serious facial or head disfigurement the injured worker will receive a lump sum benefit determined by the percentage of permanent bodily impairment which the worker suffers after he has reached the point of maximum medical improvement. An injured worker is eligible to receive either or both of these benefits. Of course, for all three catagories, the injured worker will also receive temporary total disability benefits during his healing period as well as full medical benefits. Thus there are three benefit classifications for injured workers receiving one or both of these benefits. An injured worker with a loss in wages and no lump sum permanent impairment award is a wage-loss only case. An injured worker who receives a lump sum award but has no loss in wages is an impairment only case. Finally an injured worker who has a loss in wages and receives a lump sum impairment award is a wage-loss and impairment case.

Third, each case with wage-loss and/or impairment benefits and each temporary partial case which occurred in Florida after August 1, 1979 must carry a supplementary form. This supplementary form asks for specific information about wage-loss and impairment benefits for each sampled claim.

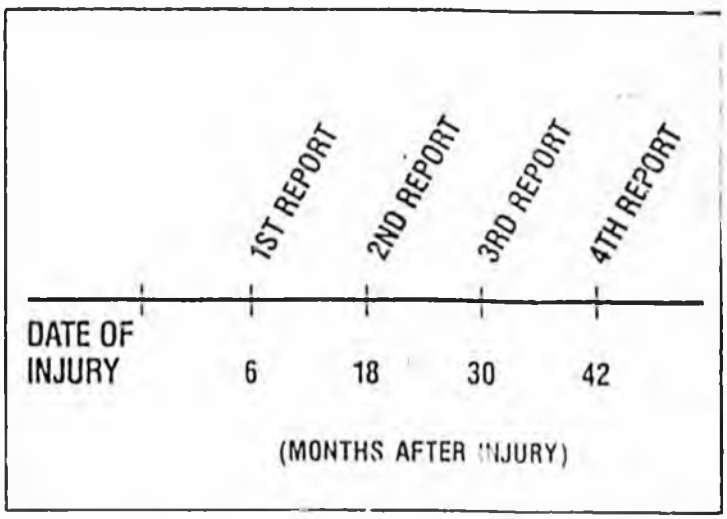
Attached as exhibits are the forms used in the Florida Call for Detailed Claim Information. Form C19940F is used for all sampled claims with injuries occurring after August 1 1979. Form C19945F is the Florida Supplementary Call for Detailed Claim Information.

Timeliness and Validation of Data Sampled claims are evaluated six months after the date of report of the injury, and then reevaluated at 18, 30 and 42 months unless closed beforehand. The claims included in this study were for workers injured between August 1978 and August 1980.

A meaningful comparison from one claim to the next can only be made for claims which are evaluated at the same length of time after the claim is reported. Since only six month evaluations are available for workers injured under the new law, we have confined our observations to a comparison of claims evaluated six months after the report, when looking at the conditions prior to August 1, 1979, as compared to after August 1, 1979.

In further analyses, to be done in the future, we will be able to make comparisons based upon 18, 30, and 42 month evaluations.

All sampled claim reports are subjected to intensive editing at NCCI. Claims are tested for completeness of information, logical relationships between claim elements, and reconciliation with statutory requirements. Claim reports which are rejected by the editing process are returned to the carrier for correction.



Highlights

Participation by Insurance Companies

There are 76 insurance companies included in the NCCI Detailed Claim Information report on Florida wage-loss. This considerable number of participating carriers provides a broad basis of experience for our observations on the workers' compensation system in Florida.

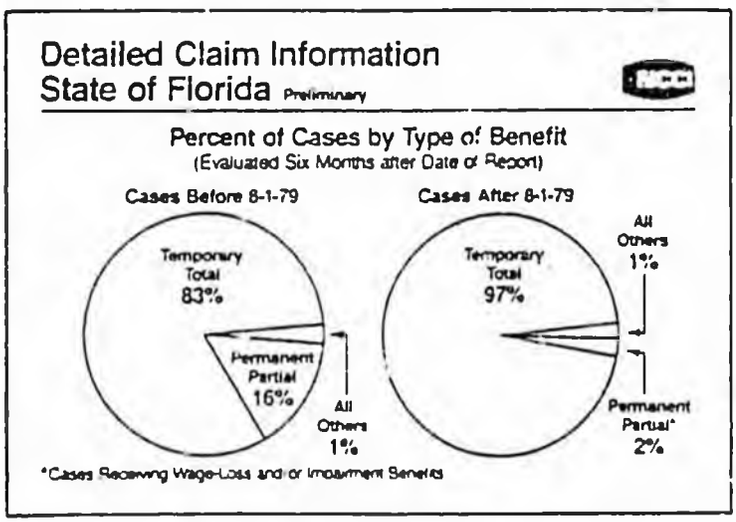
Preliminary Nature of Detailed Claim Information

As previously stated, this report is based on claims evaluated by the insurance companies six months after the injuries were first reported to each company. At that time some details may have not yet been known about the claimants' injuries, such as the number of times the injured workers had visited a doctor. Only a rough estimate of the eventual cost of the workers' injuries could be made at such an early date.

The lack of experience of insurance companies with the wage-loss system has created uncertainty for these companies regarding which injured workers will eventually be entitled to wage-loss payments. Because of this inexperience a number of insurance companies may not always be able to classify an injured worker as a wage-loss case until the worker actually begins to receive wage-loss benefits (for example, while claimants are receiving temporary total benefits). Therefore there is a corresponding delay in the recognition of the eventual costs associated with these claims.

Changes in Patterns of Claims by Type of Benefit

There appears to be a trend toward the reduction of the system-wide costs of benefits associated with partially injured workers. This savings results from a reduction in benefits paid to those who have suffered only a very minor injury which more than offsets the increased benefits paid to those significantly injured workers who suffer an injury qualifying for wage-loss payment or who receive a permanent impairment award due to their injury.



Distribution of Injured Workers by Benefit Type It appears that under the new Florida workers' compensation insurance law an increased number of injured workers will receive only temporary total benefits as their lost tim benefits. Only those workers injured seriously enough to qualify for wage-loss, impairment, or permanent total awards will receive additional lost time benefits. A worke with a relatively minor injury, who, under the provisions of the previous workers' compensation law would have received a permanent partial award, even though he could return to work, is no longer eligible for additional benefits after he has fully recovered from his injury.

As previously stated, because of a lack of experience with the wage-loss system the number of reported injuries qualifying for wage-loss benefits is undoubtedly too conservative and will be revised upward at a future date. This distorts the reported ratio of wage-loss and/or impairment cases to permanent partial cases under the old law.

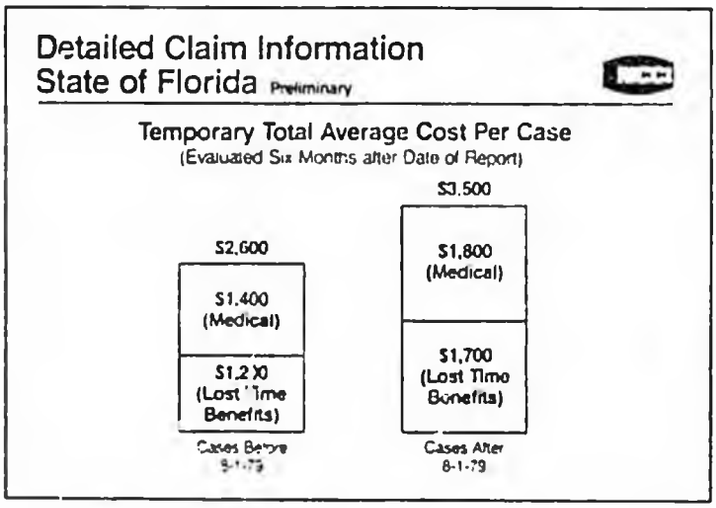
Under the provisions of the new law which was introduced on August 1, 1979 wage-loss benefits are not payable until after an injured worker has reached maximum medical improvement, which averages 31 weeks. In view of the fact that the NCCI Detailed Claim Information available at the present time has been calculated from the initial six month injury report, it is logical to anticipate that subsequent reports will reveal some additional wage-loss cases.

Currently our analysis of wage-loss and impairment cases is based on a relatively small volume of claims. This small sample size necessitates a cautious approach to any inferences about the typical wage-loss or impairment case. As time goes on two things will happen to enable more conclusive observations to be drawn. First we will have subsequent valuations of the already sampled claims (i.e., at 18, 30, and 42 months after the date of report, rather than just six months). Second, there will be more claims involved in the study.

Benefit Dollars

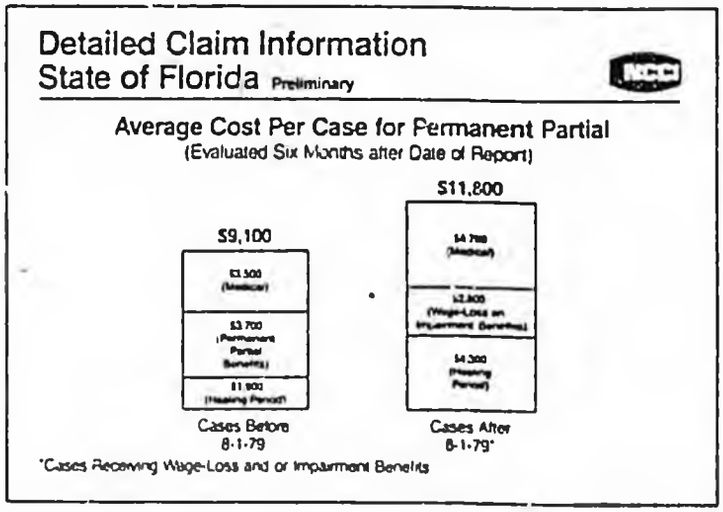
Temporary Total Cases A temporary total injury is one in which a worker suffers a complete inability to work for a period of time but is expected to regain full productivity. An injured worker is considered a temporary total case only if there appears to be no likelihood that in the future the worker will receive any permanent total, wage-loss, or impairment benefits. The average cost per case for temporary total cases has increased approximately 35% since August 1, 1979. One reason for this increase is that the maximum weekly benefit payable to a worker who has sustained an injury classified as temporary total increased by 50% and the percentage rate of compensation also increased on August 1, 1979. Another reason for the increase is that a worker with a relatively minor injury, who would have been classified as a permanent partial disability case before the new wage-loss concept became effective on August 1, 1979, will now receive only temporary total lost time benefits. The inclusion of these [illegible] the temporary total category, some of which may be more serious than the previously typical temporary total case, results in an increase in the average cost per temporary total case.

The average medical cost for a worker with a temporary total disability has increased by approximately $400 since August 1, 1979. The Florida Medical Fee Schedule, which is determined by the Department of Labor and Employment Security, sets the permissible fee which may be paid for medical procedures for an injured worker covered by the Florida workers' compensation law. On July 1, 1980 the Department of Labor and Employment Security approved a new medical fee schedule which, on the average, increased permissible medical fees approximately 30%. A change in the medical fee schedule affects all injured workers who receive medical treatment after the change is effective, regardless of the date of the injury. Since an injured worker is more likely to receive medical treatment soon after the injury has occurred, this increase in the medical fee schedule has probably affected those workers injured after August 1, 1979 to a greater extent than those workers injured before August 1, 1979. Thus this may be one reason that the cost of medical benefits has increased, on the average, for temporary total cases.



Permanent Partial Cases The average permanent partial cost per case has increased about 30% subsequent to August 1979. Obviously, it is generally only those workers who are significantly injured who are receiving these increased benefits. Many fewer workers suffer wage-loss or a permanent impairment injury under the new law than received a permanent partial award under the old law. Thus while the benefit paid to the individual significantly injured worker has increased there has been an overall reduction in cost associated with permanent partial injuries.

Workers qualifying for wage-loss and/or impairment benefits, on the average receive more lost time benefit dollars during their healing period, at which time the worker receives lost time benefits based on the benefits applicable for a temporary total disability, than did workers classified as permanent partial cases prior to the introduction of the new workers' compensation system on August 1, 1979. This may be the result of the more serious nature of injuries for those workers who qualify for wage-loss benefits or who suffer a permanent impairment. There also may be a tendency for an injured worker to prolong the period for which he or she may receive temporary total benefits rather than benefits based on his lost wages.

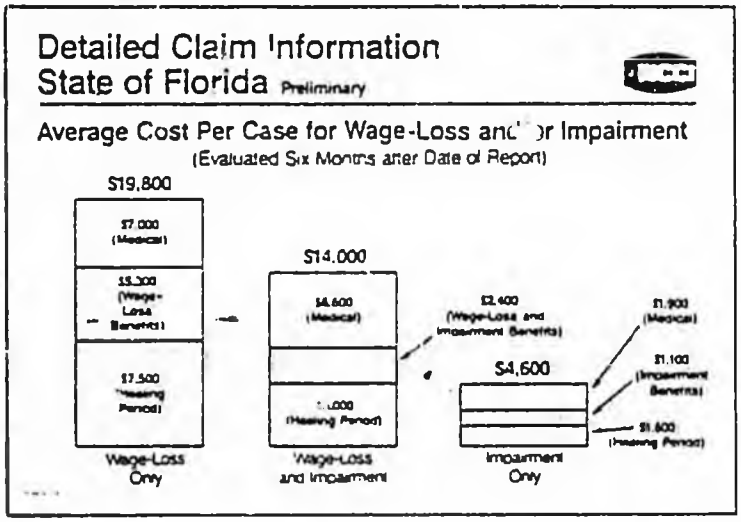


Wage-Loss and Impairment Cases When a claim is evaluated six months after it is first reported it appears that cases which involve only wage-loss injury and which do not involve a permanent impairment, on the average, have greater lost time and medical costs than cases with both wage-loss and impairment injuries or impairment only cases. One reason for this may be that wage-loss only claims often involve serious injuries to the back, neck and head and are not eligible to receive impairment benefits. The high cost of these injuries tends to increase the average cost of wage-loss only cases.

The impairment benefit only cases, on the average, are the least costly, probably because these workers are less seriously injured than workers who suffer wage-loss injuries.

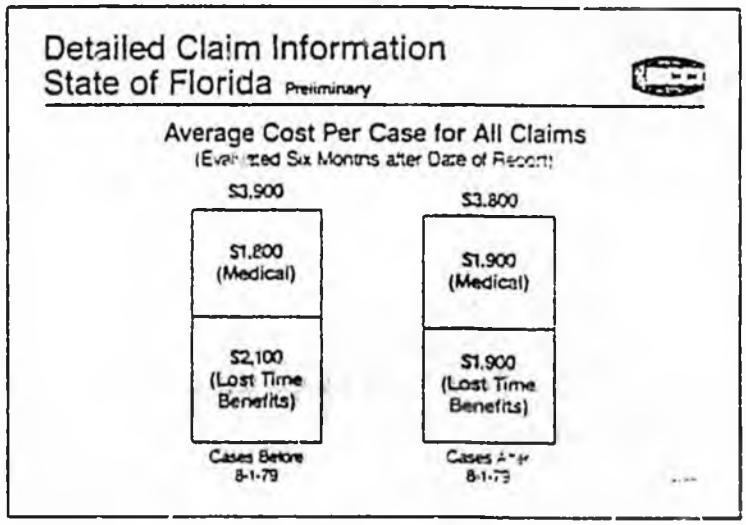
The small sample size of wage-loss and impairment cases deters any general conclusions covering all workers who suffer wage-loss or a permanent impairment injury.

It should be noted tnat during the healing period the injured worker receives lost time benefits based on the benefits applicable for a temporary total disability.



All Lost Time Cases The average cost per case for all claims has decreased 3% since the new Florida workers' compensation insurance legislation became effective August 1, 1979. This occurred despite the 50% increase in the maximum weekly lost time benefit and an increase in the rate of compensation for a weekly lost time benefit mandated by the law, effective August 1, 1979. Thus the decrease in the average lost time benefits may indicate that workers are returning to employment sooner. As with other estimates of costs which are made six months after each claim is reported, it can only be an approximation of the final cost which will be incurred in connection with a reported injury.

While the average cost per case for both temporary total cases and permanent partial cases increased, the average cost per case for all cases decreased. This reduction occurred because of the shift of cases with minor injuries, which would have received permanent partial benefits prior to August 1, 1979, into the category of temporary total cases.

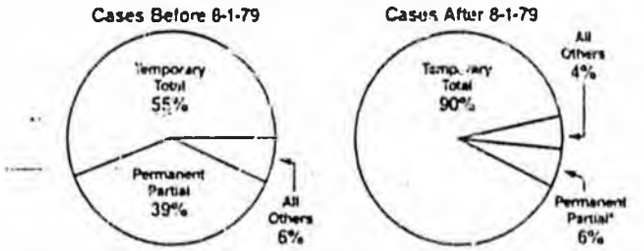


Percentage of Total Lost Time and Medical Benefit Dollars by Benefit Type The portion of lost time and medical benefit cost attributable to wage-loss and impairment cases under the new law has decreased drastically from the percentage attributable to permanent partial injuries under the old law. This shift indicates that total benefit costs for partially injured workers have decreased, while benefits for significantly injured workers have increased, because workers with only minor injuries are no longer able to receive permanent partial benefits.

When later evaluations are conducted we expect to see an increase in the percentage of total costs attributable to wage-loss cases as more cases are recognized by the insurance company. As mentioned previously a number of carriers may not be able to classify a worker as a wage-loss case until he has actually begun to receive wage-loss benefits. Also at later evaluations we expect we may see an increase in costs for wage-loss and impairment cases since there will be an opportunity for a more accurate evaluation of costs after carriers have gained more experience with wage-loss cases.

Detailed Claim Information
State of Florida Preliminary

Percentage of Lost Time and
Medical Benefit Dollars by Benefit Type
(Evaluated Six Months after Date of Report)



*Cases Receiving Wage-Loss and or Impairment Benefits

Administration of Claims

Attorney Representation The percentage of injured worker represented by an attorney has decreased about 50% since August 1, 1979. This appears to indicate that one intent of the law, to decrease excessive litigation to obta undeserved permanent partial benefits, has been met.

One thing which must be kept in mind when considering the percentage of cases represented by an attorney at the time of the initial six month evaluation o claim is the likelihood that a claimant will choose to see attorney representation sometime in the future. A NCC study in Florida found that the number of claimants represented by an attorney increased more than 50% in the period subsequent to the initial six months from the date of injury. Consequently we expect to see some increase in attorney representation when these claims ai evaluated in a later report. This is true for claims occurring both before and after August 1, 1979.

Detailed Claim Information
State of Florida Preliminary

Percentage of Claims With Attorney Involvement
(Evaluated Six Months after Date of Report)

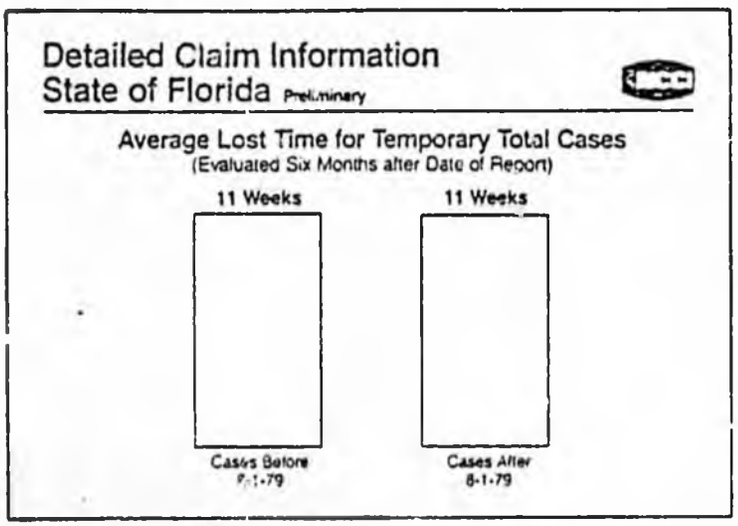
Benefit Type	Cases Before 8-1-79	Cases After 8-1-79
Permanent Partial	34%	20%*
Temporary Total	9%	6%
All Claims	13%	6%

*Cases Receiving Wage-Loss and/or Impairment Benefits

Additional Observations

Further Changes In Patterns of Claims by Benefit Type

Time Lost from Employment by Temporary Total Cases There has been no significant change in the duration of temporary total cases since the August 1, 1979 law change. Since more serious injuries are included among the temporary total cases after August 1, 1979 it may be that for equivalent injuries employees are actually returning to work sooner. As previously noted an injured worker is considered a temporary total case if there appears to be no likelihood that in the future the worker will receive any permanent total, wage-loss, or impairment lost time benefits.

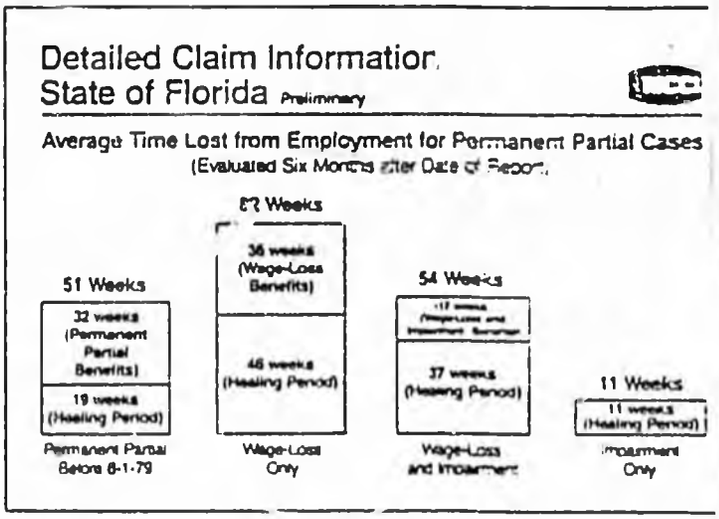


Time Lost for Permanent Partial Cases The average time lo from employment for wage-loss cases is greater, on the average, than time lost by permanent partial cases prio to the August 1, 1979 law change. These wage-loss case are more serious, on the average, and require benefits a longer period of time.

On the average, at the time of the six month evaluation, a wage-loss case has not begun to receive wage-loss benefits. Because of this, claims people can only make a rough estimate of the time lost from employment as a result of an injury classified as one subject to wage-loss benefits.

The impairment only cases receive lost time benefi during the healing period, based on the benefits applicable for a temporary total disability, on the avera for 11 weeks. However, after this period of time the injured worker receives an additional lump sum benefi based on the nature of his or her permanent impairmer On the average, it appears that impairment only cases a returning to work relatively soon.

The sample size of wage-loss and impairment case too small to allow us to make any conclusive observations.



Doctor Visits On the average, workers with wage-loss or permanent impairment injuries, visit the doctor less frequently than workers who suffered an injury which was classified as a permanent partial disability under the old law. This decrease in the frequency of doctor visits is striking since, on the average, it seems that wage-loss and impairment cases involve more seriously injured workers than those with permanent partial injuries under the old law.

At the initial six month evaluation period of claims a number of injured workers have not yet submitted any doctor or medical bills. Prior to receiving a bill the insurance company is not aware of the number of doctor visits made by the injured worker. In order to reach a better estimate of the average number of visits to a doctor we have excluded from the average all claimants who have not yet reported any doctor visits.

Detailed Claim Information
State of Florida Preliminary

Average Number of Doctor Visits
(Evaluated Six Months after Date of Report)

Benefit Type	Cases Before 8-1-79	Cases After 8-1-79
Permanent Partial	16	13*
Temporary Total	9	10
All Claims	10	10

*Cases Receiving Wage-Loss and or Impairment Benefits

Hospital Confinement Since the August 1, 1979 law change there has not been a significant change, on the average, in the time spent in the hospital by injured workers. This is not surprising since the change in the law should not have any effect on the severity of injuries which occur in Florida.

On the average, a wage-loss or impairment case is more likely to be confined in a hospital than a permanent partial case under the old law. This has probably occurred because, on the average, a wage-loss or impairment case, involves a more seriously injured worker than a permanent partial case under the old law.

Detailed Claim Information
State of Florida Preliminary

Average Number of Days Confined in Hospital
(Evaluated Six Months after Date of Report)

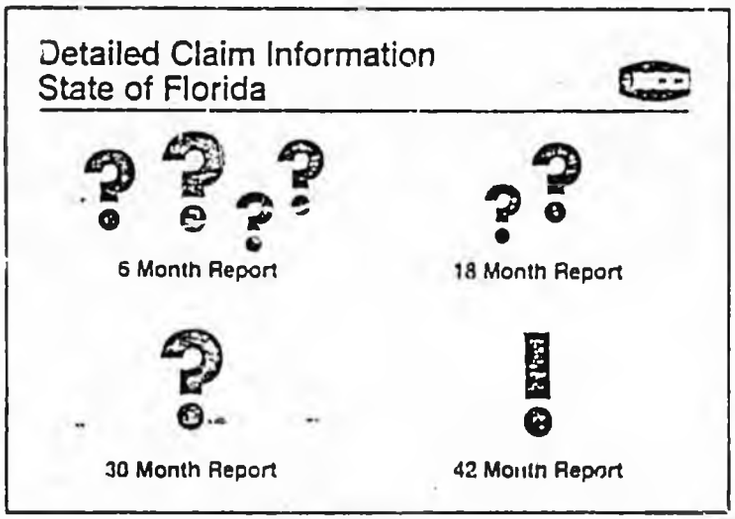
Benefit Type	Cases Before 8-1-79		Cases After 8-1-79	
	Percentage of Cases Confined in Hospital	Average Number of Days	Percentage of Cases Confined in Hospital	Average Number of Days
Permanent Partial	50%	10	65%	9*
Temporary Total	25%	7	30%	8
All Claims	30%	8	30%	8

*Cases Receiving Wage-Loss and or Impairment Benefits

Future Development of NCCI Detailed Claim Information

The information contained in this report gives a preliminary overview of the changes in the Florida workers' compensation system due to the law changes of August 1, 1979. As a result, these findings may be different when the claim of each injured worker is reevaluated at a later date. As previously stated, each claim will be reevaluated 18 months, 30 months, and 42 months after the date the injury is reported to the insurance company. These later reports will allow time for the companies to make a much more informed judgment of individual claim features such as the type of benefit the injured worker will eventually receive, the total lost time costs, total medical costs, and the time lost from employment.

These claim features will be judged with increasing precision at each later evaluation date.



Importance of Consistent and Appropriate Claims Evaluation

There are several important factors which must be considered when choosing a method for gathering workers' compensation claims information. Three of these are particularly significant. First, it is necessary that reasonable and appropriate comparisons may be made concerning the gathered information. Second, the absolutely highest integrity of information must be maintained through the intensive validation of all submitted information. Third, information must be gathered from a broad base so that it is representative of experience in the entire state.

In order to insure that reasonable and appropriate comparisons could be made of our gathered information the NCCI Call for Detailed Claim Information requires that each claim is initially evaluated at six months after the claim is reported to the insurance company. Then each claim is reevaluated 18, 30, and 42 months after the report of injury. By initially evaluating each claim six months after the report of the injury we allow time for a equivalent amount of knowledge to be gathered by the insurance company about each claim. This is essential, since the initial estimates of benefit costs can be modifie after the claimant's medical condition has had additiona time to stabilize. With each claim evaluated at the same period of time after the accident we obtain a basis of information about which meaningful comparisons can be made.

There is an alternative method for gathering claim information which does not result in this comparison of corresponding information. An example of this method would be to evaluate workers' compensation claims for workers injured between July 1 and December 31 based on the information available on December 31. Howe er this method results in an attempt to evaluate some claim the day the injury occurs and other claims up to 6 montl after the injury occurs. The result of evaluating each clai on the same calendar date is to compare claims about which we have an unequal depth of knowledge. In fact, since there is a time lag before an injury is reported, the insurance company will not even be aware yet of all the injuries which occurred in the six month period.

NCCI ensures the highest integrity of its Detail Claim Information by a system of intensive editing and validation procedures. When a compilation of informatio is not intensively edited, there is no guarantee that human error, such as adding a zero to the end of a number incorrectly, will not cause incorrect observations to be made about the Florida workers' compensation system.

In order to ensure a broad basis for our observations of the Florida workers' compensation system, the Call for Detailed Claim Information has gathered information from virtually all of the insurance companies writing workers' compensation in Florida. This provides an appropriate representation of large, small, local and national insurance companies in our gathered information. If information is gathered from a small number of companies it would be possible for any one insurance company, whose experience is not typical for Florida as a whole, to disproportionately affect observations of the Florida workers' compensation system. By using a large number of carriers we get a picture of how the system is functioning for all regions and industries in Florida where workers are insured by their employer through an insurance company.

POLICYHOLDER NAME

NO.

National Council On Compensation Insurance

FLORIDA CALL FOR DETAILED CLAIM INFORMATION

COMMON INFORMATION

INSURER:

1. CARRIER CODE

2. POLICY NUMBER

3. CLAIM NUMBER

4. REPORT TYPE *(Circle Below)*
[1] 6 Months [3] 30 Months
[2] 18 Months [4] 42 Months

5. TRANSACTION CODE *(Circle Below)*
[1] Original Reporting
[2] Revised Reporting

CLAIMANT DESCRIPTION

6. POLICY EFF. DATE — MO. DAY YEAR

7. EMPLOYEE SOC. SEC. NO.

8. DATE OF INJURY — MO. DAY YEAR

9. DATE REPORTED — MO. YEAR

10. STATE OF ACCIDENT

11. STATE OF JURISDICTION

12. CLASS CODE

13. INJ. DESCR. CODE

14. LOSS COVER. CODE

15. AGE AT DATE OF INJURY

16. SEX *(Circle Below)*
[1] Male [3] Unknown
[2] Female

17. MARITAL STATUS *(Circle Below)*
[1] Single or Divorced or Widowed [3] Separated
[2] Married [4] Unknown

18. EMPLOYMENT STATUS WHEN CLAIM REPORTED *(Circle Below)*
[1] Regular Employee [3] Unemployed [5] Disabled Employee [7] Former Employee—All Other
[2] Unemployed Due to Plant Shutdown [4] Employee on Strike [6] Retired Employee [8] Unknown

19. PREINJURY WAGE

20. METHOD OF DETERMINING PREINJURY WAGE *(Circle Below)*
[1] Actual Wage [3] Wage required for Minimum Weekly Benefit
[2] Estimated Wage [4] Wage required for Maximum Weekly Benefit

21. STATUS *(Circle Below)*
[1] Claim Open and not Resolved
[2] Claim Open and Resolved
[3] Claim Closed

22. DATE RESOLVED — MO. DAY YEAR

23. REOPENED INDICATOR *(Circle Below)*
[1] Yes [2] No
[3] Initially Recorded as Medical Only

INDEMNITY BENEFITS & PAYMENTS (Excluding Vocational Rehabilitation) (Express in Whole Weeks and Whole Dollars)

24. INCURRED (INC.) DURATION OF BENEFITS (TEMP. TOTAL WEEKS)

25. TEMPORARY TOTAL INCOME BENEFITS INCURRED

26. TYPE OF BENEFITS *(Circle Below)*
[1] Only Temporary Total
[2] Permanent Total (with or without Temp. Total Benefits)
[3] Wage-Loss Benefit and no Impairment Benefit
[4] Wage-Loss Benefit and Impairment Benefit
[5] Temporary Partial
[6] Death (with or without Temp. Total Benefits)
[7] Impairment Ben. and no Wage-Loss Benefit
[8] Other (including combination of the Above)

27. LATEST WEEKLY BENEFIT

28. INC. DURATION (NON TT BENS.) (WEEKS)

29. TOT. INC. (NON TT BENS.)

30. OTHER INDEMNITY BENS. INC

31. TOTAL INDEMNITY BENS. PAID

VOCATIONAL REHABILITATION BENEFITS (Express in Whole Dollars)

32. TOTAL VOC. REHAB. INC. COSTS

33. TOTAL VOC. REHAB. PAID COSTS

34. VOCATION REHAB. EVALUATION EXPENSE INCURRED

35. VOCATIONAL REHAB. INCURRED INDEMNITY

36. VOCATION REHAB. EDUCATIONAL EXPENSES (INCURRED)

MEDICAL BENEFITS (Express in Whole Dollars)

37. PAID TO DATE, HOSPITAL COSTS

38. PAID TO DATE OTHER MED. COSTS

39. TOTAL INCURRED MEDICAL COSTS

40. NUMBER OF DAYS CONFINED IN HOSPITAL – TO DATE

41. NUMBER OF DOCTOR VISITS – TO DATE

CLAIM ADMINISTRATION DETAILS

42. APPORTIONMENT BETWEEN CARRIERS
[1] Yes [2] No

43. APPORTIONMENT FOR PRE-EXISTING CONDITIONS
[1] Yes [2] No

44. CLAIMANT'S ATT'Y. OR AUTHORIZED REPRESENTATIVE
[1] Yes [2] No

45. AMOUNT OF CLAIMANT'S ATT'Y FEES INCL. IN AWARD

46. AMOUNT OF CLAIMANT'S ATT'Y FEES IN ADDITION TO AWARD

47. CONTROVERTED CLAIM *(Circle Below)*
[1] No [3] Disability
[2] Compensability [4] Multiple Reasons

48. METHOD OF DISPOSITION *(Circle Below)*
[1] Closed By Agreement [4] Award for Employee
[2] Withdrawal of Claim by Claimant [5] Award for Carrier
[3] Withdrawal of Controversy by Insurer [6] None

49. METHOD OF PAYMENT *(Circle Below)*
[1] Lump Sum [3] Both
[2] Periodic [4] None

50. PRODUCT LIABILITY SUBROGATION *(Circle Below)*
[1] Yes [2] No

51. AUTOMOBILE LIABILITY SUBROGATION *(Circle Below)*
[1] Yes [2] No

52. OTHER SUBROGATION *(Circle Below)*
[1] Yes [2] No

53. ALLOCATED LOSS EXPENSE *Paid*

54. DATE OF CLOSING — MO. DAY YEAR

FORM #C19940F

POLICYHOLDER NAME

National Council
On Compensation Insurance

ADM. NO.

FLORIDA SUPPLEMENTARY CALL FOR DETAILED CLAIM INFORMATION

COMMON INFORMATION

INSURER:

1. CARRIER CODE

2. POLICY NUMBER

3. CLAIM NUMBER

4. REPORT TYPE *(Circle Below)*
1 6 Months
2 18 Months
3 30 Months
4 42 Months

5. TRANSACTION CODE *(Circle Below)*
1 Original Reporting
2 Revised Reporting

MEDICAL IMPROVEMENT

55. Expected Date of Max. Medical Imp.
Mo. | Day | Yr.

56. Was Date of Maximum Medical Improvement Contested?
1 Yes 2 No

57. Actual Date of Maximum Medical Improvement
Mo. | Day | Yr.

IMPAIRMENT BENEFITS

58. Did Claimant Suffer Permanent Impairment Due to Amputation, Loss of 80% or More of Vision after Correction, or Serious Facial or Head Disfigurement? *(Circle Below)*
1 Yes 2 No

59. If the Answer to (53), above, is Yes, Enter Impairment Rating
%

60. If the Answer to (58) is Yes, Enter Impairment Award
$

61. Was the Impairment Rating Contested?
1 Yes 2 No

62. Did Claimant Suffer Permanent Impairment Other than Due to Amputation, Loss of 80% or More of Vision after Correction, or Serious Facial or Head Disfigurement?
1 Yes 2 No

63. If the Answer to (62) is Yes, was the Existence of Permanent Impairment Contested?
1 Yes 2 No

64. If the Answer to (62) is Yes If Percentage Impairment Rating is Known, Enter here
%

WAGE-LOSS BENEFITS

65. Enter Date Wage Loss Benefit Starts
Mo. | Day | Yr.

66. Has Right to Wage Loss Benefit Terminated?
1 Yes 2 No

67. If the Answer to (66) is Yes, Enter Date. If the Answer to (66) is No, Enter Date it is Expected that Right to Wage Loss Benefits Will Terminate
Mo. | Day | Yr.

68. Circle Reason for Actual or Expected Termination of Right to Wage Loss Benefit (Circle one box only)
1 — A Two Year Period Without Three Consecutive Months for which a Wage Loss Benefit is Payable
2 — Maximum Duration Runs out (350 weeks for injuries occurring on or before July 1, 1980 and 525 weeks for injuries after July 1, 1980 — or 5 years for temporary partial)
3 — Injured Employee Reaches Age 65
4 — There is no Wage Loss Based on the Formula
1 2 3 4

69. Enter Total Incurred Wage Loss Benefit
$

70. Enter Total Wage Loss Benefit Paid to Date
$

71. Enter Monthly Amount of Most Recently Paid Wage Loss Benefit
$

72. Enter Date of Most Rec. Paid Wage Loss Benefit
Mo. | Day | Yr.

73. Enter Current Average Monthly Wage
$

74. Were Wage Loss Benefits Ever Discontinued and Subsequently Reinstated to Claimant?
1 Yes 2 No

75. If the Answer to (74), above, is Yes, Enter How Many Times this has Occurred

ADDITIONAL INFORMATION

76. Is Claimant Working for Same Employer as when Injured?
1 Yes 2 No

77. If Claiment is Age 62 or over, is Claimant Receiving Social Security Retirement Benefits?
1 Yes 2 No

78. Has this claim been selected by the standard sampling procedure of the detailed claim call?
1 Yes 2 No

C19945F

NCCI Locations

NCCI National Office, *New York City*

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Presentation of Preliminary Findings of a Comprehensive Study of Vocational Rehabilitation in the Alaska Workers' Compensation Program

Presented by

Zee Pamplin Jackson
Rehabilitation Consultant
P.O. Box 3130
Anchorage, Alaska 99510
(907) 264-2460

January 26, 1982

Abstract, Summary of Recommendations, Overview

ABSTRACT

This study was conducted to determine the effectiveness of the delivery system for rehabilitation benefits to injured workers covered by the Alaska Workers' Compensation Act. Factors examined in evaluating the system included the average time from the date of injury to the date of referral to rehabilitation, the percentage of lost-time cases receiving rehabilitation benefits, the percentage successfully rehabilitated, the average time spent in rehabilitation programs, and the average cost of such programs. The primary sources of information and data were the state Division of Vocational Rehabilitation and one of the private rehabilitation firms doing business in Alaska. Another source of data was a survey of injured workers who had previously participated in rehabilitation programs, and of workers who had signed compromise and release agreements in which the right to participate in such programs as part of the compensation system was waived. The rehabilitation programs used in two other state workers' compensation systems were evaluated, in order to show examples of the potential savings to be derived from a properly structured and managed system, and to examine procedures to be considered in developing an effective delivery system for rehabilitation. Gathering quantifiable data from all sources was difficult, due to the incomplete nature of the available records.

The study found that the delivery system is not providing timely and adequate rehabilitation services to a substantial number of those workers who could benefit from them, for two primary reasons. First, the system does not afford prompt referral of appropriate cases to rehabilitation facilities. Second, the Division of Workers' Compensation is not consistently advising workers of their potential entitlement to these services, nor is it monitoring the services being provided, primarily due to a lack of resources and trained personnel, as well as the absence of established guidelines and procedures for monitoring the system.

RECOMMENDATION 1

That insurers/employers report to the Division of Workers' Compensation:

a. All injured workers who experience continuous time loss of 90 to 120 days from the date of injury, depending on the staffing level of the Division, and

b. All acutely injured workers where an immediate determination can be made that the worker will not likely be able to return to the job held at the time of injury.

RECOMMENDATION 2

That the Workers' Compensation Division screen reports no later than 5 working days from the date each report is received.

RECOMMENDATION 3

That subsequent to, or during the screening process, the Workers' Compensation Division contact each reported worker. The purpose for contact is to explain the benefits to which the worker may be entitled, and to set the tone for a positive rehabilitation outcome by explaining the objective of rehabilitation, the worker's rights and responsibilities in the rehabilitation effort.

RECOMMENDATION 4

That the Workers' Compensation Division establish and publish the procedural mechanism to support the reporting, screening and contact activities.

RECOMMENDATION 5a

That pursuant to the adoption of regulations on vocational rehabilitation, (See Exhibit 1) the Workers' Compensation Division establish, publish and distribute guidelines for providers of rehabilitation services in accordance with recommendation 5b through 5e, and the following time frames:

- Completion of Vocational Evaluation and Plan Recommendation - 6 weeks
- Complete Development of Plan - 6 weeks
- Direct Placement Program - 3 months
- On-The-Job Training - 3 to 6 months, depending on the skills to be acquired coupled with the skill level of the injured worker.
- Vocational Training - 52 weeks (extensions subject to prior approval by the Board)

RECOMMENDATION 5b

That rehabilitation providers issue a report within 30 days of initial contact with an injured worker. Background information regarding the worker's age, education, work history, and general medical condition, as well as a summary of activities conducted during the 30 day period should be included in the report. Information regarding the next immediate plan of action should also be included.

RECOMMENDATION 5c

That plans submitted for approval contain pertinent information as outlined in proposed regulations on Vocational Rehabilitation 8 AAC 47.040(b)(1) through (9).

RECOMMENDATION 5d

That subsequent to implementing plans, rehabilitation providers issue monthly progress reports sufficient in content and scope to inform all interested parties of the progress being made toward achieving the vocational goal of the plan.

RECOMMENDATION 5e

That approval by the Board must be obtained prior to amendment, suspension or termination of an approved rehabilitation plan.

RECOMMENDATION 6

That insurers provide assistance to employers in developing programs for re-employment of injured workers.

RECOMMENDATION 7

That insurers/employers arrange for counselor services to include on-site-job analyses and assistance in modification of jobs to enhance reemployment opportunities of an employer's injured employees.

RECOMMENDATION 8

That the Workers' Compensation Division encourage the development and implementation of reemployment programs by providing positive monitoring/ endorsement of the efforts of parties.

RECOMMENDATION 9

That contractual agreements be negotiated for reemployment/rehabilitation of injured union members.

RECOMMENDATION 10

That insurers/employers increase their efforts to effectively and timely communicate with injured workers by contacting them as soon after the injury as possible to explain their entitlement to benefits and the procedure for securing these benefits.

RECOMMENDATION 11a

That in the case of workers experiencing time loss, who may need rehabilitation services, insurers/employers assign a counselor to contact the worker as soon as this determination can reasonably be made.

RECOMMENDATION 11b

That insurers/employers consider hiring a rehabilitation professional to enhance their ability to effectively communicate with, and timely provide services for injured workers.

RECOMMENDATION 12a

That insurers assist employers by providing loss control services to assure appropriate rating consistent with their safety record and reemployment practices.

RECOMMENDATION 12b

That to supplement the loss control services provided by insurers, employers seek the assistance of the States Division of Insurance in rating matters and methods.

RECOMMENDATION 13

That counselors enhance their efforts to place injured workers by informing employers of Targeted Jobs Tax Credit provisions and by providing assistance necessary to facilitate employer participation in the program.

RECOMMENDATION 14

That language in AS 23.30.040(e) be changed to remove the dollar amount and provide for necessary costs of rehabilitation services subject to Board approval.

RECOMMENDATION 15

That the Workers' Compensation Division increase employer awareness and encourage employer use of the Second Injury Fund in employment of industrially injured workers. Increased publicity and eligibility interpretation will enhance this effort.

RECOMMENDATION 16

That cooperative agreements involving transfer of Second Injury Fund monies to the Division of Vocational Rehabilitation be discontinued.

RECOMMENDATION 17

That criteria for development, recommendation and implementation of rehabilitation plans, in accordance with recommendations 5a through 5e, be applied to all providers of vocational rehabilitation services to injured workers covered by the state compensation laws.

RECOMMENDATION 18

That as a general policy, the Board deny settlement of claims, prior to an injured worker's completion of a supervised rehabilitation program.

RECOMMENDATION 19

That the Division of Workers' Compensation acquire the necessary staff to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

OVERVIEW OF REHABILITATION IN WORKERS' COMPENSATION

A. HISTORY OF REHABILITATION PROVISIONS FOR INDUSTRIALLY INJURED WORKERS.

Rehabilitation in workers' compensation programs in the United States has been paid increasing attention over the past 10 years following publication of the 1972 Report of the National Commission on State Workmen's Compensation Laws. However, the realization that workers' compensation laws should include provisions of rehabilitating industrially injured workers was manifested by the Massachusetts Industrial Accident Board as early as 1914, when a member of that board went to study the German program. Pursuant to that study, and a meeting in 1916 of the International Association of Industrial Accident Boards and Commissions (IAIABC), during which the delegates were advised that a primary goal of workers' compensation programs would be the rehabilitation of disabled workers, the first state vocational rehabilitation law was enacted in 1918 in Massachusetts. The law, administered by the Industrial Accident Board, covered only those persons disabled by industrial accidents and occupational diseases. Following Massachusetts' lead, other states enacted laws with similar rehabilitation provisions. Congress, through the passage of Public Law 236 in 1920, created the State/Federal Vocational Rehabiliation Program. Its statement of purpose provided for the promotion of vocational rehabilitation of industrially disabled workers. Thus, persons with occupational disability were the prime target for vocational rehabilitation services. Subsequent Congressional mandates, however, shifted the attention to other specific disability groups and resulted in obscuring the focus on industrially injured workers. This shift in focus, coupled with the existence of the common law tort liability in the compensation system with its inherent litigation, resulted in the failure of both systems to adequately provide rehabilitation services to the industrially disabled: a condition which still exists today, according to the report of the National Commission (National Commission on State Workmen's Compensation Laws, 1972) and Larson, who suggests that one-half of 1% of industrially injured workers are rehabilitated under the federal/state programs. Larson further suggests that 10% of workers currently being injured could benefit from vocational rehabilitation services. (Larson, 1980).

B. REHABILITATION DEFINED.

The increased emphasis on the inclusion of rehabilitation benefits in a modern workers' compensation system has prompted attempts by those in the system to define rehabilitation. A noteworthy observation is made by Sawyer in this regard, wherein he makes a distinction between the philosophical differences in rehabilitation of the workers' compensation system and the state/federal program. He observes that the objective of workers' compensation rehabilitation is to restore the industrially injured worker to a state of employability equal to, or as near as possible to that of his pre-injury status, through the provision of only those services necessary to achieve this objective. On the other hand, Sawyer notes, the state vocational program seeks to rehabilitate disabled persons to their maximum potential through the provision of

educational and other services deemed necessary by the disabled worker to achieve a chosen vocational objective. (Sawyer, 1978).

A further distinction can be made through examination of the primary funding source of each program. The state vocational rehabilitation program is supported by federal and state funds, while the cost of rehabilitation in a workers' compensation system is borne by private industry through contributions to a special or second injury fund and direct payment to private rehabilitation providers. The employer further contributes to the rehabilitation of industrially injured workers through payment of compensation benefits during the period of rehabilitation.

A third distinction, perhaps more revealing than the first two, is the difference in population served by each system. As was previously discussed, Congressional mandates have directed the focus of the state/federal program to give priority to specific disability groups classified as severely disabled. These include developmental disabilities, congenital, orthopedic and neurological conditions, and catostrophic injuries resulting in paraplegia and quadriplegia. The bulk of individuals in these disability categories are adolescents and young adults, most of whom have never participated in the world of work. Therefore, the process employed in making them work ready is habilitation, as opposed to rehabilitation. Since their backgrounds do not include significant work experience which would have imparted marketable skills, their plans usually include long-term pre-vocational and vocational preparation centered around academic training toward a specific career goal chosen by the individual. Contrast this to the industrially injured group, who for the most part, have not been severely disabled by their injuries according to state/federal guidelines, and whose pre-injured work experiences have imparted skills which can usually be marketed in the workplace. On the whole, their natural orientation is not likely to be toward academic or classroom training, as they did not choose this method to enter the world of work to begin with, and they have not usually chosen to engage in academic pursuits at any point in their work life prior to the injury and subsequent visits to the state vocational rehabilitation office. It is reasonable to conclude that the approach taken in assisting them to return to the workplace will differ considerably from that taken for the other group.

The socially underlying concept of rehabilitation embraced by rehabilitation professionals is the intrinsic dignity of man, his feeling of self-worth and his right to life, liberty and the pursuit of happiness. In a workers' compensation system, this concept cannot realistically exist independent of economic wisdom. The timely return of an industrially injured worker to a safe employment status, commensurate with that held at the time of injury, through the investment of necessary resources, is a logical goal in a workers' compensation system. The end result is an economic as well as a social asset to the injured worker, the compensation system and society. Well-managed, cost-effective rehabilitation will enable many disabled workers to return to productive jobs and thus reduce compensation costs.

C. THE APPROPRIATENESS OF REHABILITATION IN A WORKERS' COMPENSATION SYSTEM.

In 1976, the Rehabilitation Committee of the International Association of Industrial Accident Boards and Commissions conducted research on rehabilitation in state compensation agencies. The Committee called for the inclusion of rehabilitation services in all state workers' compensation programs and went

on to submit a model program of medical care and rehabilitation which was adopted by the IAIABC in 1977. The stated purpose of the model program was the assurance and coordination of efficient and timely delivery of services necessary to restore the industrially disabled employee to optimum physical and vocational well-being. (Ross, 1976).

The need for rehabilitating injured workers was stressed in the 1977 report of the President's Interdepartmental Workers' Compensation Task Force. The report which stressed reemployment, advocated increased private rehabilitation efforts by employers and insurance companies. (Interdepartmental Workers' Compensation Task Force, 1977).

The Insurance Rehabilitation Study Group is an organization whose purpose is to provide a forum for members of the insurance industry to explore and develop concepts and programs of rehabilitation and medical administration applicable to all phases of insurance. The group undertook a project to develop guidelines and language dealing with rehabilitation and subsequently published a report which in part stated:

> While insurance losses and benefits are usually stated in monetary terms, the full consequences of human disability cannot be measured by money alone. Earnings lost due to accident or sickness can be replaced and medical expenses can be reimbursed, but there is no meaningful way to financially translate the value of an arm or a leg, or the personal dignity of being able to contribute to society as a useful member rather than merely existing disabled and dependent.
>
> The study group went on to state that:
>
> If insurance is to protect against these human losses, it must do more than provide financial compensation alone. It must also strive to restore such losses. Insurance should provide the means for disabled workers to return to gainful employment whenever possible, and to regain as much functional independence as they can, even if they cannot return to work. Compensation cannot accomplish these goals without rehabilitation. (Insurance Rehabilitation Study Group, 1975).

The Study Groups' report included its model rehabilitation program.

Based on the cited research and studies conducted by recognized authorities in workers' compensation, it is clear that the consensus among those in the compensation system supports the premise that rehabilitation is an effective tool which should be included in workers' compensation if the system is to fulfill its total responsibility to the industrially injured worker and to society within the economy.

D. WHO SHOULD FUND REHABILITATION IN WORKERS' COMPENSATION

Leading insurance companies, employers and other members of the workers' compensation community support the belief that all costs of the system should

be borne by the employer and not by the general public. Sawyer suggests:

> While some individual insurers and self-insured employers still approach the subject of rehabilitation with varying degrees of acceptance, the matter of involvement is no longer an option. Through a tion of either basic legislative changes or administrative regulation, the responsibilities of carriers and employers to provide rehabilitation services specifically directed toward returning injured workers to suitable gainful employment are spreading to all jurisdictions. (Sawyer, 1981.)

E. THE ROLE OF THE STATE WORKERS' COMPENSATION AGENCY IN REHABILITATION.

The National Commission on State Workers' Compensation Laws suggested that a state agency has six primary obligations in a workers' compensation program. Those obligations are applicable to rehabilitation and will be used for the purpose of this discussion.

First, the agency must ensure that the basic objective of rehabilitation is met by taking the initiative to administer the laws relative to rehabilitation.

Second, the agency must continually review the performance of the rehabilitation program and make procedural changes to improve the program when change is indicated.

Third, the workers' compensation agency is obliged to advise workers of their rights and obligations under the law and to assure that they receive the rehabilitation benefits to which they are entitled.

Fourth, the agency should apprise employers and carriers of their responsibilities and rights under the law. Physicians and attorneys must also be informed of their obligations in the rehabilitation process.

Fifth, the agency should assist in voluntary and informal resolution of rehabilitation issues and assure that such resolutions are consistent with the law.

Sixth, in the absence of voluntary resolutions, the workers' compensation agency must make adjudicatory decisions to resolve issues affecting rehabilitation.

The compensation agency must have sufficient authority and staff to fulfill these six obligations. Moreover, the skills and background of the staff must be consistent with the functions to be served and the tasks to be performed.

PART ONE

Five Specific Goals of Rehabilitation

in a

Workers' Compensation Program

PART ONE

Five Goals of Rehabilitation in a Workers' Compensation Program

I. Early Identification of Injured Workers Who Potentially Need Rehabilitation

Workers who may not be able to return to regular employment after suffering job related injuries should be referred to rehabilitation as soon as this determination has been made or can be reasonably predicted. Proponents of the early involvement theory share the common realization that time can be a deadly enemy to successful rehabilitation. Benign neglect of what originally may be a minor disability can result in a protraction of the condition to the point where an unwholesome outlook regarding return to work becomes permanent and fixed, and the psychological hurdle required to overcome this is extremely difficult if not impossible to achieve.

Needs:

1. A funding source (employer/insurer)
2. A non-adversary approach (employer/carrier)
3. Effective administration by workers' compensation
   a. Screen reports
   b. Contact workers
   c. Monitor services
   d. Settle disputes

II. Use of Competent Rehabilitation Providers

The unusual characteristics of workers compensation and the different approach required for successful rehabilitation, as this report has previously elaborated, are strong arguments for the use of counselors trained in industrial rehabilitation. While this training does not require an intimate knowledge of the law, it should include the ability to recognize the needs of the industrially injured population and the compensation community alike. The backgrounds of most rehabilitation professionals include formal training in rehabilitation or a behavioral science. However, institutions have traditionally failed to include substantial courses on workers' compensation in rehabilitation programs. Thus, the degree of competence required to achieve success in a workers' compensation rehabilitation program has generally been acquired through well designed, in-service programs and practical hands on training.

Critical Elements Needed:

1. Sound background in basic rehabilitation principles

2. Ability to work with multiple parties

3. Willingness to deliver according to needs of the system

   - direct placement approach
   - on-the-job training
   - appropriate evaluation (timely and limited)
   - timely developed training (as needed only)
   - timely issued reports (information)

4. Respect for, and responsive to Board authority

III. Provide Opportunities for Return to Direct Employment

The success of rehabilitation in a workers' compensation program rests on the attainment of one of its most critical goals: the earliest possible return of workers to direct employment. Members of the workers' compensation community share the widely held belief that the fewer changes made in the life of an injured worker in the rehabilitation process, the more successful that process is likely to be. Conversely, a more complex rehabilitation plan requiring numerous changes in the life of the injured worker, and requiring a proportionate period of time to implement, diminishes the chance of a successful outcome.

Needs:

1. Employer Responsibility

   - modify old job
   - offer new job
     (Use on-site job analysis)

2. Employee Responsibility

   - cooperate w/employer efforts
   - timely accept job offer
   - maintain flexibility

3. Union Support and Involvement

   - go to bat for member (negotiate)
   - negotiate contract agreements to support light duty and rehabilitation

4. Counselor Role

   - consult physician for sound work restrictions
   - perform on-site job analysis
   - counsel worker toward accepting job
   - keep all interested parties informed

5. Attorney Obligation (for both parties)

   - remain on side line and advise respective clients to cooperate

6. Workers' Compensation Agency

   - advise, assist, monitor

7. Board

   - settle disputes

IV. Maintenance of Atmosphere Conducive to Rehabilitation

Rehabilitation is a process which does not occur in isolation. The conditions and atmosphere surrounding this process are primary determinants of its eventual outcome. The screening and early identification of injured workers who potentially need rehabilitation services will not necessarily result in a successful outcome if the process is fraught with hostilities, mistrust and excessive litigation. Certain elements which may be conveniently termed the "Four C's" must be present to ensure successful rehabilitation.

1. Concern - employer/carrier for worker
2. Communication - employer/carrier - worker - workers' compensation agency - counselor - physician - attorney
3. Coordination - counselor
4. Commitment/Cooperation -- all parties

V. Provide Incentives, Remove Disincentives to Rehabilitation

A rehabilitation program which makes early identification of workers needing rehabilitation, provides for early return to direct employment, uses competent rehabilitation providers and maintains an atmosphere conducive to rehabilitation, may fall short of fully achieving the primary objective of a workers' compensation system unless it maintains sufficient incentives and removes disincentives in its rehabilitation program. Caution must be exercised so that expectations regarding rehabilitation are not solely based on the premise that good faith efforts will spontaneously occur. There must be a realization that basic human nature usually requires the existence or application of stimuli necessary to create sufficient incentives before actions are taken to achieve a desired goal.

A. Incentives

1. Proper Rating of Employers.

Authorities in workers' compensation have suggested that internalizing the costs of workers' compensation by properly rating small, as well as large employers would provide an incentive for reemploying injured workers.

a. Experience Rating - provides for a before tne fact look at safety and reemployment record for recent years. A good record results in credit toward future premium.

b. Retro Rating - employer pays advance premium based on classification rate times estimated payroll. Losses are assessed after period of months (pre-determined). Depending on experience, employer may get reimbursed.

2. Targeted Jobs Tax Credit

- Incentive for private employers who hire certain targeted groups (vocational rehabilitation clients included)

  50% of first $6000 wages for first year

  25% of first $6000 wages for second year

3. Second Injury Fund

- Widely publicized
- Adequate eligibility interpretation
- Effectively managed - guard against abuse

4. Additional maintenance for extra expense during rehabilitation

5. Monitoring by workers' compensation agency

B. Removal of Disincentives

1. Prevention of premature and inappropriate compromise and release settlements

2. Eliminate excessive litigation

C. Other Stimuli

1. Penalty for non-cooperation (Both Parties)

2. PPD determination should reflect non-cooperation

PART TWO

Findings, Conclusions, Recommendations

SUMMARY AND INTERPRETATION OF DATA

The primary providers of vocational rehabilitation services to injured workers in Alaska are the state vocational rehabilitation agency and two private rehabilitation firms. The state agency and one of the private firms, offered data retrieved from their automated data systems. Collection of data from the other private firm was precluded due to incomplete records which lacked essential information pertinent to the study. Limitations do exist for the purpose of comparing data collected from the two sources.

First, data for the state rehabilitation program reflects a three year period from FY 78 through FY 81. Data supplied by the private rehabilitation firm is for the FY 81 period.

Second, terms common to rehabilitation of disabled persons have several definitions for the purposes of statistics, depending on who collects the data. For example, a workers' compensation rehabilitation program, for purposes of closure statistics, defines a successfully rehabilitated worker as one who has 1) maintained paid employment for at least sixty days; 2) in a job consistent with the restrictions imposed by the disabling condition. The state rehabilitation program defines a successfully rehabilitation person as one who has completed a rehabilitation program and has 1) maintained paid employment for at least 60 days in a job which may or may not be consistent with restrictions imposed by the disabling condition; or 2) has not returned to work, but has been restored to an optimum level of function as an unpaid home maker. In this case, the private rehabilitation firm describes a successful case as one in which the injured worker 1) returned to paid employment in a job which may or may not be consistent with restrictions imposed by the disabling condition; or 2) whose claim was closed or denied as a result of the involvement of the rehabilitation firm. Again, it is important to keep these limitations in mind when making comparisons between data presented for the two sources.

Tables 1 and 2 present data received from the state vocational rehabilitation program. Tables 3 and 4 present data received from the private rehabilitation firm.

Although data limitations do not allow us to make any unequivocal conclusions concerning workers' compensation rehabilitation in Alaska, several widely accepted ideas are supported by the figures presented here. For both the state/federal program and the private sector rehabilitation firm, the earliest referrals become, on average, the least expensive cases. While there is an anomaly in the trend at 19-24 months (where both providers experienced an unexplainable dip in cost), the general direction is one of increased costs as the time between date of injury and date of referral increases. There do appear to be differences between the state program and the private firm in terms of average cost. In Table 3a, the private rehabilitation firms shows 75% of the sample cases with costs below $2500. The comparable figure for the state is 64% below $2500, seen in Table 2a. This difference can be explained several ways. First, as seen in Table 1, the average time between date of injury and date of referral for the state/federal program is 16.8 months. A similar figure for the private firm is 11.8 months. Given the relationships expressed in Tables 2b and 3b, one would then expect the state program's average costs to be higher. A second factor affecting costs is the average time spent in the rehabilitation

process. Table 1 shows the state program's clients spending 27 months, on average, in rehabilitation in FY 80. A similar figure from the private firms was 7.4 months, on average, between referral and closure. A third explanation for cost differences between the State program and the private firm is found in Table 1 which shows a significant percentage of the state/federal program's cases received college training in FY 80. While no similar figure exists for the private rehabilitation firm, meetings and discussions revealed that very few of their clients received college training. Given rising tuition costs, this would clearly add significant expense to the State program's services.

Table 1 shows that as the percent of clients receiving college training has decreased since FY 78, the percent of clients successfully rehabilitated has increased. This inverse relationship supports studies which have been conducted outside Alaska and concluded that shorter, less expensive programs tend to be more successful than longer and more expensive rehabilitation plans.

Table 1 also shows 54% of DVR's eligible referrals experienced successful outcomes in FY 80, although it is not known how many unpaid homemakers, or workers whose jobs were not consistent with restrictions imposed by the disabling condition, were included in this figure. A similar figure in the private firm's survey, seen in Table 4, is 55%. However, it is important to note that in the private firm survey, 34 cases were closed "via cash settlement/account denies coverage," and were classified as "successful" even though it was not known whether these persons returned to productive employment consistent with restrictions imposed by the disability. Subtracting these cases from the total number of successful cases then, reduces the success factor to 20.7%.

While many inferences and suggestions can be drawn from the data presented in Tables 1-4, one must remember that the percentage of clients involved in rehabilitation with respect to the total number of time-loss cases is quite small. For FY 81, the Second Injury Fund officer estimated 200-250 cases were determined eligible for second injury rehabilitation funds. From FY 78 - FY 80, the Workers' Compensation Division processed an average of 6838 time-loss cases. Because of the referral time lag mentioned earlier, it cannot be stated that a certain percentage of time-loss cases from a given year will receive rehabilitation. However, an estimated 3 to 4 percent of time-loss cases in a given year, eventually become eligible for rehabilitation. The Second Injury Fund officer has also reported that in a recent purge of 45 active rehabilitation files, only 17 (38%) had completed a program and returned to work. He cited the signing of compromise and release agreements as a major reason for workers dropping out of a program. In fact, the survey of 142 workers eligible for rehabilitation found almost 70% of them had signed compromise and release agreements, and most of these were after rehabilitation had begun.

What conclusions do these figures suggest? Because they represent such a small number of injured workers, a pure statistician could take any one piece of data mentioned here and find it is not statistically valid. But when all pieces are considered together, the data begins to support itself. Early referrals should cost less, and they do in Alaska. A longer period between injury and referral should raise costs, and it appears to do so for both programs.

GOAL I

Early Identification of Injured Workers Potentially Needing Rehabilitation.

CONCLUSION

There is no universally accepted, hard and fast rule regarding the point at which an injured worker should be referred to rehabilitation. Among the workers compensation agencies with organized rehabilitation units, the range is 60 to 120 days of continuous time loss from the date of injury. Immediate reporting is encouraged for workers with acute or catostrophic injuries.

Based on available data, it appears that the average time from the date of injury to referral of injured workers to rehabilitation is 14.3 months in Alaska. (See Tables 1 & 3) In light of the existing trends among those agencies with organized rehabilitation units, coupled with the results of two of the units discussed in the main report, it appears that the Alaska system could benefit from changes which would enhance its efforts to achieve the early identification goal.

RECOMMENDATION 1

That insurers/employers report to the Division of Workers' Compensation:

a. All injured workers who experience continuous time loss of 90 to 120 days from the date of injury, depending on the staffing level of the Division, and

b. All acutely injured workers where an immediate determination can be made that the worker will not likely be able to return to the job held at the time of injury.

RECOMMENDATION 2

That the Workers' Compensation Division screen reports no later than 5 working days from the date each report is received.

RECOMMENDATION 3

That subsequent to, or during the screening process, the Workers' Compensation Division contact each reported worker. The purpose for contact is to explain the benefits to which the worker may be entitled, and to set the tone for a positive rehabilitation outcome by explaining the objective of rehabilitation, the worker's rights and responsibilities in the rehabilitation effort.

RECOMMENDATION 4

That the Workers' Compensation Division establish and publish the procedural mechanism to support the reporting, screening and contact activities.

GOAL II

Provision of Rehabilitation Services by Competent Counselors

CONCLUSION

Counselors presently providing rehabilitation services to injured workers covered by the Act are presumed to have sound backgrounds in basic rehabilitation principles. However, a review of rehabilitation plans, reports and correspondence, as well as views expressed by these counselors, raises questions regarding whether the remaining three critical elements are sufficiently present to meet the objective of a workers' compensation rehabilitation program. (See discussion of Critical Elements Needed Under Goal II in Part One). First, some counselors appear not to understand tneir roles as they attempt to interpret laws regarding a worker's entitlement to rehabilitation benefits to the Board and they inappropriately make recommendations to the Board regarding settlement of workers' claims.

Second, it appears that some counselors are unable/unwilling to deliver services in a manner consistent with supporting the objective of the system. Services are not timely delivered (six months to complete a vocational evaluation and make recommendations). Training plans are developed prior to pursuing opportunities for direct return to employment. Some plans do not clearly define the vocational objective of the worker, or provide information regarding the type, scope and time frames within which services are to be provided. In cases where the vocational goal is defined, subsequent reports do not reflect specifically what has been accomplished toward achieving the goal.

Third, some counselors believe the system should afford a "pure" environment within which rehabilitation services can be provided to workers: They should not be required to interact with insurance adjusters, attorneys or the Board, as this interferes with their ability to effectively deliver services.

Finally, some counselors seem unprepared/unwilling to accept the Board's authority to make decisions regarding the rehabilitation of injured workers covered by the Act. Board requests for information in support of recommended plans are questioned and in some cases ignored. In some instances, attempts to coerce Board approval of second injury fund expenditures are made simultaneous to the counselor's overt resistance to Board requests for information needed to support a plan recommended by the counselor.

Clearly, the lack of regulations, definitive procedures and guidelines for vocational rehabilitation, has affected the performance of counselors providing services to injured workers covered by the Act.

RECOMMENDATION 5a

That pursuant to the adoption of regulations on vocational rehabilitation, (See Exhibit 1) the Workers' Compensation Division establish, publish and distribute guidelines for providers of rehabilitation services in accordance with recommendation 5b through 5e, and the following time frames:

- Completion of Vocational Evaluation and Plan Recommendation - 6 weeks

TABLE 1

DVR[1/]

	Eligible Cases Closed	Avg. Time in Rehab. Process	% College Training	Successful Rehabs.	Avg. Cost Per Eligible Case	Avg. Cost/ Successful Case
FY80	61	27(mos.)	21%	33 (54%)	$2280	$3505
FY79	50	23	36%	22 (44%)	1615	2821
FY78	48	32	38%	20 (42%)	1468	3021

* Through 7/1/81 -
Average time between date of injury and date of referral (includes cases still open) 16.8 Months.

1/Table 1 is data received from DVR off the R-300 form.

TABLE 2

DVR[2/]

For 72 Eligible Closed Cases Referred through 7/1/80:

a. Cost	#
0-500	18
500-1000	9
1000-1500	9
1500-2000	7
2000-2500	3
2500-3000	3
3000-3500	2
3500-4000	7
4000-4500	1
4500-5000	3
5000-and over	10

64% below $2500

b. Referral Period	#	Avg. Cost/Case
0-6 Months after inj.	14	$2168
7-12	26	2391
13-18	10	2494
19-24	7	975
25-30	10	2532
30-36	4	2492
36 and over	1	8258

The average time between injury and referral was derived from DVR data and injury dates produced from AK Workers' Comp. files.

2/ Since these figures reflect only closed rehabilitation files, an average referral period derived from Table 2b will not correlate with the corresponding figure presented in Table 1 of 16.8 months.

TABLE 3

PRIVATE REHAB.

For 188 case files closed between 7/1/80 and 7/31/81

a. Cost	#		b. Referral Period	#	Avg. Cost/File
0-500	40		0-6 Months after inj.	NA	$1414
500-1000	36		7-12	"	1670
1000-1500	28	75% below $2500	13-18	"	2003
1500-2000	25		19-24	"	1875
2000-2500	13		25-30	"	1926
2500-3000	12		30-36	"	2198
3000-3500	11		36 and over	"	-
3500-4000	10				
4000-4500	4				
4500-5000	2				
5000 and over	7				

* The average length of time between date of injury and date of referral: 11.8 months.

TABLE 4

PRIVATE REHAB.

	Cases	%
Total	188	100.0
Successful Rehabilitation	91	48.4
(Due to Company Involvement)		
Return to Work	39	20.7
Case Closed via Cash Settlement/ Account Denies Coverage	34	18.1
Other	18	9.6
General Success	13	6.9
Other	84	44.6
Evaluation Only Requested	15	8.0
Lack of Cooperation by One of the Involved Parties	11	6.0
Company Requests Closure - Costs Not Warranted	38	20.0
Other	20	10.0

- Complete Development of Plan - 6 weeks
- Direct Placement Program - 3 months
- On-the-Job Training - 3 to 6 months, depending on the skills to be acquired coupled with the skill level of the injured worker.
- Vocational Training - 52 weeks (extensions subject to prior approval by the Board)

RECOMMENDATION 5b

That rehabilitation providers issue a report within 30 days of initial contact with an injured worker. Background information regarding the worker's age, education, work history, and general medical condition, as well as a summary of activities conducted during the 30 day period should be included in the report. Information regarding the next immediate plan of action should also be included.

RECOMMENDATION 5c

That plans submitted for approval contain pertinent information as outlined in proposed regulations on Vocational Rehabilitation 8 AAC 47.040(b)(1) through (9).

RECOMMENDATION 5d

That subsequent to implementing plans, rehabilitation providers issue monthly progress reports sufficient in content and scope to inform all interested parties of the progress being made toward achieving the vocational goal of the p n.

RECOMMENDATION 5e

That approval by the Board must be obtained prior to amendment, suspension or termination of an approved rehabilitation plan.

GOAL III

Provide for Early Return to Direct Employment

The extent to which injured workers are provided opportunities for return to direct employment is a primary determinant of the ultimate success of rehabilitation in a workers' compensation program. Administrators of rehabilitation programs for the Idaho Industrial Commission and the Office of Workers' Compensation Programs (OWCP) as well as others in the industrial rehabilitation community, support this premise. The Idaho program states as its primary goal: the earliest possible return of the injured worker to meaningful safe work. (See Exhibit 2). The OWCP, in an effort to improve its rehabilitation program has developed/endorsed return to work programs for injured workers covered by the Longshoremen's and Harbor Worker's (LHCA) and the Federal Employee's Compensation Acts (FECA). According to information received from the OWCP, 763 injured workers were successfully rehabilitated under the FECA for FY 81. Sixty eight percent of these workers were reemployed by their previous employers. Savings in compensation payments alone totaled 7½ million dollars. During the same fiscal year, 368 workers were successfully

rehabilitated under the LHCA, resulting in actual savings of 3½ million dollars in compensation payments. Twenty-three percent of these rehabilitated workers were reemployed by their previous employers. (See Table 5 for comparative figures on the rehabilitation programs of the Federal Acts, the States of Idaho and Alaska Compensation Acts)

Insurance companies can be exceedingly instrumental in helping their insureds develop reemployment programs. A carrier for a large employer covered under the LHCA reports services provided the employer in establishing a reemployment program approved by the OWCP, resulted in the employer rehiring 18 injured workers over a nine month period during FY 82. A 1¼ million dollar savings in projected compensation payments resulted from this effort. Additionally, the employer reported higher morale and reduction in suspected fraudulent claims as additional payoffs. That tremendous benefits are derived by the reemployment of injured workers by employers at the time of injury is too obvious for further elaboration.

CONCLUSIONS

There is little evidence in support of Alaska employers providing measurable opportunities for reemployment of injured workers. Only one self-insured reported having an organized return-to-work program. Figures to substantiate this effort were not afforded. The risk manager of a major employer indicated an extensive feasibility study has been conducted over the past year in preparation for developing a comprehensive reemployment program. A precious few employers reported a limited effort of temporarily assigning employees to light duty. On the whole, employers readily proclaimed the nature of their business precludes rehiring their injured employees: Their operations simply cannot accommodate workers with less than full body integrity. Insurer's comments contributed little to modify or change the complexion of this proclamation. Neither party admitted to having particular knowledge on how to improve this present state of affairs, although the suggestion of some insurers regarding performance of on-site-job analyses in cases of reemployment, dispells the notion of complete unawareness in this matter.

RECOMMENDATION 6

That insurers provide assistance to employers in developing programs for reemployment of injured workers.

RECOMMENDATION 7

That insurers/employers arrange for counselor services to include on-site-job analyses and assistance in modification of jobs to enhance reemployment opportunities of an employer's injured employees.

RECOMMENDATION 8

That the Workers' Compensation Division encourage the development and implementation of reemployment programs by providing positive monitoring/endorsement of the efforts of parties.

A few union representative claimed favorable dispositions to contractual agreements providing for reemployment of injured workers. However, previous

TABLE 5

Comparison Data for Four Workers' Compensation Acts with Provisions for Rehabilitation Benefits

Program	No. of Time Loss Workers	Received Rehabilitation Services		Worker's Successfully Rehabilitated			
		No.	% of Time Loss	No.	% of Workers Received Services	% of Time Loss Workers	% of Return to Work w/previous employer
1/ Alaska	6,356	249	3.9	72	28.9	1.1	Unknown
2/ Idaho	7,800	1431	18	344	24	4.4	38
3/ OWCP - 4/ FECA	47,982	7608	16	763	10	1.6	68
OWCP - 5/ LHCA	19,082	4947	26	386	7.8	2.0	23

Remarks:
1/ Figures based on information collected for FY 80 and 81.
2/ Figures obtained from FY 81 statistics of Idaho Industrial Commission
3/ Office of Workers' Compensation Programs
4/ Federal Employees' Compensation Act
5/ Longshoremens Harbor Workers' Compensation Act

efforts in this regard were reportedly rebuffed by management and were thus abandoned by labor. Trust fund sponsored, on-the-job training programs are provided for injured union members by at least two locals.

RECOMMENDATION 9

That contractual agreements be negotiated for reemployment/rehabilitation of injured union members.

GOAL IV

Maintenance of Atmosphere Conducive to Rehabilitation

CONCLUSIONS

The element of concern is sufficiently intangible to render itself unmeasurable in a quantifiable way. It is therefore difficult to present an elaborate discussion on the extent to which insurers/employers are concerned about their injured employees during the course of their claims. This would require a detailed examination of randomly selected files maintained by carriers, with particular notations made of such items as timeliness of first and subsequent compensation payments, timely and adequate provision of medical and rehabilitation services, the extent to which claimants were advised of their entitlement to benefits, etc. Moreover, the quality of contacts between the injured worker and the insurer/ employer would be difficult if not impossible to capture. The elements of communication, coordination and commitment lend themselves to more discussion, particularly in regards to rehabilitation.

In general, the extent and timeliness of communication with injured workers seem inadequate for the purpose of supporting a successful rehabilitation program. First, the lag between date of injury to date of referral as previously noted, supports the conclusion that injured workers are not timely contacted and advised of their entitlement or potential need for rehabilitation services. Second, rehabilitation reports and other correspondence reflect communication is sporadic and generally inadequate to ensure the rehabilitation effort of a successful and cost effective outcome. Progress in rehabilitation plans is not timely monitored or timely reported. Concurrently, coordination of activities necessary to develop realistic return to work plans is insufficient, so that inordinate delays and interruptions occur to the detriment of injured workers, the rehabilitation program and the compensation system alike.

As to the extent of commitment to rehabilitation in the Alaska system, the time lag from date of injury to referral for services, and the percent of time-loss workers provided services, (approximately 5.4), coupled with the percent of time-loss workers successfully rehabilitated, (approximately 1.1%) indicate this element too, is woefully inadequate to support a rehabilitation program.

RECOMMENDATION 10

That insurers/employers increase their efforts to effectively and timely communicate with injured workers by contacting them as soon after the injury as possible to explain their entitlement to benefits and the procedure for securing these benefits.

RECOMMENDATION 11a

That in the case of workers experiencing time loss, who may need rehabilitation services, insurers/employers assign a counselor to contact the worker as soon as this determination can reasonably be made.

There is a developing trend among leading insurance companies to hire a rehabilitation staff member who serves as a communication link between the injured worker and insurance company, as well as other appropriate parties in the system. This staff member assists in creating an atmosphere conducive to an early return to work and facilitates coordination and development of rehabilitation plans for those workers who may not be able to return to direct employment.

RECOMMENDATION 11b

That insurers/employers consider hiring a rehabilitation professional to enhance their ability to effectively communicate with, and timely provide services for injured workers.

GOAL V

Provision of Incentives, Removal of Disincentives

CONCLUSIONS

Incentives

A. Experience and Retro Rating

The extent to which these methods are used in rating Alaska employers is unknown and is beyond the presentation of this report. Their suggested use by authorities in workers' compensation has been sufficient to present them as incentives for employers to reemploy their injured workers.

RECOMMENDATION 12a

That insurers assist employers by providing loss control services to assure appropriate rating consistent with their safety record and reemployment practices.

RECOMMENDATION 12b

That to supplement the loss control services provided by insurers, employers seek the assistance of the States Division of Insurance in rating matters and methods.

B. Targeted Jobs Tax Credits

According to the Division of Employment Security, Alaska employers rarely take advantage of this tax credit when employing the industrially injured worker. Several factors, such as eligibility criteria and employer awareness may be influencing this. Whether counselors adequately advise employers of this incentive when attempting to place injured workers is unknown.

RECOMMENDATION 13

That counselors enhance their efforts to place injured workers by informing employers of Targeted Jobs Tax Credit provisions and by providing assistance necessary to facilitate employer participation in the program.

C. Additional Maintenance

Injured workers undertaking a rehabilitation program can receive up to two hundred dollars in additional maintenance to defray extra expenses incurred during their rehabilitation program. This provision appears to be adequately serving the purpose for which it was established.

D. Second Injury Fund

The Alaska Workers' Compensation Act has provisions for a Second Injury Fund to be administered in accordance with orders and awards of the Board. AS 23.30.040(a). Subsection (e) authorizes expenditures for rehabilitation expenses and maintenance during the period of rehabilitation which may not exceed $10,000 for one person. When it comes to placing limitations on rehabilitation benefits in a workers' compensation system, there is an inherent problem in stating these limitations in monetary terms: Expectations and rehabilitation plans are designed around the upper limits of the dollar amount, rather than around what services are actually needed to make the injured worker employable. The worker believes his is an undeniable right to a program which costs $10,000, even though a less expensive program may be more appropriate to restore his employability. The counselor views the $10,000 as the worker's personal account which he has a right to exhaust by charging the costs of items and services superfluous to his rehabilitation program. In settlement negotiations, the attorney seeks to include $10,000 in the total figure for rehabilitation benefits, which he argues is his client's right.

All parties appear to have forgotten a basic tenet in a workers' compensation rehabilitation program: An injured worker's <u>right</u> to rehabilitation services coexists with the <u>need</u> of the worker for such services. The type, scope and duration of a rehabilitation program will vary with each injured worker, depending on such factors as skill level, education, age and extent of disability. It is therefore, a reasonalbe assumption, that the costs of services will vary for individual programs. Provisions for rehabilitation should be made with this in mind which is the current practice in most state compensation programs.

RECOMMENDATION 14

That language in AS 23.30.040(e) be changed to remove the dollar amount and provide for necessary costs of rehabilitation services subject to Board approval.

This provision would enhance continual efforts of the Board to provide necessary expenditures for workers seeking to rehabilitate themselves back to the work place and at the same time, protect the investment of insurers/employers who support the Fund.

There appears to be a lack of employer awareness regarding the existence or purpose of the Second Injury Fund and its provision for pre-existing conditions, under AS 23.30.205. This incentive will not realize its basic purpose if employers are not aware of its nature or not encouraged to use it.

RECOMMENDATION 15

That the Workers' Compensation Division increase employer awareness and encourage employer use of the Second Injury Fund in employment of industrially injured workers. Increase publicity and eligibility interpretation will enhance this effort.

Provisions also exist for the Board to make cooperative arrangements with insurance companies, private organizations and institutions, and state or federal agencies to provide rehabilitation services to injured workers covered by the Act. Through the end of FY 81, the Board maintained a cooperative agreement with the Alaska Division of Vocational Rehabilitation. The agreement permitted transfer of lump sum funds from the Second Injury Fund on a fiscal year basis, to the Division of Vocational Rehabilitation, for the provision of rehabilitation services to injured workers in the compensation system. Currently, a cooperative agreement does not exist between the two agencies due to unresolved differences surrounding the Board's authority to approve rehabilitation plans submitted by counselors of the Division of Vocational Rehabilitation requiring Second Injury Fund expenditure. The wisdom of transferring lump sum Second Injury Funds to the agency, and attempting to renew a cooperative agreement between the two agencies is questionable for at least three reasons.

First, the traditional basis for forming cooperative agreements between a compensation and state rehabilitation agency may no longer exist. During the formative years of no fault workers' compensation, the sole provider of vocational rehabilitation services to the disabled population was the state vocational rehabilitation agency. However, the National Commission, as well as other authorities in workers' compensation, has detailed the past failures of state programs in general, to meet the needs of the workers' compensation system due to the philosophical differences of the two agencies. Additionally, there has been an emergence of private rehabilitation providers, who appear more able to gear their services to the needs of the compensation system. In view of these factors, cooperative agreements between the two agencies may well be obsolete.

Second, removal of Second Injury Fund monies from the administration of the Commissioner of Labor, by transferring them to another agency which has no administrative oversight in the workers' compensation system, undermines the commissioner's ability to effectively administer the Fund in accordance with the orders and awards of the Board.

The last reason has legal implications. As the law clearly assigns the administrative responsibility of the Fund to the commissioner, and transfer of monies from the Fund undermines the commissioner's ability to discharge that responsibility, it would appear that meeting the requirement of the law is precluded by a cooperative agreement. This issue is of particular

importance in view of the reluctance of the Division of Vocational Rehabilitation to respect the Board's authority to approve rehabilitation plans submitted by its counselors requiring expenditure of Second Injury Fund monies.

RECOMMENDATION 16

That cooperative agreements involving transfer of Second Injury Fund monies to the Division of Vocational Rehabilitation be discontinued.

RECOMMENDATION 17

That criteria for development, recommendation and implementation of rehabilitation plans, in accordance with recommendations 5a through 5e, be applied to all providers of vocational rehabilitation services to injured workers covered by the state compensation laws.

Disincentives

A. Premature Compromise and Release Settlements

Larson and other authorities in workers' compensation, are strong opponents to settlements which prematurely preclude an injured worker's participation in a supervised rehabilitation program. There is real concern for the worker who settles his claim and releases his rehabilitation benefits. He may quickly exhaust his settlement funds and find himself with inadequate skills to earn a living.

That workers submit applications for settlements to fund proposed self employment ventures, in lieu of participation in a supervised rehabilitation program, is common knowledge. Almost equally as common, and particularly disturbing in the Alaska system, and probably elsewhere, is the recommendation for such plans, without adequate documentation to support the soundness or feasibility of the proposals. The parties involved have varying motivations for this unfounded recommendation.

The injured worker views it as an opportunity to do what he has always wanted to do: Besides, he will not have to work as hard if he can work at his own pace.

The insurer/employer suggests it as a mutual agreement which affords an equitable solution toward the disposition of the claim: It will also relieve the insurer/employer of any future liability related to compensation and rehabilitation benefits.

Claimant's attorney argues it will allow his client to get on with resuming a normal life: It will also afford the attorney an immediate appreciable fee.

The rehabilitation counselor opines that: Given the workers vocational evaluation results, his interests and motivation to succeed, the proposed venture will afford him a realistic vocational goal: It will also provide the counselor with much needed relief from the task of developing a sound

rehabilitation plan, which has been difficult if not impossible to achieve in light of the worker's resistence to any plan other than the self employment venture.

In instances such as this, all parties seem to lose sight of the end goal of rehabilitation: The return of the injured worker to productive employment by restoring his ability to earn a living. The injured worker's desire to start his own business is inappropriately equated with the goal of rehabilitation. A self employment plan may restore the worker to productive employment which will afford him a livable wage, and thus is a means to an end. However, an unsound plan may not afford him a sufficient income and thereby fails to achieve the end goal of rehabilitation.

This is not to suggest that all self employment plans are unsound and thus should not be considered, or that all workers must participate in an approved rehabilitation plan before a claim can be settled. It is suggested however, that each plan must be carefully evaluated for its soundness and potential for successfully returning the worker to productive employment. In cases not involving self employment plans, claims should be settled only after a determination has been made that to do so is in the best interest of justice.

RECOMMENDATION 18

That as a general policy, the Board deny settlement of claims, prior to an injured worker's completion of a supervised rehabilitation program.

B. Excessive Litigation

Rehabilitation professionals providing services to inured workers in Alaska, readily attest to the activities of both the plaintiffs' bar and defense attorneys, as interfering in the rehabilitation process. Indeed this seems to be borne out by testimony during public hearings on Workers' Compensation and in the claims files of injured workers. Excessive litigation serves little if any useful purpose in the rehabilitation process and if allowed to exist, will undermine the primary objective of rehabilitation. It causes the focus to shift from restoring the worker's competative earning ability to highlighting his disability. In the ensuing process, rehabilitation is not used as an effective, productive tool for the long range benefit of the injured worker. It becomes a bargaining stick employed by the claimant's attorney in his quest to obtain his client's pot of gold, and it is simultaneously used as a trade-off carrot by the defense attorney to limit the employer's/insurer's future liability. To an appreciable extent, the Board can provide a remedial solution to this problem. Regulations, guidelines and well defined procedures regarding rehabilitation, will remove much of the need and opportunity to litigate issues surrounding the rehabilitation process. (See recommendations 1 through 5e).

C. Other Stimuli

Parties who refuse to cooperate or who sabotage the rehabilitation effort by passive-aggressive means, should be encouraged to cooperate through the application of remedial penalties acting upon both the insurer/employer and

the injured worker similarly. The Board has the authority to apply such remedies. A review of its more recent decisions and orders reflects an increased effort to make sufficient applications in support of the rehabilitation objective.

Delivery of Rehabilitation in Alaska's Workers' Compensation System

The Alaska Workers' Compensation program must have an effective rehabilitation delivery system if it is to meet its six obligations as outlined in the overview section of this report, and achieve the five specific goals of rehabilitation. Administrative monitoring and positive assistance to injured workers and all other members of the workers' compensation community, require the adoption of the recommendations set forth in this report. Despite the on-going efforts of the Division of Workers' Compensation to improve its delivery system to the workers' compensation community, it continues to lack the resources and staff necessary to achieve a successful rehabilitation program which will ultimately reduce the cost of the compensation system.

The savings experienced in other compensation programs cited in this report, resulted from the delivery of well managed, cost effective rehabilitation benefits. These results did not occur independent of the economic wisdom of administrators for those programs, who realized that a relatively small investment of resources would yield tremendous gains in the reduction of compensation costs to employers, injured workers and society.

RECOMMENDATION 19

That the Division of Workers' Compensation acquire the necessary staff to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

PHYSICIANS' CONCERNS

1. Rehabilitation counselors should consult with treating physician before contacting injured worker. The counselor often gives advise which conflicts with physician's planned course. Physician can pave the way and make the prospects of rehabilitation less threatening if he is aware of the counselor's contact in advance.

2. Workers should be advised of benefits from day one of injury. Rights and responsibilities of worker should be spelled out. This would reduce adversary atmosphere.

3. Employers engage in inappropriate hiring practices to begin with. Thorough pre-hiring physical exam should be conducted. Conditions incompatible with physical demands of certain jobs would be detected at that time.

4. Workers' compensation should take natural aging process into account. Wear and tear process should not be financed by workers' compensation system.

5. Remedies should be more vigorously applied to workers who fail to follow doctor's orders.

6. Attorneys are too involved in the rehabilitation process. Counselor, physician and injured worker should be primary parties involved.

7. Rehabilitation benefits should be consistent and uniformly delivered. There is no control in the present system. Physician and patient need rules to play by.

8. Employer must assume more responsibility to provide light duty work until worker can resume regular job.

9. Union dispatch precludes loyalty to the employer - Union regarded as the "employer".

10. Union rules should be more flexible to support rehabilitation.

11. Unions must assure worker's who are dispatched are physically able to perform the duties of the job.

12. Professional rehabilitation providers inadequate. A more clearly defined system would encourage more providers to practice in Alaska's system.

13. Services provided by DVR are not particularly geared to industrial workers - more effective with catostrophically disabled population.

14. Insurance adjusters have inadequate backgrounds in medicine and human behavior. Inappropriate actions against claimants result in adversary behavior by claimant; (foot dragging and going against doctor's recommendations.) Adjusters must use more amiable approach.

REHABILITATION COUNSELORS' CONCERNS

1. Attorneys often interfere with rehabilitation. Some attorneys forbid their clients to see counselors, insist on being present at every counseling session, attempt to dictate what program should be developed for the injured worker, and often advise their clients not to cooperate with the counselor by using passive aggressive tactics. Counselors would like to see guidelines or regulations developed which forbid attorneys to interfere or attempt to run the rehabilitation process.

2. The workers' compensation system expects counselors to be miracle workers. Successfull rehabilitation of injured workers in the compensation system is difficult if not impossible in light of the following:

   a. Inadequate requirements of workers to cooperate with the counselor.

   b. Ineffective enforcement of the vague rules presently existing in the system when evidence clearly shows the worker has been uncooperative.

   c. Some insurance companies act in good faith in attempting to arrange rehabilitation services for workers who need them. Other companies fail to make such arrangements and may even interfere when workers seek services on their own.

   d. Those companies that support the rehabilitation effort are often penalized as the Board allows uncooperative workers too many chances to cooperate. Limitations should be placed on these chances.

3. The Workers' Compensation agency should be staffed with rehabilitation professionals who determine which agency will provide services to injured workers in disputed cases. This would reduce the level of excessive "rehabilitation shopping" by all parties which presently exists, and it would eliminate dual assignment of rehabilitation providers by both sides.

4. Counselors have too little time as it is to provide adequate services to the disabled population. Requiring counselors to appear in hearings and other judicial processes further reduces the time counselors should be devoting to rehabilitating the disabled population.

INJURED WORKERS' CONCERNS AND REACTIONS

1. The system has gotten so complex that an attorney is absolutely necessary in proceeding with many cases. Yet, some injured workers were not advised that they needed an attorney until it was too late.

2. Injured workers have reported receiving "high pressure" from carriers to settle for smaller settlements than required by law. This included threats of holding up final settlement unless the injured worker agrees to carrier's terms.

3. Injured workers who realized later that they needed rehabilitation assistance, were not given any indication that the option was available, at the time of injury.

4. Benefits are either cut-off without notice or held up as part of pressure tactics. In cases of jobs which pay by commission, an injured worker reported that benefits stopped immediately upon taking the job, although it was 4 months before he received his first commission check.

5. There were positive reactions to some insurance companies' case management, in addition to positive feelings about some injured workers' rehabilitation experience.

6. There is concern expressed that DVR does not cooperate with the injured worker's interest in rehabilitation. This point was expressed in a case where the injured worker reported the counselor stalled 6 months in getting the program started and took 2 months in getting the purchase of a calculator approved.

7. Concern has been expressed over the proper medical treatment. The use of chiropractors is more helpful in some cases, yet is discouraged by some doctors.

8. Injured workers are frustrated that some of the jobs they are retrained for are not available on the job market when the rehabilitation program is completed. They wind up returning to their old job or taking a position which has a high probability of reinjury.

INSURER/EMPLOYER CONCERNS

1. The Act requires insurers/employers to provide rehabilitation services to injured workers. Thus, the insurer/employer should be able to determine which rehabilitation agency the worker will be referred to for these services. This would eliminate the current practice of workers/attorneys shopping around to find the counselor who will recommend the longest training program.

2. Claimants' attorneys should be restricted from practicing "rehabilitation" and submitting training/rehabilitation plans for their clients.

3. Insurers/employers should not be required to provide rehabilitation services to workers who refuse reemployment offers by employers. There should be a limit placed on the time an injured worker has to accept the offer.

4. When training plans are presented for approval, the Board should make every effort to ensure the need for training before approving the plan and requiring the insurer to continue total compensation payments. Training should be approved on the basis of <u>need</u> as opposed to the <u>desire</u> of workers who merely want a new career.

5. Counselors should be used to perform on-site-job analysis to determine if the job is compatible with the worker's restrictions. Presently, the physician, who does not have sufficient knowledge of the world of work, makes this decision based on the whims of the patient, who often misrepresents physical demands of a given job.

ATTORNEYS' CONCERNS

1. Alaska has an inadequate number of competent rehabilitation counselors. Often, workers do not have a choice and must use DVR.

2. Particular counselors are inconsistent in serving injured workers; engage in power playing to control worker's life; dabble in claims and legal matters; incorrect information given worker, sometimes intentionally, if worker has not followed the counselor's "rules".

3. Present system does not have mechanism to make rehabilitation work. No one to monitor system and keep parties in line, particularly counselors who behave in questionable manner.

4. Disputes regarding rehabilitation should be promptly heard and decisions timely issued. Delays destroy motivation for rehabilitation.

5. Artifical rehabilitation hurts workers with serious injuries.
   EX: Sixty-one year old worker w/65% rating. Has fifth grade education and no work skills other than heavy labor. Ineligible for retirement by 4 years. Placed in pie shop as a part-time wrapper. Paid $4.00/hr = $60/week = approx. $200/month. Counselor issued a report of "successful rehabilitation" so worker was found PPD, thus $60,000 limit applied. Questionable whether worker will be able to continue in work force due to severity of injury, age, and limited skills. If unable to continue working, $60,000 inadequate source of income for worker's remaining lifetime. If PTD, rating is precluded by "successful rehabilitation" stamp.

6. Board should penalize insurers/employers who misrepresent the law. Failure to advise worker of entitlement to rehabilitation is misrepresentation.

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APPENDIX OF EXHIBITS

CHAPTER 47
VOCATIONAL REHABILITATION

Section

10. Goal of vocational rehabilitation
20. Duties of the parties
30. Evaluation analysis
40. Vocational plans
50. Modification, suspension, or termination of vocational plans
60. Vocational rehabilitation definitions

CHAPTER 47

VOCATIONAL REHABILITATION

8 AAC 47.010. GOAL OF VOCATIONAL REHABILITATION. The board shall direct and provide for the vocational rehabilitation of employees entitled under the Act. Vocational plans formulated under the Act and this chapter must be designed to restore the injured employee to gainful employment. (Eff. / / , Register).

Authority: AS 23.30.005
AS 23.30.040

8 AAC 47.020. DUTIES OF THE PARTIES. (a) The employer, the self-insurer, the insurance carrier, and the employee shall promptly recognize the need for the evaluation of vocational rehabilitation and shall initiate necessary action to restore the injured employee to gainful employment as expeditiously as possible.

(b) The employee shall cooperate in all phases of vocational rehabilitation. The employee shall promptly and responsibly participate in a board-approved vocational plan when ordered to do so by the board. If the employee does not choose to enroll in a vocational plan, nothing in this chapter is to be interpreted so as to require the employee to do so. However, in cases where the employee chooses not to enroll in a vocational plan, or unreasonably refuses to complete a vocational plan, the degree of permanent partial disability will be determined as though the employee had enrolled in, and successfully completed, the vocational plan. The employee shall notify the board and the employer within 14 days of the first consultation with a vocational rehabilitation representative.

(c) The vocational rehabilitation representative shall notify the board and all interested parties within 14 days of the first consultation with an employee. Thereafter, the vocational rehabilitation representative shall file regular monthly reports with the board during the consultation period. Within 14 days of the final consultation, the vocational rehabilitation representative shall file a report of consultation which must contain the findings, conclusions and recommendations regarding vocational rehabilitation. (Eff. / / , Register).

Authority: AS 23.30.005
AS 23.30.040

8 AAC 47.030. EVALUATION ANALYSIS. (a) No vocational plan may be initiated until board approval has been secured. Board approval may be secured by any party by filing a petition for initiation of a vocational plan, accompanied by a written evaluation analysis. Copies of the petition and the evaluation analysis must be served upon all parties and the administrator of the Alas'a Second Injury Fund, in accordance with 8 AAC 45.060.

(b) A written evaluation analysis must be accompanied by copies of all medical reports referred to in the analysis and must, in addition, include

(1) an assessment of the employee's employable skills, including a synopsis of his work history and educational background;

(2) a summary of the disabilities limiting the employee's employment opportunities; and

(3) a specific accounting of the employee's pre-injury wage and an assessment of his post-injury wage-earning capacity.

(c) After the complete, written evaluation analysis has been filed the board will review the factors discussed in the analysis and will determine whether the employee is able to return to his previous employment or to modified employment or whether, instead, direct job placement, on-the-job training or formal retraining is necessary in order to return the employee to gainful employment.

(d) If the board determines that formal retraining is necessary, it shall direct the employer or the employee, or both, to initiate a vocational plan in accordance with 8 AAC 47.040. The board will give preference to direct job placement and on-the-job training over a formal retraining program. (Eff. / / , Register).

Authority: AS 23.30.005

8 AAC 47.040. VOCATIONAL PLANS. (a) Following evaluation in accordance with 8 AAC 47.030, a vocational plan may be initiated by direction of the board or by any person. Vocational plans must be developed by a qualified rehabilitation representative designated by either the employer, the carrier, the self-insurer, the employee, or the board.

(b) Proposed vocational plans must be submitted to the board in the form of a petition by the person responsible for initiating the vocational plan. The petition must be in writing and must include

(1) the gainful employment objectives of the vocational plan, including estimated earnings and reasonable availability of gainful employment;

(2) the name and location of the educational institution, public or private vocational training agency, or company or business involved in the vocational plan;

(3) the nature, extent, and duration of services to be provided during the period of rehabilitation;

(4) the dates of commencement and expected completion of the vocational plan;

make a determination by means of a hearing or hearings of the services necessary to restore the employee to gainful employment. (Eff. / / , Register).

Authority: AS 23.30.005
AS 23.30.040

8 AAC 47.050. MODIFICATION, SUSPENSION, OR TERMINATION OF VOCATIONAL PLANS. Any party may petition the board for modification, suspension, or termination of a plan. The petition shall be treated as any other petition under § 050 of this chapter. The board shall order the modification, suspension, or termination if it finds

(1) satisfactory progress is not being made in the approved plan; or

(2) the plan is not likely to prepare the employee for gainful employment due to unexpected contingencies; or

(3) the employee refuses to complete the vocational plan approved by the board; or

(4) a more suitable plan becomes available. (Eff. / / , Register).

Authority: AS 23.30.005

8 AAC 47.060. VOCATIONAL REHABILITATION DEFINITIONS. As used in this chapter

(1) "Gainful employment" means employment which is reasonably attainable and which offers an opportunity to restore the employee as soon as possible to maximum self-support, due consideration being given to the employee's qualifications, physical and mental condition, interests, motivation and incentives, pre-injury earnings and future earning capacity, and the present and future labor market.

(2) "Implementation of a plan" means commencement by the employee of an actual return-to-work plan of direct job placement, on-the-job training or vocational training in accordance with an approved vocational rehabilitation plan.

(3) "Initiation of a plan" means the creation and drafting of a written vocational rehabilitation plan.

(4) "Vocational rehabilitation" means a program of services, not limited to medical services, designed to restore an injured or disabled employee to gainful employment.

(5) "Vocational rehabilitation representative" means a person who possesses the special skills, knowledge, education, training, and experience necessary to develop and implement vocational rehabilitation plans.

(6) "Vocational rehabilitation plan" means the planning and providing of services, not limited to medical services, reasonably necessary to restore an employee to gainful employment. Such services include, but are not limited to, vocational evaluation, counseling, retraining, on-the-job training, and job placement assistance. (Eff. / / , Register).

Authority: AS 23.30.005
AS 23.30.040

Idaho
Industrial Commission
317 Main Street, Boise, Idaho 83720
Phone 334-2193

Rehabilitation Division Offices

Boise
317 Main Street
Boise, ID 83720
Phone: 334-2461

Caldwell
109 N. Kimball
Caldwell, ID 83605
Phone: 459-0016

Coeur d'Alene
401 Front Street
Coeur d'Alene, ID 83814
Phone: 667-9714/3056

Idaho Falls
101 Park Avenue
Idaho Falls, ID 83401
Phone: 523-4011

Lewiston
1118 "F" Street
Lewiston, ID 83501
Phone: 746-3935

Pocatello
Center 151 Bldg. — Suite 105
Pocatello, ID 83201
Phone: 234-2810

Twin Falls
630 Blue Lakes Blvd N.
Twin Falls, ID 83301
Phone: 734-8300

COMMISSIONERS
Gerald A. Geddes - Lawrence G. Sirhall - Will S. Defenbach

Worker Rehabilitation

Idaho
Industrial Commission
Rehabilitation Division

Exhibit 2

The Rehabilitation Division was established by the 1978 Legislature in an effort to reduce the period of temporary disability resulting from industrial injury or disease and to aid in restoring the disabled employee to gainful employment with the least possible physical impairment.

Who Benefits From Our Services?

- Disabled workers
- Employers
- Attorneys
- Physicians
- Society

What Are Our Goals?

- To provide for the earliest possible return of the injured worker to meaningful, safe work
- To return the injured worker to as near his pre-injury status as possible
- To reduce the period of temporary benefits paid injured workers

What Services Are Provided?

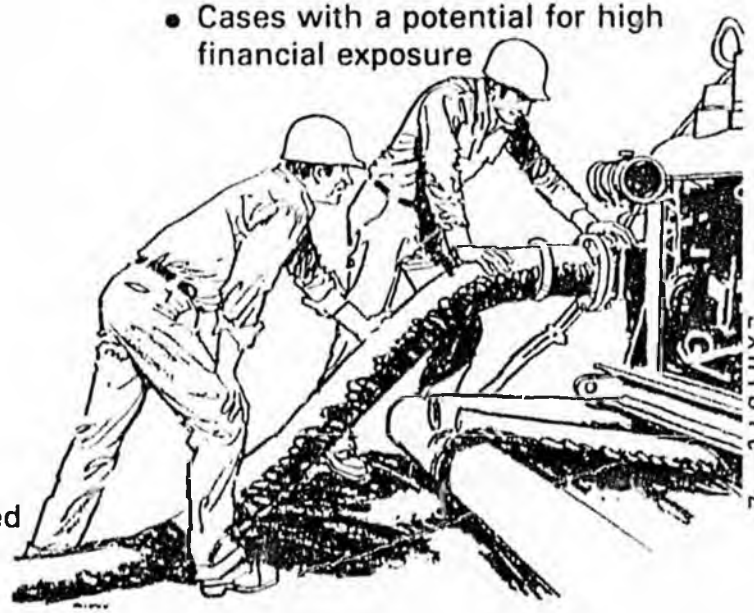
Services provided are those necessary to return the worker to a job with his former employer, or to a job similar to the one held prior to becoming injured.

Services available include:

- Vocational evaluation
- Job site evaluation
- Vocational counseling
- Assistance in job modification
- Training in job seeking skills
- Placement
- Follow-up
- Reporting system to those involved in the rehabilitation process

Who Should Be Referred?

- Workers requiring a change of occupation
- Cases with long periods of disability
- Injuries resulting in restrictions of function
- Cases with a potential for high financial exposure



Who Is Eligible For Our Services?

Workers receiving Idaho Workmen's Compensation benefits for whom the Rehabilitation Division can be of assistance in reducing the period of temporary disability or aiding the worker in a return to employment compatible with his disability.

Exhibit 2

House Labor + Commerce - Staff copy.

AN INTERIM REPORT ON THE ALASKA WORKERS' COMPENSATION SYSTEM

John H. Lewis
P.O. Box 330550
Miami, Florida 33133
(305) 443-8111

January 27, 1982

INTRODUCTION

The purpose of this document is to analyze the major areas of concern within the Alaska workers' compensation system. The items discussed were chosen because of their economic significance, and in some instances because of existing controversies as to their proper role in the compensation system. Although many issues remain for additional discussion, those contained in this report represent the critical questions which must be resolved in order to develop an appropriate legislative response to the current workers' compensation controversy.

THE BUNKHOUSE RULE

The major criteria for determining the compensability of an accidental injury is whether it arose out of and in the course of the employment (AOE/COE). This phrase is contained in the Alaska Workers' Compensation Act as well as 48 others. Obviously this test must be interpreted in those instances in which compensability is disputed, and as a result, there is a huge volume of case decisions from across the country, providing additional and more specific guidelines for determining when the AOE/COE test has been met. Since the Alaska Workers' Compensation Act is relatively new, it did not go through the developmental period in which these rules were structured, and simply adopted existing guidelines, in many cases selecting the most far-reaching of available options. The bunkhouse rule is one of these guidelines.

Normally an injury must occur during the hours of employment and be caused by some incident of the work to meet the AOE/COE test. However, years ago the courts determined that when a worker is required to live away from home, particularly for extended periods of time, the test should be broader. This gave rise to the bunkhouse rule. The rule has many variations, all of which to one extent or another make the point that under these circumstances, injuries outside of normal working hours can still be deemed compensable, since the requirements of the job "forced" the employee to be in the circumstances which led to the injury. Despite some very unusual results, the bunkhouse rule has never been considered enough of a threat to the integrity of the workers' compensation system in any state to justify legislative intervention. In Alaska, due to the large number of remote work sites, the relatively high number of bunkhouse rule cases and the cost of even a minor injury, some question has been raised as to the continued application of the rule in its present form. However, any attempt at statutory modification of the rule should be undertaken with caution and something less than extreme optimism, because new language means new court tests, with unpredictable results. It may well be the fear of the unknown that has led other states to accept the certainty of existing case law rather than embark on the uncertain path of legislative action and subsequent court decisions.

A major consideration is whether the magnitude of the problem is worth the legislative effort. To date it appears that bunkhouse cases, at least those that raise questions about their propriety, do not constitute a significant expense when compared to the compensation system as a whole. However, they may very well constitute a significant portion of compensation expense for a number of employers.

Another consideration is the implications of modification of the rule. Assuming that a legitimate injury occurs at a remote site, but is not compensable due to the operation of a modified bunkhouse rule, the injured party will almost certainly incur considerable expense in returning to an area where medical treatment is available. There are a number of obvious solutions to this problem, but it cannot be ignored. One should also consider the impact on employers of a modification of the bunkhouse rule. The obligation to provide workers' compensation coverage grants the employer immunity from civil action by an employee only when an injury is compensable. A significant narrowing of the bunkhouse rule will increase the possibility of civil suits, which tend to be more expensive than workers' compensation cases. Given the standards which presently govern the question of liability in civil cases, many "minor" compensation cases could become "major" civil cases. Even the lowly broken tooth suffered during mealtime could find its way to the courts, if caused by a foreign or improper object in the employee's food.

A final consideration is a virtually unverifiable opinion expressed by a number of individuals familiar with the problem that most "abuses" of the bunkhouse rule result from a desire to return to civilization for various purposes and that any solution other than a better leave policy on the part of employers will simply lead to either "abuses" of the new rule or the development of other, equally expensive ways of getting back home.

The list of alternatives is practically endless. The following is a limited range of alternatives all of which can be modified and combined with others to reach the desired conclusion.

1. Limit compensable injuries at remote sites to accidents occurring during actual working hours.

2. Limit compensable injuries to those accidents occurring on the premises of the camp, regardless of the hour of occurrence or the activity engaged in.

3. Limit compensable injuries to those accidents occurring during working hours and those resulting from a special hazard directly related to the conditions of remote site living, such as a fire or weather related incident.

4. Eliminate from the range of compensable accidents those resulting from personal activities such as eating, and/or recreational activities.

MEDICAL BENEFITS

A number of concerns have been expressed, primarily by those on the employer/carrier side, over the impact on costs of the current physician selection mechanism, which leaves the choice of treating physician to the employee. On its face this is a totally appropriate method, but there are a number of competing interests which at least deserve consideration. A factor weighing most heavily in favor of employee choice, a method used by approximately half the states, is that it is the employee who is being treated, and who should be given the opportunity to select physicians he trusts. On the other hand it is the employer who is paying the bills, which leads to legitimate concerns over paying for doctors who may not be the best available, or whose primary reason for selection may be a willingness to give a high disability rating, which in turn may lead to increased compensation benefits. Obviously the employee may have reason to be equally as concerned about an employer/carrier choosing a physician primarily on the basis of a willingness to testify "properly."

Perhaps the most effective solution to this dilemma lies with the Board. Given the small number of health care providers in Alaska, the Board should be well aware of the abilities of each. If a party feels improper treatment is being provided, an expedited hearing will give the Board the opportunity to order a change in treating physician, if necessary. If a physician is consistently one-sided in his testimony, the Board should be able to take this factor into consideration in reaching decisions on questions such as causation and extent of disability. The only potential problem here is with the appellate courts, which in their decisions tend to limit the Board's authority to accept or reject testimony based upon evaluation of a witness's credibility. If the Board is to be encouraged to take steps to minimize problems in medical care, it may be necessary to provide specific legislative direction to the courts, to insure that the Board's authority is not diluted.

The use of physicians in contested cases simply because of their extreme views can also be limited by encouraging the Board to select impartial examining physicians to help resolve medical disputes, and by explicitly relying on experts in whom the Board has a high degree of faith. Once again some legislative direction may have to be given to the courts to permit the Board to accept such testimony in appropriate cases rather than that presented by the litigants. This type of action can send a message to litigants that it does not pay to use medical testimony from witnesses who are biased, and can also result in a moderation of positions taken by medical experts.

In conjunction with the foregoing, there are a number of methods of physician selection in use in various states which can be considered.

1. Pure employee selection, as presently exists in Alaska.

2. Pure employer/carrier selection, tempered by the ability of the employee to apply to the Board on an expedited basis for change.

3. Initial employee selection for a limited period of time, such as ten days, with the employer having the right to change at the end of the period.

4. Initial employer/carrier selection for a limited period, with the employee having the right to change at the end of the period.

5. Employee selection from a panel selected by the employer/carrier.

6 Employer/carrier or employee selection from a panel designated by the Board. This typically involves initial inclusion of all practitioners in the state, with removal from the panel by the Board for cause.

SECOND INJURY FUND

The sole purpose of a second injury fund is to encourage the employment of physically impaired persons, or perhaps more accurately, to minimize the disincentives to their employment. A simple example will clearly explain the theory behind the operation of second injury funds. If an employer hires a worker with no physical impairment, who then loses an eye in a compensable accident, the compensation payable in Alaska for that loss will be for a period of 140 weeks. However, if that individual had suffered the loss of one eye prior to employment, the result of loss of the remaining eye would be permanent total disability, with benefit payments continuing for life rather than 140 weeks. In order to eliminate this financial disincentive to hiring, the Second Injury Fund, as it is used in Alaska, would pay all compensation payments subsequent to the first 104 weeks of disability.

Unfortunately, attempts have been made, sometimes successfully, to use funds as tools to reduce an employer/carrier's liability after the fact, when the preexisting impairment was questionable, or the employer's knowledge of its existence doubtful. This type of improper fund use typically leads to stringent controls which in turn lead employers to question whether the fund will work in their favor even when they act properly. In the face of such uncertainty, it is doubtful that even the best intentioned employer will rely on a fund and consider its benefits when contemplating the hiring of a physically impaired worker. Alaska has suffered from this syndrome and now appears to be in the phase which makes it more difficult to obtain reimbursement from its Second Injury Fund.

If the Second Injury Fund is to serve its purpose, two elements must exist. First, benefits from the Fund must flow only to those employers who hire or retain in employment individuals with significant permanent impairments which would otherwise be an obstacle to employment. Secondly, employers must at the time of hiring be as secure as possible in the knowledge that should an injury occur they will be financially protected by the Fund. Presently, uncertainty exists in Alaska as to both elements, and as a result there is considerable doubt as to whether the existence of the Fund provides much incentive for hiring physically impaired workers.

A relatively simple change in procedure may provide the certainty needed in both areas to make the Fund an effective tool. In order to establish knowledge of the impairment at the time of hiring, the employer of a permanently impaired worker could be required to file a simple form with the Fund, settling that question without a doubt, and precluding "after the fact" attempts to prove the requisite knowledge at the time of hiring. To simplify the filing process, each individual who sustained a permanent impairment in a compensable accident could, when ready to reenter the job market, be given a simple two-part form to present to prospective employers. The form would educate the employer as to the protection offered him by the Fund and would also provide the documentation of employment to be forwarded to the Fund. In such cases the employer would be guaranteed the protection of the Fund, should a subsequent injury occur, and would thus be given the incentive to hire. If necessary, a similar mechanism could be used to provide documentation for employees whose injuries would qualify them for Fund protection in the future but were not the result of a compensable accident.

AVERAGE WEEKLY WAGE

For a number of reasons related primarily to the pipeline, Alaska uses a method of computing average weekly wage which is different than those used in the other 49 states. In determining average weekly wage, and in turn the weekly benefit, the injured employee is permitted to pick the calendar year out of the three calendar years immediately preceding the injury in which total wages were the highest, and then divide by 52 to arrive at an average weekly wage. In some cases, this can result in unfairness to one side or the other. For example, an employer with an injured worker may find himself paying weekly benefits in excess of actual wages because of a high paying job with another employer three years prior to the accident. Similarly, an employee with a new but permanent high paying job may find his weekly benefit a small fraction of wages being earned at the time of injury, because of low earnings in the prior three years. Even for those with consistent annual earnings the rule can work a hardship. For example, a worker in extremely seasonal employment who earns a substantial income while working half the year, and nothing the remainder of the year, will have his earnings based upon a 52 week average. If he is injured and is totally disabled during a portion of the season his actual income loss will be twice as high as the average weekly wage on which the benefit is based.

Due to the impact of seasonality, no solution which is even remotely equitable for all concerned can be found unless the various segments of the benefit system, such as temporary total disability and permanent partial disability, are dealt with separately. Therefore, most of the average weekly wage question will be dealt with in those sections of the report which deal with benefits.

There is one aspect of average weekly wage which can be considered independently of benefits. That is, what elements of remuneration should be considered in determining the amount of pre-injury earnings. In Alaska the major concerns in this category are room and board, and fringe benefits. Conceptually, room and board are to be considered as part of average weekly wage only to the extent that they reduce the amount an employee would have expended for these items if he was not working. For example, with regard to room, if an employee is away from home for a few days, and the employer provides living facilities, there is no reason for the value of the facility to be included in average weekly wage computations. This is because the employee was still paying for his own home or rental while away, and did not experience an increase in net income because of the employer's payments. In the case of the worker who may be at a remote site for many months, and live in a facility provided by the employer, resolution of the question is not so simple. Theoretically, the value of living facilities should be included in the wage calculation only if the employee does not maintain another residence while at the remote site, since if he continued to make mortgage or rent payments at home, there would be no net economic benefit derived from living at the employer's facility. Whether a dual system of this type is acceptable, with employees being treated somewhat differently based upon their living arrangements at home, is a matter that is of purely legislative concern, with each of the alternatives somewhat arbitrary in its application.

The question of board is much easier to deal with, at least as to the initial determination as to whether it should be included in the weekly wage at all. Since a meal provided by the employer means a meal that the employee does not have to pay for, the provision of board will always result in a net economic benefit to the employee, and thereby justifies its inclusion in the wage computation. The value of the meal, as well as the value of living facilities, is another matter.

If it is an accurate assumption that room and board cost more to provide on the North Slope than in Anchorage, the valuation of these items presents a real question. Once again on a conceptual basis, the value to the employee is not what it costs the employer to provide room and board, but rather the amount of net economic to the employee. This requires valuation on the basis of how much would have been spent for these items had the employee remained at home. Obviously theory is of little help in this instance, since applying as esoteric an economic theory as this would create an administrative nightmare. Unless the legislature is willing to leave the question of valuation to contractual agreement or litigation on a case by case basis, legislative action is required. The most efficient mechanism may be to give the Board rule making authority to establish room and board values on a statewide or regional basis, to be included in the average weekly wage computation in appropriate cases. This authority provides a great deal of flexibility, in that changes in economic conditions can be quickly reflected in the rules, and adjustments made without the need for additional legislative or court action.

A much more difficult question is how to treat fringe benefits such as hospitalization insurance and employer-funded pension plans. At the present time, almost by practice rather than case decision, these items are not included in the computation of average weekly wage in Alaska. This occurs despite the fact that a reasonable argument can be made for the proposition that the statute is broad enough to permit their inclusion. The issue is of more than academic interest. If at some point a court holds that fringe benefits must be included in the wage computation, many open cases from past years will be entitled to have the weekly benefit increased retroactively, which would result in an enormous economic impact on employers and carriers. This is in addition to the financial impact such a ruling would have on new cases, particularly in view of the high level of fringes in some employments.

From the standpoint of the worker, fringes which are not continued after injury represent an economic loss, and therefore, a basis exists for the inclusion of their value in weekly wage computation. From the standpoint of the compensation system, their inclusion creates administrative problems (which are not entirely insurmountable) and more importantly would provide most workers with weekly compensation benefits substantially in excess of their take home pay, a situation which may be considered something less than optimum in view of the disincentives which it creates. The arguments on both sides are endless, and if the legislature decides to deal with this question it will hear each and every one. Suffice it to say that virtually every other state has avoided including this type of fringe benefit in the wage computation, except on an isolated basis, and Alaska has managed to operate its compensation system without their inclusion. Unless the state is willing to take on the economic and social problems which would be created by fringe benefit inclusion, the legislature should act to clarify the law and avoid the potential for court decision.

TEMPORARY TOTAL DISABILITY

The purpose of temporary total disability benefits is quite simple. They are intended to replace lost income during the time that the injured worker is recovering and unable to return to work. In most states this is also the easiest type of loss to deal with, by simply replacing a portion of the income lost during the period of total disability, with duration measured primarily from a medical standpoint. However, the impact of seasonality on a substantial portion of the Alaska work force creates a situation which cannot be dealt with by traditional means. Therefore, the following analysis and proposed solution may very well be viewed as radical within the context of existing workers' compensation systems. It may also be the only way to establish equity for those receiving and those paying temporary total disability benefits in Alaska.

As previously discussed, the "best of three" method for determining average weekly wage, and thereby temporary total disability benefits, creates problems for all concerned. If one accepts the proposition that temporary total disability benefits are intended to replace lost income during the period of recovery, then the wage basis used to compute these benefits must reflect the income which would have been earned during this period, rather than the level of income earned three years previously. This can be accomplished more accurately by applying the traditional average weekly wage formula used in a significant number of states. The period of comparision, rather than one of the preceding three years, would be the 13 weeks immediately prior to the injury. If the injured employee was not employed for substantially the whole of 13 weeks, the wages of a similar employee who was so employed are used, and if no similar worker is available, then the average weekly wage would be based upon the contemplated full-time wages of the injured worker. Since workers in seasonal employment tend to be highly paid, use of this mechanism may also require an increase in the maximum weekly benefit, so that the higher paid worker is not deprived of adequate income replacement due to the application of an inappropriate weekly maximum.

Of course there is another side to the coin. For the seasonal worker, this level of income replacement is only proper during the period of time that income would actually have been earned. To take the extreme case, is it correct to provide temporary total disability benefits when the injury occurs on the last day of the job, and recovery takes place during a period of time when the employee would have been receiving unemployment benefits? If the answer is no, then temporary total disability benefits in Alaska should be more closely matched to periods of gainful employment, rather than merely relying on the employee's physical condition, with unemployment benefits replacing workers' compensation benefits during what normally would be a period of unemployment. Obviously this method creates new opportunities for litigation, which may make it unacceptable. The only way to determine if the cure is worth the price is through an open discussion involving those primarily concerned, employees and employers. The answer depends upon the extent to which employees are currently being deprived of proper benefits due to the operation of the existing law, the extent to which employers are currently paying what may be considered excessive benefits during periods of seasonal unemployment, and the difficulties which will have to be overcome if "income matching" is to be accomplished in a significant number of cases.

PERMANENT PARTIAL DISABILITY

In every workers' compensation system the most expensive element, and the most controversial, is that of permanent partial disability benefits. Much can and has been written about the history, development and philosophy of permanent partial disability benefits, and some of it is quite interesting. However, what is necessary at this time is simply an understanding of the various benefit alternatives available for compensating permanent partial disability, a philosophical decision as to the reasons for which Alaska wishes to provide such benefits and, based upon that decision, the development of a mechanism and formula to distribute those benefits appropriately.

Permanent partial disability results when an individual is injured and having recovered to the greatest extent possible is left with a physical problem which did not exist prior to injury. If the condition is severe enough to totally destroy the individual's ability to obtain and retain gainful employment, the result is classified as permanent total disability. What we are concerned with here is that class of cases in which a permanent physical problem exists, but the ability to earn has not been totally destroyed. At this point there are three basic criteria which can be used to determine who is to receive permanent partial disability benefits, and in what amount.

The first theory is based upon permanent physical impairment, and is often referred to as the "whole man theory." Pursuant to this theory, the amount of benefits payable for permanency is determined on the basis of the degree of permanent physical impairment suffered, a purely medical determination, without reference to its effect upon the individual's life, employment or economic status. Assuming equal average weekly wages, a lawyer and a machinist who both suffered equally serious hand injuries would receive the same amount of money for their injuries, despite the probable difference in economic impact.

The second theory deals with loss of wage earning capacity, which takes into consideration not only the degree of physical injury, but also its probable impact on the ability of the individual to earn a living. This requires that in the event of a dispute, the fact finder must predict, usually quite soon after release from active medical care, what effect the injury will have on the individual's ability to compete in the open labor market. The test does not require any economic loss to occur and in fact, because the concern is with loss of capacity, a substantial award for partial loss of that capacity is in no way inconsistent with a factual situation in which the employee remains with the same employer and on the same job track until normal retirement, with no economic loss resulting from the injury. Typically, if this prediction, which usually takes the form of an award, proves wrong, nothing can be done to modify it in the absence of a change in the employee's actual physical condition.

The final alternative for paying permanent partial disability benefits is what is commonly known as the "wage loss" method. This system involves paying benefits based solely upon actual loss of income resulting from the effects of an injury, with the amount of the loss determined as it actually occurs, rather than on a "prediction" basis as would take place under the earning capacity loss theory described above.

Alaska follows a pattern used in well over half the states, with a few unique twists, starting with a combination of the impairment theory and the earning capacity loss theory. If a permanent injury is limited to a[illegible] of the extremi-

ties (fingers, toes, hand, leg, etc.) or the eye or hearing, the amount of the benefit paid is based solely upon the physical impairment sustained, which in turn is based almost solely upon medical evaluation of the loss. The actual benefit calculation is accomplished by first determining the workers' weekly benefit rate, which is 66 2/3% of his average weekly wage, subject to a maximum of $942 per week. Sec. 23.30.190 of the Act is then consulted, which contains a schedule indicating the weeks of benefits, at the rate just described, for total loss or total loss of use of the particular bodily member involved. For example, total loss of an arm results in benefits being paid for 280 weeks, at the individual's weekly benefit rate. If the loss is less than total, the worker is paid benefits for the proportionate number of weeks. For example, a 50% loss of use of the arm would result in benefits paid for 50% of 280 weeks or 140 weeks. This method of benefit computation, known as "the schedule", is used to one extent or another in most states in the manner just described, but Alaska has complicated the picture to some extent by adding another limitation, that of a maximum dollar amount. For example, while the loss of an arm is theoretically 280 weeks of compensation, it is also subject to a dollar maximum of $43,680.00. This means that anyone whose weekly benefit is in excess of $156 (over 75% of injured Alaskan workers) will not receive the full 280 weeks provided initially by the statute. In fact, the average injured worker will only receive 136.5 weeks of compensation for total loss or loss of use of an arm. The same result holds true, within a few dollars and a few percentage points, for all of the other injuries covered by the schedule.

For those injuries not covered by the schedule, primarily back and head injuries, the benefit is based upon loss of wage-earning capacity, which is determined by computing the difference between earning capacity prior to injury and after injury, and replacing 66 2/3% of the difference, on a weekly basis. Theoretically these benefits are payable for life, but in reality are subject to a maximum dollar amount of $60,000.00. Although, as previously mentioned, earning capacity loss does not require actual loss of earnings, the Alaska statute does require that determination of the amount of loss in the first instance be accomplished by considering actual post injury earnings, but if actual earnings are found not to "fairly and reasonably" represent earning capacity, other factors can be considered, and an award made which is at variance with the actual economic loss sustained. Application of this "adjustment factor" varies from time to time, primarily due to changes in the philosophy of the Board, which must determine the degree of loss in contested cases. At the present time, the Board appears to place heavy reliance on actual earnings, and in many instances applies the law in a manner approaching that of a wage loss system, with benefits determined on a weekly basis as actual loss of income occurs.

Each of these methods contains a number of flaws, in both the amount of benefits which may be paid to an individual worker, and in the problems inherent in determining the amount to be paid. From the standpoint of getting the money to the people who need it, the impairment method is the weakest of the three. Historically, workers' compensation has placed major emphasis on paying benefits to replace economic loss, and since the schedule or impairment method does not consider economic loss at all, it misses the mark in most cases. Its primary justification is ease of application, since there is supposedly very little to argue about when determining the extent of physical impairment. However, it has been found that it is relatively easy to locate doctors who will be 20 to 30 percentage points apart when evaluating the same injury, and as a result use of a schedule does not guarantee an absence of litigation.

It is possible to minimize these shortcomings in two ways. First, if guidelines are adopted for the determination of the extent of impairment, such as those published by the American Medical Association, it is relatively easy to avoid significant disagreement among medical experts. Secondly, some degree of economic reality can be incorporated in the schedule, as is done in California, by modifying the weeks to be paid in a number of ways. On the assumption that the economic impact of an injury increases geometrically, rather than proportionately as severity increases, the schedule can be "stepped" so that one week of benefits may be payable for each of the first 10 points of impairment (1-10% impairment), two weeks paid for each of the next 10 points, three weeks for each of the next 10, and so on. In this manner an individual with a 10% loss of use of the arm would receive 10 weeks of compensation and someone with a 20% loss would receive 30 weeks, reflecting an assumption, of limited validity, that the economic impact of a 20% loss is more than twice as severe as that from a 10% loss.

The weeks payable can also be modified to take into consideration other factors such as age, type of occupation (physical vs. sedentary), and amount of education, with a percentage increase or decrease in the rating depending upon the answers given to relevant questions contained in a rating formula. Obviously this significantly increases the liklihood of litigation, so that a price is paid for attempting to make the schedule more economically realistic.

Use of a schedule basis raises an interesting question as to the development of average weekly wage, particularly if an unmodified schedule based totally on physical impairment is used. Since economic impact is being ignored, there is no reason to tie the amount of benefit to average weekly wage. The fact that one worker makes more than another does not mean that his arm is also "worth" more, and in fact the opposite may be true. As a result, if an impairment schedule is used, the amount of benefits to be paid can be established legislatively as a specific dollar amount for each loss, to be paid in every case regardless of the individual's earnings.

Application of an earning capacity loss system also presents a number of problems, primarily on the operational side. From a philosophical standpoint, it more closely follows the basic workers' compensation premise of dealing with economic loss, although as previously described it is entirely possible to pay benefits for loss of capacity in cases in which no actual economic loss ever occurs. In fact, the few studies which have been undertaken tend to show that only a minority of cases demonstrated significant economic loss several years after injury, although in most of those cases the loss was significant.

Another finding from these studies demonstrates a more serious problem with earning capacity loss systems. For most of the cases with significant losses, the compensation paid was totally inadequate to deal with the economic loss incurred, while in the remaining cases the amount of compensation paid was far in excess of the loss. This resulted primarily from the fact that the award must by its very nature be a prediction, and an estimate, a task which is probably beyond the ability of mere mortals. There are simply too many variables determining the effect an injury may have on a given individual, and attempts to make the award fit the case are something less than accurate. Also inherent in this uncertainty is the need for lawyers and litigation in order to arrive at a "correct" decision. Since a determination of loss of earning capacity is strictly a judgment call, a claimant would be foolish to simply accept a determination made by the employer/carrier, and would be equally foolish to go before the Board without an attorney to present his case. Unfortunately there is little that can be done to eliminate these problems without virtually switching to another benefit system.

For purposes of determining loss of earning capacity, the computation of average weekly wage should simply reflect a realistic and established preinjury earning capacity. Since in this type of system we are not concerned with matching benefit payments with actual loss of income, it is possible and preferable to base the wage on average earnings for a recent but extended period of time, such as the previous twelve months. Given a willingness to accept the opportunity for additional litigation, the Board could be given the authority to modify the figure arrived at in this manner, if it can be established that because of extraordinary circumstances the figure is significantly high or low.

The third and final alternative is a wage loss system. In its purest form, it provides benefits only in the event of actual loss of income attributable to the injury. This immediately raises a question as to its fairness, since in the extreme case an individual who suffered a loss of limb but was able to return to full employment would receive nothing in the way of benefits for his injury. While this may not be inconsistent with historical workers' compensation philosophy, it does leave a great deal to be desired when applied in real life. This problem can be cured by paying an impairment award, preferably limited to serious injuries, regardless of any wage loss benefits which may also be due.

Another problem may result from comparing preinjury wages with inflated post-injury wages, an obvious inequity. This can be limited to a great extent by adjusting the comparison to take into consideration the change in wage rates through time, although given the experience under the Longshore Act, it is questionable whether an unlimited adjustment would be acceptable.

For Alaska, use of a wage loss system would raise two very significant questions. First, a wage loss system can only be successful, from a cost standpoint, if the great majority of workers can be returned to jobs which pay the same or almost the same as those held at the time of injury. If the frequently heard statement that "there is no light duty in Alaska" is true, adoption of a wage loss system would be an economic disaster. Similarly, if union rules are so strict that a worker with a permanent injury cannot be given preferential treatment in obtaining work within his capabilities, the ability to return people to gainful employment would be greatly reduced, and the benefits of a wage loss system eliminated.

Secondly, serious consideration must be given to the system's ability to determine when an income loss is "due to the injury" rather than some other factor, such as the end of the season. As in the case of temporary total disability, use of a wage loss system depends on matching benefit payments with actual economic loss, so that factors such as end of season, a return to a state with lower wage levels, and an individual's desire to reduce his workweek must all be taken into consideration in determining wage loss. If this cannot be accomplished with a fair degree of accuracy, the system would be a total disaster.

While research is continuing in an attempt to determine the ability of Alaska employers to return injured individuals to the workplace, in the final analysis a decision on these potential problems can only be reached by joint labor/management discussions. It is doubtful that anyone else can or should determine whether this type of system can be used effectively in Alaska and without their concurrence an attempt to implement a wage loss system would probably result in economic disaster.

If a wage loss system is adopted, the computation of average weekly wage would closely follow that recommended for temporary total disability. The wage base should reflect the weekly wages actually earned during the period of employment, whether it be six months or a year, so that the comparison of pre- and post-injury wages will reflect the actual loss incurred. Therefore, a 13 week average, or something in that range, would be appropriate, with the safeguards described in the temporary total disability section.

PERMANENT TOTAL DISABILITY

Statistically, permanent total disability benefits do not constitute a significant proportion of the overall cost of workers' compensation in Alaska, although the state does rank sixth nationally in frequency of permanent total cases. This does not mean that permanent total disability does not significantly impact on the compensation system. Its importance is hidden to a great extent, because its effects are felt in the area of permanent partial disability benefits. This is due to the threat of a case becoming a permanent total, with lifetime benefits and no dollar maximum, which results in cases being settled at levels approaching their maximum permanent partial disability value, $60,000.00, instead of being litigated, and possibly resulting in a finding of total disability.

As mentioned previously, permanent total disability occurs in those circumstances in which the injury is so severe as to totally destroy, for all practical purposes, the ability of an injured worker to obtain anything other than intermittent and financially insignificant employment. In cases in which the physical injury is severe, there is usually no question as to the individual's entitlement to total disability benefits. However, of concern to the Alaska compensation system is the worker who retains relatively substantial physical abilities, but claims to be or is actually unable to work because of the limited job opportunities in the area. For example, should an injured worker who cannot find employment in Eagle, where he lives, have his workers' compensation status determined on the basis of Eagle alone, or should the availability of suitable employment in other parts of the state be considered? And if there is no suitable employment in Alaska for someone injured shortly after moving to the state, or who has indicated in some manner that working in Alaska is temporary rather than permanent, should employment opportunities in the lower 48 be considered? Again there is no correct answer, only issues that are appropriate for legislative decision on a policy basis.

At the present time the statutory provision dealing with permanent total disability, Sec. 23.30.180, provides virtually no indication of the factors to be considered in determining total disability status. This is left to the courts, and results in a great deal of uncertainty as to the possible outcome of individual cases. Although no statute can eliminate the potential for court involvement, the legislature can create a great deal more certainty by enacting amendments to Sec. 23.30.180 which provide clear policy guidelines to those who must apply the law.

WCCA

Position Paper

December 13, 1980

Prepared by

The Workers' Compensation Committee of Alaska (WCCA)

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SECTION I: LEGISLATIVE CHANGES

MAXIMUM BENEFITS:

Currently, maximum weekly benefits allowed under Alaska Law (AS 23.30.175) are based upon 66-2/3% of actual wages, but never more than 167% of the average weekly wage in the state. In 1981, the average weekly wage factor will increase to 200%.

This formula does not recognize that workers whose salaries are much higher than the state average weekly wage have considerable discretionary income.

WCCA POSITION: that the following benefit schedule be used in place of the current method of calculating benefits:

1. 66-2/3% of wages up to 150% of the average weekly wage, PLUS,
2. 40% of wages falling between 150% and 200% of the average weekly wage, PLUS,
3. 20% of wages falling between 200% and 300% of the average weekly wage.
4. No benefits for wages in excess of 300% of the average weekly wage.

The following table shows what will happen to benefit payments based upon a $393 average weekly wage under the current formula using the 200% factor to be applied in 1981. To the right is the benefit payment indicated by the recommended new formula.

WEEKLY WAGE Time of Injury	WEEKLY BENEFIT Existing	WEEKLY BENEFIT Proposed
$ 200.00	$133.00	$133.00
393.00	262.00	262.00
600.00	400.00	397.00

$ 800.00	$533.00	$475.00
1,000.00	667.00	515.00
1,179.00	786.00	550.00

PERMANENT TOTAL DISABILITY:

Based upon medical facts and the worker's occupation, an injured worker may be classified as having a permanent injury. Permanent injuries are then further distinquished as being totally disabling or partially disabling, and long term wage loss benefits are paid accordingly.

Currently a worker can be classified as totally disabled rather than partially disabled in two ways: One (1) Automatically presumes a worker to be totally disabled if he/she loses both or any mix of two hands, arms, feet, legs or eyes, and Two (2), a determination is made of the actual facts of the injury case in question.

Actual case histories show that some workers who have lost the use of two or more limbs can, and have, returned to their former employment successfully.

WCCA POSITION: that the Alaska Statue (AS 23.30.180) which automatically presumes a worker to be totally disabled be repealed and (second) that an actual case by case determination sha establish the level of disability of the injured.

PERMANENT PARTIAL BENEFITS-UNLIMITED

Currently, a worker with a permanent partial injury can collect benefits for an unlimited period of time. This results in a loss to the workforce for workers who can return to some form of work but are not encouraged to do so since benefit payments continue.

WCCA POSITION: that a worker with a permanent partial injury be entitled to benefits for a thirty-six (36) month maximum period. To receive benefits beyond thirty-six (36) months, the worker must qualify for a permanent total disability status, in which case benefits would extend for life.

AVERAGE WEEKLY WAGE CALCULATION

When calculating the wage loss benefit payable to an injured worker, an average weekly wage is determined by finding the highest annual wage earned by the worker in any one of the three years prior to injury and dividing that total by fifty-two (52). As a result, wages earned during a "boom" period over the last three years can significantly increase the wage loss benefit payable to the injured. That benefit may be even greater than the worker's wages at the time of injury.

WCCA POSITION: AS 23.30.220 One (1) be amended to read as follows, "The formula for calculating average weekly wage be the total of the injured worker's preceding years wages (including self-employment wages) divided by fifty-two (52)."

FILING TIME LIMITATIONS

The time limitation (AS 23.30.105) for filing a Workers Compensation Claim in Alaska is as follows:

A. Within one year after job-related death
B. Within two years after knowledge of a job-related disability
C. Within two years after the last compensation payment
D. No time limit for latent injuries (example-asbestos related cancer).

Those (above listed) limitation are signifcantly broader than those of other states.

WCCA POSITION:

A. No change
B. No change
C. An injured must file within one year after the last compensation payment (for a recurring/disabling injury).
D. No change

OFFSETS TO WORKER'S COMPENSATION BENEFITS

Current law allows for duplication of benefits in some instances. Although these situations are rare, the law should be amended to prevent benefit duplications.

1) If a worker is receiving unemployment benefits and files a worker's compensation claim (for an on-the-job injury), he can legally collect both benefits.

WCCA POSITION: that if worker's compensation benefits are currently being paid, then unemployment benefits should cease. It is the intent of the law that benefits are intended to pay wagge loss only for the period of time a worker is unable (due to injury) to work.

2) It is possible for an injured worker to collect both sick pay benefits and worker's compensation benefits for a short period of time.

WCCA POSITION: that the sum of these weekly payments be limited to 100% of the worker's wage, with the worker's compensation benefit being paid first.

3) An injured worker may currently collect retirement benefits to which he/she is entitled in addition to worker's compensation benefits.

WCCA POSITION: that worker's compensation benefits be reduced by the amount being paid in retirement benefits.

CHOICE OF PHYSICIAN

In order to ensure quality medical treatment and to contain costs at the same time, the treating physician should give direction to the injured worker's care. Alaska's liberal policy of free and open choice of physicians sometimes result in duplicate treatment, lack of coordination between treating physicians and specialists, or an occasional "shopping spree" by the injured for the elusive "cure" to pain. A malingering worker may search for a physician who will support his claim to injury.

With exceptions (which follow), the employer or insurer should be allowed to provide an injured worker with a list of at least two physicians in the geographic area for treatment. These physicians should be specialists (where necessary) based upon the nature of the injury. They should not be selected based upon their fees charges, but on their interest in the industrial injured and desire to provide efficient medical services to return the work to a productive life.

The exceptions to the use of physicians as described above are twofold:

1. If an injured worker has seen a family physician or a physician in the specialty required to treat his injury in the prior twelve (12) months, he may be treated by that physician.

2. If the injured worker is not responding to treatment or is otherwise dissatisfied with the first selected physician, he may choose another physician from a list of three other physicians in the geographical area. This list will also be provided by the employer or insurer.

WCCA POSITION: sufficient change in the law to reflect the preceding statement and/or policies.

PAIN CLINICS

In addition to the pain associated with an injury during treatment and healing, pain often persists after complete healing in the form of chronic or "learned" pain behavior. To the worker experiencing such "learned" pain, it is real and often prevents the worker from feeling prepared to return to work.

Pain clinics existent in Alaska have developed techniques for treating such pain. The Worker's Compensation Board and the adjustors of insurers should be encouraged to utilize pain clinics to eliminate any significant extensions of benefit payments period, and costly, time-consuming legal arguments over the preparedness of a worker to return to work.

WCCA POSITION: that the applicable Alaska Statutes be amended to reflect the above position.

HEARING REPRESENTATIVES

The role of the Worker's Compensation Board is to expedite the resolution of disputes between the injured and employers of their insurers. This system in intended to provide rapid and fair determination on the factual issues being disputed.

It is intended that the Board itself be a point of initial review of disputes and cases can later be appealed to Suprior or a higher Court. Often there is no need for either party to be represented by counsel. However, a large per cent of disputes heard by the Board involve attorney representation.

It would be determined that when appearing before the Board the injured needs to be or not to be reprensented by counsel. The insured should be encouraged not to utilize counsel but rather hearing representatives (trained claims people). In short, a fairness in adequacy of representation should be examined, and procedures at the hearing be established. Better hearing procedures can and should result in a significant expense savings due to reduced attorney costs for both employer or insurer and the injured.

WCCA POSITION: that the appropriate Alaska States be changed to reflect the preceding statements and opinions.

EXTRAORDINARY CONSTRUCTION

The development of the Trans Alaska Pipeline System resulted in a tremendous increase in the number of workers in the sate. In addition, wages paid to many workers were much higher than those previously paid. Worker's Compensation claims costs for pipeline development injuries were much higher than for other work-related injuries in Alaska during 1977 and 1978. The cost of all pipeline injuries included in loss experience data supplied to the Division of Insurance for company premium rate purposes drove the cost of all insurance for all Alaska employers to a new high.

If another extraordinary construction project (Alaska-Canada Gas Pipeline or the Capitol Relocation) occurs in the future, the Division of Insurance should segregate the actual premiums

and losses of this (these) project from other Alaska experience. This will allow other employers in the state a fair rate from which to pay benefits to the injured worker.

WCCA POSITION: that the applicable Alaska Statutes be amended to reflect the above position.

SECTION II: ADMINISTRATIVE CHANGES

COMPROMISE AND RELEASE AGREEMENTS

A permanently and totally disabled worker will receive wage loss benefits and medical expense payments on a continuing basis unless the worker and the employer or insurer agree to a compromise and release agreement in a lump sum payment in lieu of weekly wage loss benefits.

Currently, compromise and release agreements are not permitted on the future medical expense portion of benefits.

WCCA POSITION: that such agreements be allowed on medical expenses with approval of the Worker Compensation Board to ensure that the settlement amount is in the best interest of the injured worker.

PHYSICIANS' FEES

Physicians treating injured workers often incur additional costs to provide employers or insurers with written reports on the treatment given. These costs are passed on as additional fees which is appropriate and equitable. However, there are not adequate means of limitation on the many fees charged by different physicians for the identical services.

WCCA POSITION: that the Division of Worker's Compensation accumulate and publish "average or customary" fees charged for specific treatments by physicians. This publication should be used to evaluate the propriety of fees charged for worker's compensation injuries.

DELAYS IN HEARINGS AND RULINGS

The Division of Worker's Compensation has not been provided a sufficient budget to staff the Board sufficiently to expedite hearings and rulings. As a result, a worker can be without income for extended period of time until the backlog before the Board is cleared. Disputes between workers and employers or insurers over benefits must be resolved quickly to prevent any undue hardship.

WCCA POSITION: that the Division of Worker's Compensation should be funded to hire additional qualified (as needed) hear- officers to expedite decisions. It is further recommended that initial hearings should be conducted by one hearing officer and that appeals should be presented to the entire Board in a timely manner.

BROCHURE

Small employers and most workers within the state do not have a clear understanding of the benefits and responsibilities accruing from the Worker's Compensation Laws in Alaska. This is tre in almost all other states as well.

The State of California has addressed this problem by developing an easy-to-read brochure for workers describing the benefit plans, claim filing procedures, grievances and differences with insurers. Although voluntary, insurers have provided these brochures to insured employers for distribution to workers.

WCCA POSITION: developing and distributing such a brochure (voluntary) in Alaska will improve the knowledge of workers

regarding the benefits and procedures applicable under Alaska Worker's Compensation Laws. This should result in reduced hearings to resolve compensation disputes and also reduce the need for attorneys costs on behalf of injured workers unsure of certain legal rights.

SELF INSURANCE

Self-insurance is a legitimate means for a large organization to provide benefits to injured workers directly from the assets of the company or corporation rather than purchasing insurance coverage from an insurer. The Worker's Compensation Division is granted the authority to approve self-insurance plans but lacks the staff and technical knowledge necessary to evaluate the ability of a self-insured organization to absorb the cost of claims. Without appropriate evaluation, there is a substantial risk that an organization will not be able to fulfill its financial responsibilities to the injured.

WCCA POSITION: that the Worker's Compensation Division develop a unit to monitor activity and effectively regulate self-insured organization to ensure that injured workers will receive all benefits due them.

CASH FLOW PROGRAMS

A Cash Flow Program is an alternative to self-insurance enabling the large employer to reimburse the insurer for all claims costs whenever those costs are paid. Re-insurance is usually purchased for costs exceeding a specific amount, (usually $100,000.00 or more) on any one claim.

Under this concept, premiums are not paid to the insurer until after the claims payments have been made. The employer (by irrevocable bond or bank letter of credit) is generally required to guarantee payment of premiums when due.

Currently, the State of Alaska does not allow premiums receivable (under Cash Flow Programs) to be included in the assets of an insurer.

WCCA POSITION: that the Division of Insurance develop regulations which will allow Cash Flow Programs to be utilized as outlined above by large employers and insurers.

HEALTH CARE INSURERS

Large employers must administer plans for health and disability insurance through Health Care Insurers. Worker's Compensation on the other hand, is administered through Casualty Insurers. Large employers may also utilize self-insurance plans.

Employers are not presently permitted to utilize Health Care Insurance for the purchase of Worker's Compensation insurance. Although there is not assurance that cost savings may result from combining health and disability insurance and Worker's Compensation insurance into a single plan with one insurer, employers should be allowed an opportunity to pursue such combined insurance plans.

WCCA POSITION: that the Division of Insurance develop regulations permitting coverage as outlined above on a combined basis.

ACCIDENT YEAR STATISTICS

The National Council on Compensation Insurance (NCCI) is a

statistics gathering organization licensed by the Division of Insurance. NCCI computes Worker's Compensation costs in Alaska and proposes premium rate levels for each of the (approximately) five hundred (500) classifications of work activity. Each insurer is required to submit its Worker's Compensation data for Alaska to the organization on a timely schedule.

The NCCI currently uses two methods to record and analyze Worker's Compensation experience:

A. POLICY YEAR DATA: using this method, premiums and cumulative losses attributable to claims occurring during a particular policy year are then collected (over time) to provide indications of necessary rate changes.

B. CALENDAR YEAR DATA: using this method, premiums collected and claims costs incurred during a calendar year are reviewed to provide indications of necessary rate changes.

Policy year data is considered more accurate than calendar year data. Calendar year data however, requires a period of at least eighteen (18) months for an accurate picture of loss payout, (for a twelve (12) month period). Claims remaining open after eighteen (18) months must continue to be reported by insurers for each year they remain active.

In 1977, a study conducted by order of Legislative Affairs Agency recommended that a third method of analyzing experience be used, the accident year method. Experience in other states shows that the accident year method is more accurate than the calendar year data and more recent than policy year data.

WCCA POSITION: that the Division of Insurance direct the NCCI to accumulate accident year data and to utilize this data for premium rate level analysis in lieu of any other method.

SAFETY GROUPS

Employer trade associations can reduce their insurance costs through the effective use of safety groups. Under the Safety Group Concept, employers may purchase needed insurance through one insurer and receive a portion of the profit as returnable premiums or dividends should the experience warrant same. In the event the group has been unprofitable for the insurer, additional charges would result. The Trade Association would aid in monitoring and promoting safety programs for member employers to reduce costs through fewer or less serious injuries.

Safety Groups are more common in other sates, and have been a benefit to the consumer insurance market.

WCCA POSITION: that industry Trade Groups investigate and explore opportunities for Safety Group Programs more fully for use in Alaska.

ASSIGNED RISK POOL SERVICING CARRIERS

Currently, insurers who act as servicing carriers for the assigned risk pool are paid 37.5% of assigned risk premium for the expense of handling assigned risk accounts. Rates developed for voluntary risks, however, reflect an allowance of 31.6% of premiums.

WCCA POSITION: that the Division of Insurance reduce the expense allowance for assigned risk pool servicing carriers to the per cent allowed for expenses for voluntary risks; currently 31.6% of premiums.

SECTION III: SECOND INJURY FUND

SECOND INJURY FUND

The term "second injury" classifies a worker's injury as the result of a pre-existing impairment from a prior work-related injury.

A Second Injury Fund exists in Alaska to pay the benefits for second injuries after a period of one hundred four (104) weeks. The funds to pay these benefits are contributed by insurers and for each permanent partial injury benefit paid (for second injury), an additional eight per cent (8%) surcharge is paid into the Second Injury Fund.

The purpose of the Fund is to encourage the hiring of previously disabled workers by funding the long term costs of a second injury, should it occur.

Review by claims adjustment personnel and Second Injury Fund Management, indicates some question as to the ability of the fund to pay potential claims.

WCCA POSITION: that rather than increasing the surchage which in turn increases premium rates, general fund revenues should be utilized for anticipated costs which exceed current surcharge premium levels.

MEDICAL EXPENSES UNDER SECOND INJURY FUND

Currently only wage loss payments are covered by the Second Injury Fund. However, there is no clear evidence as to the reason for non-inclusion of medical expenses to be paid from the fund.

WCCA POSITION: that medical expenses be covered by the Second Injury Fund for any claims which otherwise meet the criteria for Second Injury Fund Payment.

SECOND INJURY FUND, FIRST INJURY PROOF

In order to use the Second Injury Fund, an employer or insurer is required to show written evidence of a prior injury before the second injury occurs. This results in additional costs to screen, document and preserve the medical history of all injured workers.

WCCA POSITION: that the employer or insurer not be required to prove written documentation preceding the second injury. If the above can prove the existence of a prior injury at any time before or after the second injury, then use of the Second Injury Fund shall be allowed.

LUMP SUM SETTLEMENT FROM SECOND INJURY FUND

WCCA POSITION: that the Second Injury Fund be allowed and be properly funded to make lump sum reimbursements to any carrier or employer who provides a lump sum payment to an injured worker, this to include self-insured as well.

HB 159/SB 179
Section by Section Analysis

Section 1-2. Section analysis by the Department of Commerce and Economic Development, Division of Insurance.

Section 3. This section prevents discriminatory employment practices on the part of employers towards employees who have filed a claim for workers' compensation benefits. The same prohibition is cross-referenced in AS 23.30.263 under Section 61.

Section 4-7. Section analysis by the Department of Commerce and Economic Development, Division of Insurance.

Section 8. This section adds an additional panel to the Alaska Workers' Compensation Board which may sit in any judicial district in the event regular panel members are unable to attend scheduled hearings. Members of the board, except the Chairman or his designees, are citizens appointed pursuant to AS 23.30.005 and at times have scheduling conflicts with their own occupational duties. The amendment will insure that disputed claims are heard expeditiously by a full board panel and will provide the resources to conduct additional board hearings when the workload requires.

Section 9-12. The term "benefits" is substituted for "compensation" to achieve consistency throughout AS 23.30 in conformity with court and board interpretations. The term "benefits" is defined in AS 23.30.265(28) under Section 66 to mean "compensation and medical and related benefits." The definitions for "compensation" and "medical and related benefits" already exist under AS 23.30.265(8) and (16). This amendment will clarify current misunderstandings in interpreting these terms.

Section 13-14. Section analysis by the Department of Commerce and Economic Development, Division of Insurance. Section 14 also includes substitution of "benefits" for "compensation" where applicable

Section 15. The repeal and reenactment of AS 23.30.040 is necessary if the second injury fund is to continue to meet its statutory obligations to rehabilitate the injured and disabled worker and to reimburse employers/carriers on subsequent injury claims.

This section expands the base for contributions to the second injury fund and incorporates a contribution schedule which will insure the solvency of the fund. It changes the base for payments to the fund from permanent partial disability to permanent total, permanent partial, temporary

total and temporary partial disabilities. Under Section 69, an initial contribution rate of 6 percent is established, which will build reserves before a sliding rate scale takes effect in 1983. It also allows a more realistic maintenance allowance of $200 a month and total maximum expenditures for retraining to $10,000 in order to adequately cover the inflationary rise in expenses encountered for rehabilitation or retraining. The section also transfers the administrative expenses of the state from the resources of the second injury fund to the general fund.

Section 16-17. Substitution of "benefits" for "compensation" where applicable.

Section 18. This section allows placement of disabled employees who are being rehabilitated for gainful employment into work situations where the employer is willing to pay some wages to the trainee but does not want the risk of new injury to the handicapped person and the consequent increase in employer's insurance premiums; or if no other employees, having to obtain workers' compensation insurance just for the trainee. Successful rehabilitation will result in getting the handicapped employee back to a self sustaining, tax paying citizen of the state and is worth the investment by the state in accepting the risk of his being re-injured while learning a new occupation. This amendment will also encourage employers to pay wages to the trainee and reduce costs to the rehabilitation agency sponsoring the trainee.

The section also permits the Department of Labor to place eligible persons in rehabilitation programs with an employer in the event a request is not made through the office of vocational rehabilitation.

Section 19-20. Section analysis by the Department of Commerce and Economic Development, Division of Insurance.

Section 21-26. Sections include substitution of "benefits" for "compensation" where applicable and analysis by the Department of Commerce and Economic Development, Division of Insurance.

Section 27. Adds a subsection which stiffens the penalties to employers who fail to insure or provide security for workers' compensation liability to their employees and provides the Board with the means to enforce that statutory requirement through stop order authority. Failure to enforce the requirement that all employers secure liability for workers' compensation results in a disparity to the employer who does insure and must figure the costs of insurance into his costs of doing business and forces the injured worker to rely on medical care and funds from public assistance programs.

Section 28-30. Section analysis by the Department of Commerce and Economic Development, Division of Insurance. Also includes substitution of "benefits" for "compensation" where applicable.

Section 31. This section deletes wording which makes it necessary for an injured employee to appeal to the Alaska Workers' Compensation Board if the need for medical treatment due to work injury extends beyond two years. The board has repeatedly held that if continued medical treatment is required due to the injury, the costs should be paid by the employer's insurance carrier regardless of whether the need for medical treatment has lasted for over two years, yet, some adjusters continue to stop medical costs and advise the employee that the law provides for only two years of medical coverage. The employee then either hires an attorney or petitions the board for help and often the matter must be heard and ruled on by the board before the carrier will pay additional medical costs. As a result the board is required to hold unnecessary hearings, the carrier incurs unnecessary attorney fees and the general costs of the workers' compensation program is unnecessarily increased.

The section also deletes wording that requires an employee, if he wishes to change doctors, to do so "in accordance with rules prescribed by the board." The board is adverse to setting out rules, which would in any way, hamper the recovery process or the employee's right to the selection of the treating physician. If the employee abuses this right, the employer/carrier may seek relief through board hearing.

Section 32. This section encourages prompt reporting of treatment by doctors treating injured workers. Some doctors now file a report of first treatment but fail to notify the carrier of follow-up treatment. When the doctor gets around to billing some months later, the bill is considerable. Some doctors have continued to treat an employee after sending a first report indicating further care was not necessary, or would be minimal. By the time the carrier gets a bill and a follow-up report, the bill is for many hundreds of dollars. This change will also provide the board and employer/carrier with the current medical status on the employee so that his progress can be better monitored.

Section 33. This section deletes language left over in the Act from the days when the employer selected the physician. Experience has shown that the employee never exercises this right except upon the urging of his doctor or attorney. This situation delays resolution of disputed claims and allows some doctors to unnecessarily increase the costs of workers' compensation while they stand around watching another doctor perform an examination of an injured worker. This process is duplicative, involves at least 4 parties and wastes time. Section also includes substitution of "benefits" for "compensation" where applicable.

Section 34-36. Substitutes "benefits" for "compensation" where applicable.

Section 37. This section deletes ambiguous language which is the result of incomplete amending in 1962 to the statute of limitations provision for filing a claim.

In W. R. Grasle Co. v. Alaska Workmen's Compensation Board, 517 p.2d 999 (Alaska 1974), the Supreme Court found no time frame in which the four-year statute may operate subsequent to the 1962 amendment.

The section also includes substitution of "benefits" for "compensation" where applicable.

Section 38-40. Substitutes "benefits" for "compensation" where applicable.

Seciton 41. This section provides realistic time frames in the board hearing process and rids the statute of board authorization to rule on a claim without benefit of the parties to be heard. The change from 10 to 20 days for service of notice of hearing will allow sufficient time for the parties to properly prepare the case for board hearing, thereby reducing the number of continuances or further hearings, and will enable conformance with 8 AAC 45.070(b). Due to the time required for the board to adequately research the difficult legal issues involved in many cases and the geographic separation of some members, the board has consistently been unable to comply with the statutory requirement of 20 days for issuance of its written decision and order. The change from 20 to 30 days is proposed to grant sufficient research time for the board to set forth its findings and conclusions according to proper statutory criteria, thereby reducing the number of hearings resulting from remands or requests for modification of award, and to allow additional time for the order to be sent to the board members for their review and signature.

The section also deletes the portion of the provision authorizing the board to rule on a claim without benefit of hearing. This portion has never been used by the board as it precludes the right of the parties to be heard or the opportunity for cross-examination on the issues of the claim.

Includes substitution of benefits for compensation where applicable.

Section 42-45. Substitutes "benefits" for "compensation" where applicable.

Section 46. The amendments in AS 23.30.155 are essentially "housekeeping" changes and are aimed primarily towards reducing litigation and administrative delays in processing claims. These changes address serious problems or gaps in the Act which mislead or confuse employees, employers, and insurance carriers and which result in needless litigation. This section 1) clarifies a controverted claim and the requirements under which a notice of controversion must be filed; 2) requires notice be filed with the board whenever payment of compensation has begun, terminated or changed and provides penalties for failure to file such notice; 3) includes substitution of "benefits" for "compensation" where applicable; 4) requires board approval for reimbursement of advance payments or overpayments of compensation from unpaid installments; 5) requires that compensation be paid by a check or draft which may be immediately cashed; 6) authorizes the board to order lump sum payments for both scheduled and unscheduled permanent partial disabilities under AS 23.30.190, whenever it is in the interest of the injured employee and will not cause substantial hardship to the employer (the board currently is authorized to order lump sum settlements for unscheduled permanent partial disability under AS 23.30.190(20)); and 7) requires periodic reporting of all payments made on claims which will be used to provide the public and private sectors with current and accurate injury statistical data.

Section 47-49. Substitutes "benefits" for "compensation" where applicable.

Section 50. This section changes the method by which the average weekly wage is determined in all jurisdictions for purposes of computing compensation and provides for a consistent and equitable means to adjust compensation rates for claims being paid to out-of-state recipients.

Section 51. This section clarifies the rules under which compensation rates are adjusted for recipients not residing in Alaska consistent with legislative intent and regulations, insures adequate benefit levels for those recipients and provides for an annual adjustment in the compensation rate commensurate with changes in average weekly wages.

Section 52. This section deletes language now provided for in AS 23.30.155(n) under Section 46.

Section 53. This section provides for payment of compensation to an injured worker at his temporary total disability rate while undergoing rehabilitation or retraining. This change is consistent with interpretations set forth in Supreme Court decisions and with current board practice.

AS 23.30.191 was enacted in 1963 when there was a limit on compensation paid for both temporary and permanent partial disabilities. It was often the case that an injured worker would be paid the maximum, but required rehabilitation to return to the work force. To provide rehabilitation to those no longer entitled to temporary disability compensation, payment of one-half the rate was paid under Section 191. For injuries after May 22, 1975, there is no maximum limit for payment of temporary disability and such compensation should be continued while undergoing rehabilitation if the worker is incapacitated from earning the wages as before injury.

In Phillips Petroleum Company v. Alaska Industrial Board, 17 Alaska (1958), the Supreme Court stated:

> "The period of temporary total disability is defined as: the healing period or the time during which the workman is wholly disabled and unable by reason of his injury to work."

Our statute defines "disability as the incapacity because of injury to earn the wages which the employee was receiving at the time of injury. When such a condition is temporary, AS 23.30.185 requires the payment of temporary total disability compensation during the continuance of the disability.

The intent of the Act is to encourage injured workers who are totally or partially incapacitated for their normal occupation, to undergo vocational rehabilitaiton efforts aimed toward return to gainful employment. This not only benefits the worker, but reduces the future liability of the employer for payment of permanent partial or permanent total disabilities. To reduce the compensation rate by one-half when the worker does undertake such a program discourages rather than encourages participation in retraining.

Section 54. This section provides for the modification of a compromise and release agreement to the degree that a board order can be modified.

AS 23.30.210(b) grants the employee and the employer the right to enter into an agreement to resolve a disputed claim. The board must approve the compromise and release for the agreement to be valid and, if approved, the agreement is enforceable the same as an order of the board. If the language of the Act is strictly construed, however, the agreement cannot be modified within one year for a mistake of fact or a change in condition as is allowed in the board's orders. Fraud, actual or constructive, is the only ground for modification. The board, based on its experience with hardships and harsh results in cases involving change of condition, latent injury or mistake of fact in cases where compromise and release agreements have been approved, believes an agreement should be modifiable at least to the degree that an order can be modified.

Section also includes substitution of "benefits" for "compensation" where applicable.

Section 55. This section provides for inflationary increases in funeral expenses on death claims. The current limit for reasonable and necessary funeral expenses are not adequate and result in a hardship to the family of the deceased or the employer for payment of the additional costs.

Section 56-57. Sections substitute "benefits" for "compensation" where applicable.

Section 58. This section provides stiffer penalties for employees who wilfully misrepresent a claim to collect benefits.

Section 59-60. Sections substitute "benefits" for "compensation" where applicable.

Section 61. See Section 3.

Section 62. Section substitutes "benefits" for "compensation" where applicable.

Section 63. Section amends definition of "medical and related benefits" to include pain clinic services.

Section 64. Section analysis by the Department of Commerce and Economic Development, Division of Insurance. Also includes substitution of benefits for Compensation where applicable.

Section 65. This section clarifies the definition of "wages" for purposes of computing an employee's average weekly wage. The deletion of "in force at the time of the injury" is necessary to make the definition consistent with the method by which the average weekly wage is determined under AS 23.30.220 as a result of the 1977 amendments.

Section 66. This section is amended to include a definition for "benefits" as explained in Section 9-12, and defines the term "reserve rate" as used in Section 15.

Section 67. Section deletes inconsistent and ambiguous language in the Act and those provisions that are repealed by the proposed legislation.

Section 68. This section clarifies that the amount of payment to the second injury fund and the conditions under which payment is required, is in accordance with the version of AS 23.30.040(b) that was in effect on the date of injury to the employee.

Section 69. See Section 15.

Section 70. This section provides for an effective date for the bill of July 1, 1981.

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for House Bill No. 159 (L & C)

Title "An Act relating to workers' compensation, and providing for an effective . . ."

Requested by Labor and Commerce Committee Date 3/1/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Worker Protection

BRU, Program, or Subprogram(s) Affected Workers' Compensation

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		161.8	178.0	195.8	215.4	236.9
200 TRAVEL		20.0	22.0	24.2	26.6	29.3
300 CONTRACTUAL		122.3	71.3	78.4	86.2	94.9
400 COMMODITIES		3.4	3.7	4.1	4.5	4.9
500 EQUIPMENT		10.4	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	317.9	275.0	302.5	332.7	366.0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	(132.3)	(197.2)	(216.9)	(238.6)	(262.5)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
**Second Injury Fund		450.2	472.2	519.4	571.3	628.5

POSITIONS

FULL TIME	0	4	4	4	4	4
PART TIME						
TEMPORARY						

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

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

This fiscal note provides that the state administrative costs for rehabilitation under the proposed AS 23.30.041 be paid from the Second Injury Fund. This includes the costs of four new positions, plus the cost of four existing positions which entails a transfer in funding source from General Funds to Second Injury Funds.
(Continued page 2)

IV. DATE 3/2/82 PREPARED BY Nico Bus

AGENCY Labor

PHONE 465-2720

Original: Legislative Finance

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

33-001 (Rev. 12/81)

1. Assumes an inflation rate of 10% per annum after FY '83.

2. Assumes an effective date of July 1, 1982.

3. The total cost for FY'83 for the four new positions is detailed on attached forms 13. In addition the following items are included in the FY '83 costs.

A Workers' Compensation Officer I reclassification to a Workers' Compensation Officer II with related travel and contractual services. Cost $16.6

100 Personal Services	$ 5.5
200 Travel	5.0
300 Auto, Lease, Indirect, etc.	6.1
	$16.6

The data processing operations cost will increase by $14.0 because of enhancements for a tickler system, running two systems parallel and the files expansion to retain tne addresses of all claimants.

The printing of 10,000 Workers' Compensation Acts and 25,000 Employee Information booklets. $35.0

The design and printing of new forms. $2.5

Computer program modifications to implement the changes introduced by the bill. $20.0

Equipment expense for computer terminals, panelling, cabinets, and files. $6.0

Included one-time items in FY '83

Equipment	$10.4
Booklets and Acts	35.0
Design and printing of new forms	2.5
Computer programs	20.0
	$67.9

Funding Change

Items included in the FY 83 Governor's budget that will change funding sources from General Fund to the Second Injury Fund.

4 positions (including benefits)	$141.3
Non-personal service costs relating to these 4 existing positions	
200: travel	9.9
300: contractual	25.8
400: commodities	2.3
	179.3

FY'83 Component Breakdown:

Workers' Compensation Administration		Second Injury Fund
PS		$161.8
Travel		20.0
Contract*	$47.0	75.3
Commodities		3.4
Equipment		10.4
TOTAL	$47.0	$270.9

Funding	General Fund	Second Injury
Funding transfer	(179.3)	179.3
Rehabilitation Services/ delivery system	47.0	270.9
	(132.3)	450.2

*$3,000 Workers Compensation Acts and Information Booklets; $12,000 Data Processing

**Second Injury Fund is currently being reviewed to determine whether revenues are sufficient to cover the cost of rehabilitation. It may be necessary to amend AS 23.30.040 to increase the maximum percentage contribution rate.

	POSITION TITLE				RANGE/STEP	BARG. UNIT.	LOCATION	GOV.	APPROV.	DISAPP.
1	Rehabilitation Administrator				22A		EiSA			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY		FORM 12 PAGE/LINE	LEG.		
2	PFT	12	N/A	New Position			N/A			

	TYPE OF EXPENDITURE			AMOUNT
	1		2	3
3	PERSONAL SERVICES:			
4	SALARY 3714 x 12		44,568	
5	BENEFITS .1592		7,095	
6	SBS .0613		2,189	
7	FIXED BENEFITS 183 x 12		2,190	
8	TOTAL PERSONAL SERVICES	01		6,047
9	TRAVEL	02		10,000
10	CONTRACTUAL	03		15,607
11	COMMODITIES	04		850
12	EQUIPMENT	05		1,600
13	OTHER			
14	TOTAL COST			84,104

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20	841	OTHER Second Injury Fund	84,104
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The rehabilitation administrator is necessary to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

Extensive travel within the state is necessary to provide assistance to approximately 12,000 employers in developing programs for re-employment of injured workers and coordinating counselor services with workers, insurers/employers, labor unions, and rehabilitation providers.

9. Travel: $10,000 (20 trips @ $500 per trip)
10. Contractual: Space $3,100 (to be transferred to DOA)
Auto Lease & Operating Costs $5,600
Indirect (11.46% x 44,568 = $5,107)
Other costs which include communications, equipment rental, etc., $1,800
11. Commodities: Cost per position
12. Equipment: Desk, desk chair, side chairs, bookcase, file - $1,600

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 83

01.1136 (7/81)

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION		APPROV.	DISAPP.
1	Workers Compensation Officer II			18A	GBU	JBA	GOV.		
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE			
2	PFT	12	N/A	New Position		N/A	LEG.		

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 3249 x 12	38,988	
5	BENEFITS .1592	6,207	
6	SBS .0613	2,188	
7	FIXED BENEFITS 183 x 12	2,196	
8	TOTAL PERSONAL SERVICES 01		49,579
9	TRAVEL 02		5,000
10	CONTRACTUAL 03		14,968
11	COMMODITIES 04		850
12	EQUIPMENT 05		1,395
13	OTHER		0
14	TOTAL COST		71,792

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1008	
20	841	OTHER Second Injury Fund	71,792
21	CONTINUATION		
22	ADDITION	X	

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4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The workers' compensation officer is necessary to coordinate with workers, employers, insurers and rehabilation providers to expedite the retraining and reemployment of injured workers. Travel within the Fairbanks and Northern regions will be necessary to coordinate this effort.

9. Travel: $5,000 (10 trips @ $500 per trip)

10. Contractual: Space $3,100 (to be transferred to DOA)
Auto Lease, Maintenance Agreement & Operating Costs $5,600
Indirect Costs (11.46% x 38,988 = $4,468)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair, side chair, file, worktable, bookcase $1,395

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

Page 2 of 4 REVISED DATE _____

FY 83

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Workers Compensation Officer II			18A	GBU	JBA	GOV.		
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE			
2	PFT	12	N/A	*New Position		N/A	LEG.		

3	TYPE OF EXPENDITURE		1	2	AMOUNT 3
4	PERSONAL SERVICES: SALARY 3249 x 12			38,988	
5	BENEFITS .1592			6,207	
6	SBS .0613			2,188	
7	FIXED BENEFITS 183 x 12			2,196	
8	TOTAL PERSONAL SERVICES	01			49,579
9	TRAVEL	02			5,000
10	CONTRACTUAL	03			14,968
11	COMMODITIES	04			850
12	EQUIPMENT	05			1,395
13	OTHER				0
14	TOTAL COST				71,792

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1008	
20	841	OTHER Second Injury Fund	71,792
21	CONTINUATION		
22	ADDITION	X	

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4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The workers' compensation officer is necessary to coordinate with workers, employers, insurers and rehabilation providers to expedite the retraining and reemployment of injured workers. Travel within the Fairbanks and Northern regions will be necessary to coordinate this effort.

9. Travel: $5,000 (10 trips @ $500 per trip)

10. Contractual: Space $3,100 (to be transferred to DOA)
Auto Lease, Maintenance Agreement & Operating Costs $5,600
Indirect Costs (11.46% x 38,988 = $4,468)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair, side chair, file, worktable, bookcase $1,395

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 83

01-1136 (7/81)

DM-15

POSITION TITLE				RANGE/STEP	BARG. UNIT.	LOCATION		APPROV.	DISAPP.
Clerk Typist III				8B	GBU	AWA	GOV.		
TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY		FORM 12 PAGE/LINE	LEG		
PFT	12	N/A	New Position			N/A			

TYPE OF EXPENDITURE			AMOUNT
1		2	3
PERSONAL SERVICES:			
SALARY 1530 x 12		18,360	
BENEFITS .1592		2,923	
SBS .0613		1,125	
FIXED BENEFITS 183 x 12		2,196	
TOTAL PERSONAL SERVICES	01		24,604
TRAVEL	02		
CONTRACTUAL	03		7,004
COMMODITIES	04		850
EQUIPMENT	05		700
OTHER			
TOTAL COST			33,158

RECEIPT CODE	FUNDING SOURCE	
	FED RCPTS. 1002	
	GF MATCH. 1003	
100	GEN. FUND 1004	
	I-A RCPTS. 1005	
	PGM RCPTS 1028	
841	OTHER Second Injury Fund	33,153
CONTINUATION		
ADDITION	X	

FOR B&M USE ONLY

KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk III position will provide clerical assistance to the Workers' Compensation Officer in the Juneau Second Injury Fund office and will be responsible for providing and coordinating distribution of information from the claim files to the other regions.

10. Contractual: Space $3,100 (to be transferred to DOA)
Indirect (11.46% x 18,360 = $2,104)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair $700

Labor

PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 83

01 1136 (7/81)

	POSITION TITLE				RANGE/STEP	BARG. UNIT.	LOCATION		APPROV.	DISAPP.
1	Clerk IV				9B	GBU	EBA	GOV.		
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY		FORM 12 PAGE/LINE			
2	PFT	12	N/A	New Position			N/A	LEG.		

	TYPE OF EXPENDITURE			AMOUNT
	1		2	3
4	PERSONAL SERVICES: SALARY 1627 x 12		19,524	
5	BENEFITS .1592		3,108	
6	SBS .0613		1,197	
7	FIXED BENEFITS 183 x 12		2,196	
8	TOTAL PERSONAL SERVICES	01		26,025
9	TRAVEL	02		0
10	CONTRACTUAL	03		7,137
11	COMMODITIES	04		850
12	EQUIPMENT	05		700
13	OTHER			
14	TOTAL COST			34,712

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	
18		I-A RCPTS. 1007	
19		PGM RCPTS 1028	
20	841	OTHER Second Injury Fund	34,712
21	CONTINUATION		
22	ADDITION	X	

FOR R&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk IV position will provide clerical assistance to the Rehabilitation Administrator and Workers' Compensation Officer and will be responsible for maintaining follow-up on all rehabilitation files.

10. Contractual: Space $3,100 (to be transferred to DOA)
Indirect (11.46% x $19,524 = $2,237)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk and desk chair $700

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

REVISED DATE _____

FY 83

01 1136 (7/81)

RECOMMENDED CHANGES TO HB 159

SECTION 3. (p.2 l.19)

Change "AS 20.30.041" to "AS 23.30.041"

SECTION 5. (p. 3 l.26)

AS 23.30.041 Rehabilitation Program

Note (Insert in place of HB 159 Section 23.30.041(c), (d),(e),(f), and (g))

(c) When an employee suffers a permanent disability which precludes his return to suitable gainful employment, he shall be entitled to be fully evaluated for participation in a rehabilitation program within 90 days after date of injury. The full evaluation shall be performed by a qualified rehabilitation professional. The reasonable costs of the evaluation shall be at the expense of the employer. If in the opinion of the qualified rehabilitation professional, the medical, physical or emotional state of the employee is such that a full evaluation cannot then be made, the rehabilitation professional shall prepare a preliminary evaluation.

(d) The full evaluation by the qualified rehabilitation professional shall determine if the employee would benefit from a rehabilitation program. The determination shall be based on the following criteria:

(1) The rehabilitation program will restore the employee to a position to accept suitable, gainful employment equal to or as near as possible to that of his pre-injury employment. An employee is restored to a position of suitable gainful employment if he can return to (in the order of preference)

i) work at the same or similar job with the same employer or employer in the same industry as the employer at the time of injury.

ii) A job using essentially the same skills as the job at time of injury but in a different industry.

iii) A job using different skills but the academic achievement level as attained at the time of injury.

iv) A job requiring an academic achievement level which is different from that attained at the time of injury, but which rehabilitation evaluation determines is attainable by the employee and which job is believed to be available to the employee in his community at the time academic training is completed.

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(2) The employee cannot be restored to a position to accept suitable gainful employment without the rehabilitation program.

(3) The cost of the rehabilitation program, including all costs to be incurred by the employer for and during the rehabilitation program, plus an estimate of continuing benefits due to the employee after the conclusion of the rehabilitation program are equal to or less than the benefits due the employee under this Act, assuming no rehabilitation program is implemented and assuming no discounting or lump-sum payment of benefits.

(4) The rehabilitation program may consist of any of the following, however, if the employee may be restored to a suitable gainful employment with rehabilitation programs of high preference, then a rehabilitation program of a lower preference need not be offered by the employer.

In order of preference rehabilitation programs are:

i) Prosthetic devices and training enabling work at the same or similar employment as at the time of injury.

ii) Work site modification and vocational training to the same or similar occupation.

iii) On the job training for a new occupation.

iv) Vocational training for a new occupation.

v) Academic training for a new occupation.

(5) A vocational rehabilitation program may not exceed 37 weeks, except that such services may be extended an additional 37 weeks if the rehabilitation administrator determines that special circumstances exist. Nothing in this subsection prohibits an employer or carrier from providing extended vocational rehabilitation services on a voluntary basis. If rehabilitation requires residence away from the employee's customary residence, reasonable cost of board, lodging, and travel shall be paid by the employer. Temporary disability under AS 23.30.185 or AS 23.30.200 shall be paid throughout the rehabilitation process.

(e) A preliminary evaluation shall include the reasons why a full evaluation cannot be rendered, an opinion as to when the employee will be eligible for a full evaluation, any information which would be included in a full evaluation which can be determined and reported by the rehabilitation professional at the time of the preliminary evaluation.

(f) If the full evaluation or preliminary evaluation is not timely scheduled for an employee entitled thereto by the employer, the employee or the Board may designate a qualified rehabilitation professional to perform the evaluation, the reasonable costs of which shall be paid by the employer.

(g) Refusal by an injured employee to participate in an evaluation or a rehabilitation plan offered by the employer results in forfeiture of disability compensation for the period the refusal continues. However, if an employee begins participation in an evaluation or rehabilitation plan within two months from the date of refusal, and successfully completes the evaluation and rehabilitation plan and becomes employed for a period of 30 consecutive business days following the completion of the rehabilitation program, the employee shall receive a lump-sum payment of 25 percent of the compensation forfeited by him. The lump-sum payment is available only once to an employee refusing rehabilitation. The Board may find that an employee refuses to participate in an evaluation or rehabilitation plan if the employee fails to cooperate with the qualified rehabilitation professional.

(h) The employer responsible for the benefits under this Act shall be liable for, and any subsequent employer hiring the employee during and as part of the rehabilitation program shall not be liable for, benefits under this Act for injuries occurring to the employee while engaged in job training, work readiness, work therapy experience or work sampling which is part of the rehabilitation program offered by the employer and the earnings for which, if any, are credited to gross wages upon which compensation benefits are calculated.

(e) In this section

1) "Suitable gainful employment" means employment that is reasonably attained in light of an individual's age, education, previous occupation,and injury, and that offers an opportunity to restore the individual as soon as practical to a remunerative occupation and as nearly as possible to his average weekly wage as determined at the time of injury.

ii) "Qualified rehabilitation professional" means a person who by education, professional training and experience has the skills to make judgements, administer and interpret tests, counsel, and make recommendations with respect to a persons medical, intellectual, emotional, physical or motivational capacity to accept and perform suitable gainful employment, and to design, implement and supervise programs which tend to enhance a person's medical, intellectual, emotional, physical or motivational capacity to accept suitable gainful employment.

SECTION 7.

Remove.

SECTION 12.

Remove and adopt a new section to read:

add to Chapter 23.30 a section to read "AS 23.30.096."

Upon the filing of a claim under this Act, an employee thereby authorizes all providers of medical treatment pertaining to the injury or rendered prior to the date of injury to release information to the employer. If requested by the employer, the employee shall execute all releases to facilitate access to that information.

SECTION 14.

Acceptable except add to subsection (c) the following additional sentence to read:

"If a claim is controverted by the employer and the employee does not request a hearing for a period of two years following the date of controversion, the claim is deemed denied by the Board."

SECTION 15. (p. 8 l.25)

Strike "occasioned solely" and insert in lieu "proximately caused".

SECTION 16. (p. 9 l.3)

Add after ". . . is conclusive" and before "even if . . ." a phrase to read:

", provided there is some evidence of record to support the finding,"

SECTION 17.

Strike and instead add a section to read:

"AS 23.30.155(j) if an employer has made advance payments or overpayments of compensation, he is entitled to be reimbursed out of any unpaid installment or installments of compensation due up to an amount equal to twenty per cent of each of the subsequent installments. If the employer seeks to offset by more than twenty per cent of the amount of each subsequent installment, prior Board approval is required.

SECTION 24.

Add to subsection (12) (p. 13 l.3) a clause to read:

"but no benefit is payable for loss of hearing above 3,000 cycles per second unless hearing above 3,000 cycles per second is a requirement of the job held at the time of injury."

SECTION 31. (p. 18 l.13)

Change "occasioned solely" to "proximately caused"

SECTION 35. (p. 20 l.10)

Add after ". . . of injury" and before ";" a phrase to read:

"up to the amount which when added to all other components of gross earnings brings gross weekly earnings up to the state's average weekly wage"

SECTION 35. (p. 20 l. 19-21)

Should be amended to read:

"and (b) the amount that is or would be deducted or withheld as of January 1, preceding the injury under the Social Security Act of 1935 from the earnings of"

SECTION 39.

Add new section to read:

SEC. 23.30.125 add new subsection

23.30.125(e) An order of determination of the propriety of a rehabilitation program pursuant to AS 23.30.041 issued by the Commissioner or his designated representative acting alone, may be heard before a full panel upon the petition of employee or employer filed within 10 days after issuance of the order.

The Board shall give priority in calendaring its cases for hearing to hearings to determine the propriety of a rehabilitation program pursuant to AS 23.30.041.

SECTION 40.

SEC. 3.30.005(f) is amended to read:

(f) Two members of a panel constitute a quorum for hearing claims, and the action taken by a quorum of a panel is considered the action of the full Board; the Commissioner or his designated representative acting alone shall constitute a quorum for making determinations of propriety of a rehabilitation program pursuant to AS 23.30.041.

SECTION 41.

This Act shall take effect July 1, 1982, and shall effect only claims occurring on or after the effective date hereof.

OF COUNSEL
M. E. MONAGLE

R. E. ROBERTSON (1885-1961)
F. O. EASTAUGH
J. B. BRADLEY
WILLIAM G. RUDDY
L. B. JACOBSON
JAMES F. CLARK
PAUL M. HOFFMAN
J. F. VANGEN
D. ELIZABETH CUADRA
HAROLD E. SNOW, JR.
PAMELA L. FINLEY
STEVEN W. SILVER

JUNEAU OFFICE
210 FERRY WAY, 2ND FLOOR
POST OFFICE BOX 1211
JUNEAU, ALASKA 99802
PHONE (907) 586-3340
CABLE: ROMEA
TELEX: 090-48-376

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

POST OFFICE BOX 1211
JUNEAU, ALASKA 99802

ROBERT B. BAKER
MICHAEL T. THOMAS
LEROY J. BARKER
L. G. BERRY
C. R. RICH
CARL W. WINNER
SUSAN L. MENDENHALL
JILL A. DRIVER

ANCHORAGE OFFICE
601 WEST FIFTH, SUITE 510
ALASKA MUTUAL BANK BLDG.
POST OFFICE BOX 679
ANCHORAGE, ALASKA 99510
PHONE (907) 277-8693
CABLE: ROMEA
TELEX: 090-26-486

March 19, 1982

Honorable Albert P. Adams
Chairman, House Finance Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: HB 159

Dear Chairman Adams:

On behalf of the American Insurance Association, a trade association of casualty and property insurers, I wanted to write you and alert you and the members of the Finance Committee to a concern with regard to Section 2 of the above Bill. Section 2 adds a subsection to AS 23.30.025 to permit deductible insurance to be offered in worker's compensation policies.

Our concern is directed primarily to the situation where a deductible policy is taken out by a small employer. Because the amount of the deductible will be paid ultimately by the employer, it is likely that in many cases an employer will delay in making reports, or make no report at all, to the insurer in the case of an injury. This would be true because the employer would thereby improve his statistics for the purposes of a rate modification based on his experience. Experience rating is based much more upon frequency than it is upon severity of injury. Accordingly, if many of the small injuries are not reported, the employer will know that his rates will go down. To the extent that this is a valid concern, it also may mean that claims will be handled in house by people who are not experienced and competent at managing industrial claims. Proper management and expedient vocational rehabilitation management and counseling are essential to the best recovery of a worker.

In addition, an insurer may have collectability problems with small employers, unless the insurer requires a letter of credit or other absolute assurance that the money will be available.

We understand that there is presently a plan approved by the Director for an Alaskan company writing worker's compensation insurance. That plan requires that in order to qualify, an employer having net worth of not less than $5,000,000.00.

We also suggest that it would be very useful to have the statute set forth priorities for the kinds of rehabilitation to be sought in the case of an industrial injury. Properly drafted, such a priority system would encourage an employer to take an injured employee back; would tend to make the system work more quickly and effectively; and would tend to make the system less expensive. The following language could be inserted at an appropriate point in the rehabilitation sections of the Bill:

> "The following priorities are hereby established for use in developing alternative rehabilitation plans. No higher numbered priority may be utilized unless all lower numbered priorities have been determined by the rehabilitation administrator to be unlikely to result in returning the employee to suitable, gainful employment.
>
> Priority #1. Modification of previous job with the same employer, including a transitional return to work.
>
> Priority #2. A new job with the same employer in keeping with any limitations or restrictions of the employee.
>
> Priority #3. Modification of previous job with a new employer.
>
> Priority #4. A new job with a new employer as a result of direct job placement based upon transferable skills.
>
> Priority #5. A new job with a new employer involving on-the-job training.
>
> Priority #6. Retraining and job placement consistent with the purposes of rehabilitation.

These priorities, we believe, are consistent with the testimony of the persons with expert knowledge on such matters before the Committee on Labor and Commerce.

Please let us know if we can provide further information that would be of assistance with regard to this Bill. Thank you for your time.

Sincerely,

M. T. Thomas

MTT/kmp

cc: Rep. Terry Martin
Sen. Bob Mulcahy
Don Koch
Jackie McClintock

Sofo✓✓✓

Original sponsor: Rules/Legislative Council

IN THE HOUSE BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 159 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to workers' compensation; and providing for an effective date."

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

Sec 66 P44

Section 1. AS 18.80.220(4) is amended to read: Same as New Sec

(4) an employer, labor organization or employment agency to discharge, expel or otherwise discriminate against a person because he has

(A) opposed any practices forbidden under AS 18.80.200 - 18.80.280; [OR BECAUSE HE HAS]

(B) filed a complaint, testified or assisted in a proceeding under this chapter; or

(C) filed a claim for workers' compensation benefits under AS 23.30;

Sec 13 P13

* Sec. 2. AS 23.30.025 is amended by adding a new subsection to read:

(c) An insurer may issue a policy of insurance insuring the payment of benefits under this chapter which provides for a deductible amount to be paid by the employer. A policy with a deductible provision must be approved by the director of insurance and must provide that the deductible amount be paid by the insurer to the employee on behalf of the employer. After payment of the deductible by the insurer, the insurer may recover the deductible amount from the employer. The failure of an employer to reimburse an insurer for the deductible amount does not relieve the insurer from any other obligation it may have under the policy of insurance. An insurer is not required to apply for a deviation

under AS 21.39.070 in order to issue a policy under this subsection. This subsection does not apply to a policy of excess insurance purchased by a self-insurer.

* Sec. 3. AS 23.30.045(c) is amended to read:

(c) For a person eligible for vocational rehabilitation service under this chapter or AS 23.15.080 [AND] who is placed with an employer for service [WITHOUT WAGES] at the request of the board or the division [OFFICE] of vocational rehabilitation to give him on the job training, work readiness, [OR] work therapy experience [,] or work sampling, the liability set out in (a) of this section applies to the state rather than to the employer.

* Sec. 4. AS 23.30.080 is amended by adding a new subsection to read:

(d) If an employer fails to insure or provide security as required by AS 23.30.075, the board may issue a stop order prohibiting the use of employee labor by the employer until the employer insures or provides security as required by AS 23.30.075. If an employer fails to comply with a stop order issued under this section, the board shall assess a civil penalty of at least $1,000 per day. The employer may not obtain a public contract with the state or any of its political subdivisions for one year following the violation of the stop order.

* Sec. 5. AS 23.30.095(a) is amended to read:

(a) The employer shall furnish medical, surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus for the period which the nature of the injury or the process of recovery requires [, NOT EXCEEDING TWO YEARS FROM AND AFTER THE DATE OF INJURY TO THE EMPLOYEE. HOWEVER, IF THE CONDITION REQUIRING THE TREATMENT, APPARATUS, OR MEDICINE IS A LATENT ONE, THE TWO-YEAR PERIOD RUNS FROM THE TIME THE EMPLOYEE HAS KNOWLEDGE OF THE NATURE OF HIS DISABILITY AND ITS RELATIONSHIP TO HIS EMPLOYMENT AND AFTER-DISABLEMENT.

IT SHALL BE ADDITIONALLY PROVIDED THAT, IF CONTINUED TREATMENT OR CARE OR BOTH BEYOND THE TWO-YEAR PERIOD IS INDICATED, THE INJURED EMPLOYEE HAS THE RIGHT OF REVIEW BY THE BOARD. THE BOARD MAY AUTHORIZE CONTINUED TREATMENT OR CARE OR BOTH AS THE PROCESS OF RECOVERY MAY REQUIRE]. When medical care is required, the injured employee may designate a health care provider [LICENSED PHYSICIAN] inside the state to render the care except in cases where, in the judgment of the board, care or treatment or both can best be administered by the selection of another health care provider [PHYSICIAN]. Upon procuring the services of a health care provider [PHYSICIAN], the injured employee shall give proper notification of his selection to the employer within a reasonable time after first being treated. [IF FOR ANY REASON DURING THE PERIOD WHEN MEDICAL CARE IS REQUIRED THE EMPLOYEE WISHES TO CHANGE TO ANOTHER PHYSICIAN, HE MAY DO SO IN ACCORDANCE WITH RULES PRESCRIBED BY THE BOARD.]

* Sec. 6. AS 23.30.095(b) is amended to read:

(b) If the employee is unable to designate a health care provider [PHYSICIAN] and the emergency nature of the injury requires immediate medical care, or if he does not desire to designate a health care provider [PHYSICIAN] and so advises the employer, the employer shall designate the health care provider [PHYSICIAN]. Designation under this subsection, however, does not prevent the employee from subsequently designating a health care provider [PHYSICIAN] for continuance of required medical care.

Sec 31 P24,25

* Sec. 7. AS 23.30.095(c) is amended to read:

(c) No claim for medical or surgical treatment is valid and enforceable as against the employer unless, within 20 [TWENTY] days following the first treatment ~~and following the time set by the board for notice of subsequent treatments~~, the health care provider [PHYSICIAN] giving the treatment or the employee receiving it furnishes to the

employer and the board notice of the injury and treatment, preferably on a form prescribed by the board. The board shall [MAY], however, excuse the failure to furnish notice within 20 days when it finds it to be in the interest of justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of the medical or surgical treatment so obtained by the employee.

Sec 32 P24

* Sec. 8. AS 23.30.095(e) is amended to read:

(e) The employee shall, after an injury, at reasonable times during the continuance of his disability if requested by his employer or, when ordered by the board, submit himself to an examination by a health care provider [PHYSICIAN OR SURGEON] authorized to practice [MEDICINE] under the laws of the state in which the employee may be found, furnished and paid for by the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR EXAMINATIONS.] No fact relative to the injury or claim communicated to or otherwise learned by a health care provider [PHYSICIAN OR SURGEON] who may have attended or examined the employee, or who may have been present at an examination is privileged, either in the hearings provided for in this chapter or an action to recover damages against an employer who is subject to the benefits [COMPENSATION] provisions of this chapter. If an employee refuses to submit himself to any examination provided for in this section [HEREIN], his rights to compensation shall be suspended until the obstruction or refusal ceases, and his compensation during the period of suspension may, in the discretion of the board or the court determining an action brought for the recovery of damages under this chapter [HEREUNDER], be forfeited. The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. No autopsy may be held without notice first being given to the widow or widower or next of kin if they reside in the

state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If no adequate notice is given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

Sec 36 P26

* Sec. 9. AS 23.30.105(a) is amended to read:

(a) The right to benefits [COMPENSATION FOR DISABILITY] under this chapter is barred unless a claim for them [IT] is filed within two years after the employee has knowledge of the nature of his disability and its relation to his employment and after disablement. The [HOWEVER, THE MAXIMUM TIME FOR FILING THE CLAIM IN ANY EVENT OTHER THAN ARISING OUT OF AN OCCUPATIONAL DISEASE SHALL BE FOUR YEARS FROM THE DATE OF INJURY, AND THE] right to benefits [COMPENSATION] for death is barred unless a claim for benefits [THEREFORE] is filed within one year after the death. If [, EXCEPT THAT IF] payment of compensation has been made without an award on account of the injury or death, a claim may be filed within two years after the date of the last payment. It is additionally provided that, in the case of a latent injury [DEFECTS PERTINENT TO AND CAUSING COMPENSABLE DISABILITY], the injured employee has full right to claim as shall be determined by the board, time limitations notwithstanding.

Sec 40 P30

* Sec. 10. AS 23.30.110(c) is amended to read:

(c) The board shall make the investigation which it considers necessary in respect of the claim, and upon application of an interested party shall order a hearing on it. If a hearing on a claim is ordered, the board shall give the claimant and other interested parties at least 10 days' notice of the hearing, served personally upon the claimant and other interested parties or sent by registered mail, and shall, within 30 [20] days after the hearing is held [HAD], by order, reject the claim

or make an award in respect to it. If a hearing is continued by the board, additional notice under this subsection is not required. [IF NO HEARING IS ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN RESPECT TO IT.]

Sec 45 P33

* Sec. 11. AS 23.30.155(j) is amended to read:

(j) If an employer has made advance payments or overpayments of compensation, he is entitled to be reimbursed, after approval by the board, out of any unpaid installment or installments of compensation due.

Sec 46 P33

* Sec. 12. AS 23.30.155 is amended by adding new subsections to read:

(n) Compensation owed to an injured employee in the state shall be paid by a check or draft that may be cashed on the first banking day after it is received by the employee and on any succeeding banking day.

(o) If the board determines that it is in the interest of an injured employee and that a substantial hardship will not be imposed on the employer, the liability of the employer for all or part of compensation payable under AS 23.30.190 may be discharged by the payment of a lump sum.

Sec 51 P36

* Sec. 13. AS 23.30.175(b) is repealed and reenacted to read:

(b) After June 30 and before December 1 of each year, the commissioner shall adopt and publish the average weekly wage for each jurisdiction for the preceding calendar year as published by the United States Secretary of Labor for the purposes of unemployment insurance. In determining the rate of compensation the commissioner shall use the average weekly wage figure for each jurisdiction, including Alaska, for which the Secretary of Labor computes an average weekly wage. These figures are the applicable average weekly wages for those jurisdictions for the following calendar year.

Sec 52 p 36,37

* Sec. 14. AS 23.30.175(c) is repealed and reenacted to read:

(c) The following rules apply to recipients who do not reside in Alaska:

(1) The weekly rate of compensation shall be calculated by multiplying the recipient's average weekly wage times the ratio of the average weekly wage of the jurisdiction in which the recipient resides to the average weekly wage of Alaska. The rate is based on the average weekly wages in effect when the recipient leaves Alaska and shall be adjusted annually upon publication of the average weekly wages for all jurisdictions.

(2) The calculation required by this subsection does not apply if the recipient is absent from Alaska for medical or rehabilitation services not reasonably available in Alaska.

(3) If the average weekly wage of the recipient and the resulting compensation rate is determined under AS 23.30.220(2) the calculation required by this subsection applies to only those wages earned in Alaska.

(4) Application of this subsection may not result in a reduction of the weekly compensation rate to less than $65 a week except as provided in (a) of this section.

Sec 53 p 37

* Sec. 15. AS 23.30.175(d) is repealed and reenacted to read:

(d) In a jurisdiction for which no average weekly wage is computed by the United States Secretary of Labor for the purposes of unemployment insurance, the average weekly wage shall be as determined by the commissioner.

Sec 55 p 38,39,40

* Sec. 16. AS 23.30.190(a)(20) is amended to read:

(20) in all other cases in this class of disability the compensation is 66-2/3 percent of the difference between his average weekly wages and his wage-earning capacity after the injury in the same

employment or otherwise, payable during the continuance of the partial disability, but subject to reconsideration of the degree of the impairment by the board on its own motion or upon application of a party in interest; [WHENEVER THE BOARD DETERMINES THAT IT IS IN THE INTEREST OF JUSTICE, THE LIABILITY OF THE EMPLOYER FOR COMPENSATION, OR ANY PART OF IT AS DETERMINED BY THE BOARD, MAY BE DISCHARGED BY THE PAYMENT OF A LUMP SUM;] Sec 56 P40

* Sec. 17. AS 23.30.191 is repealed and reenacted to read:

Sec. 23.30.191. EXPENSES FOR REHABILITATING INJURED EMPLOYEES. An employee, who, as a result of injury, is or may be expected to be totally or partially incapacitated for his normal occupation and who, under the direction of the board, is being rehabilitated to engage in a remunerative occupation, may receive compensation necessary for his rehabilitation of 66-2/3 percent of his average weekly wage subject to the maximum payable under AS 23.30.175.

Sec 58 P41

* Sec. 18. AS 23.30.215(a)(1) is amended to read:

(1) reasonable and necessary funeral expenses not exceeding ~~$2,500~~ [$1,000];

* Sec. 19. AS 23.30.220(2) is amended to read:

(2) the average weekly wage is [THAT MOST FAVORABLE TO THE EMPLOYEE] calculated by dividing (156) 456 [52] into the total wages earned, including self-employment, in the highest paid three consecutive years out of [ANY ONE OF] the five [THREE] calendar years immediately preceding the injury; Sec 63 P43

* Sec. 20. AS 23.30.250 is amended to read:

Sec. 23.30.250. PENALTY FOR MISREPRESENTATION. A person who willfully makes a false or misleading statement or representation for the purpose of obtaining a benefit or payment under this chapter is guilty of theft as defined in AS 11.46.100(3) and is punishable as provided in

AS 11.46.120 - 11.46.150 [A MISDEMEANOR, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $1,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH].

Sec 66 P45

* Sec. 21. AS 23.30.265(16) is amended to read:

(16) "medical and related benefits" includes but is not limited to physicians' fees, nurses' charges, pain clinic services, hospital services, hospital supplies, medicine and prosthetic devices, physical rehabilitation, and treatment for the fitting and training for use of such devices as may reasonably be required which arises out of or is necessitated by an injury, and transportation charges to the nearest point where adequate medical facilities are available;

Sec 70 P45

* Sec. 22. AS 23.30.265(20) is amended to read:

(20) "wages" means the money rate at which the service rendered is recompensed under the contract of hiring [IN FORCE AT THE TIME OF THE INJURY,] and includes the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer, and gratuities received in the course of employment from other [OTHERS] than the employer;

Sec 71 P45,46

* Sec. 23. AS 23.30.265 is amended by adding new paragraphs to read:

(29) "benefits" means compensation and medical and related benefits;

(30) "health care provider" means a chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72; a pharmacist licensed under AS 08.80; a physical therapist licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a psychologist and a psychological associate licensed under AS 08.86; and a hospital as defined in AS 18.20.130, including a governmentally owned

or operated hospital; a corporate entity covered under AS 21.88.050-(b)(12); an employee of a health care provider acting within the course and scope of his employment; and persons comparably licensed in other jurisdictions to provide health care;

(31) "in the course of employment" includes travel to and from a remote job site but does not include activities outside of working hours off a site provided by the employer that are not under the supervision or control of the employer.

Sec 72 P44

* Sec. 24. AS 23.30.095(g), 23.30.125(b), 23.30.175(e) and (f), and 23.30.225(b) are repealed.

2 adjust to current Rev. statutes.

Sec 73 P46

* Sec. 25. This Act takes effect July 1, 1982.

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
Eileen Blatz	.	Dept. Labor	NO	465-2720
Jack Thompson	2216 Post Rd Anch 99501	WCCA / ACE		272 0506
DON KOCH	POUCH D. JUNEAU 99803	DIV OF INSURANCE	NO OBSERVE ANSWER QUESTIONS	465-2577
Jim Robison	Box 899 ANCH 99510	w/c - A.S.D.C.L.	Depends	276-1640
Don Rouleau	Box 4-2653 ANCH. 99509	A.S.D.C.L.	NO	2745464
Jackie McClintock	P.O. Box 1149 Juno	w/c Div.		465-2796
M C Morgan	9170 Glacierwood Dr.	DIV. VOC. REHAB	NO	586-6500
George Kruse	310 2nd St Juneau	AK. State C of C	No	586-2323
James R. Wakefield	369 S. Franklin	Laborers Local # 942	No	586-3880
Michael Thomas	Box 1211 Juneau AK	American Insurance Assn.	No	586 3340
Jean Kline		A.H.C	—	586-1741
W Lewis		AGC		
Beverley Ward	134 N Franklin	ARCO	No	586-3680
Wes Coyner	311 Douglas Hwy	ANIC		586-7931
J. McLEAN	Box 1774 Jun.	AK Int. Assn.	No	

HOUSE LABOR & COMMERCE COMMITTEE Worker's Compensation HEARING DATE: 1/25/82

call Jackie Mc clintock

WCCA NEWSLETTER

HELPING ALL ALASKANS THRU A BETTER WORKERS COMPENSATION LAW

February 1982

WCCA has been involved with a joint effort of management and labor to correct some of the problems in HB159 now under consideration by the House Labor and Commerce Committee. Labor representatives include the AFL-CIO, District Council of Laborers, the Ironworkers, and the Teamsters. Management representatives of WCCA are from WIEN, Unit Construction, and Air Van Lines on the smaller joint labor-management subcommittee which meets nearly daily following the larger WCCA meeting which set direction on February 5, 1982.

While the area of workers' compensation is large and complex, the following five topics have been selected for detailed examination and hopefully consensus and legislative response in this session:

- Bunkhouse rule, which covers a worker at a remote site.
- No compensation payable to a worker injured while under the influence of intoxicating beverage or drugs not taken according to prescription direction.
- Determination of the wage base for setting compensation in an equitable manner for employee and employer (the average weekly wage setting process).
- Use of a spendable income approach in setting compensation to reduce disincentive to return to work due to higher compensation payments than net take-home pay. Iowa has addressed this issue.
- Establish a Vocational Rehabilitation monitoring capability within the Division of Workers' Compensation to obtain a quick response of all parties in a case involving rehabilitation. Guidelines for vocational rehabilitation services would be developed to assure a high quality of service.

Both labor and management representatives would like to have an expanded membership participation on the working committee and be able to address other aspects of workers' compensation in the future. These could include the use of modified work including union members and an examination of a wage loss system.

Due to the imminent legislative committee action, please contact one of the following board members with your ideas or concerns:

Richard Cattanach 349-4568 Jack Thompson 272-0536

" OUR SUPPORT DEPENDS ON YOUR SUPPORT "

LABOR/MANAGEMENT WORK DRAFT

FEBRUARY 13, 1982

Original Sponsor: Rules/Legislative Council

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 159 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to workers' compensation; and providing for an effective date."

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

* Section 1. AS 23.30.025 is amended by adding a new subsection to read:

See 2 No change

(c) An insurer may issue a policy of insurance insuring the payment of benefits under this chapter which provides for a deductible amount to be paid by the employer. A policy with a deductible provision must be approved by the director of insurance and must provide that the deductible amount be paid by the insurer to the employee on behalf of the employer. After payment of the deductible by the insurer, the insurer may recover the deductible amount from the employer. The failure of an employer to reimburse an insurer for the deductible amount does not relieve the insurer from any other obligation it may have under the policy of insurance. An insurer is not required to apply for a deviation under AS 21.39.070 in order to issue a policy under this subsection. This subsection does not apply to a policy of excess insurance purchased by a self-insurer.

* Sec. 2. AS 23.30.040(e) is repealed and reenacted to read:

NEW

(e) The board may authorize payment from the second injury fund of:

(1) up to $200 per month for maintenance to an employee being rehabilitated under § 41 of this chapter who suffers an extreme financial hardship;

(2) rehabilitation expenses exclusive of costs for provider services and testing.

* Sec. 3. LEGISLATIVE INTENT. It is the intent of the legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to his gross earnings at the time of the injury. The legislature recognizes five rehabilitation goals in a workers' compensation program:

NEW

(1) Early identification of injured workers who will eventually need rehabilitation;

(2) Use of competent rehabilitation providers;

(3) Opportunities for return to direct employment;

(4) Maintaining an atmosphere conducive to rehabilitation;

(5) Providing incentives and removing disincentives to rehabilitation.

The Department of Labor shall adopt regulations in accordnce with AS 23.30.005 to accomplish these goals.

NEW

* Sec. 4. The board shall select and employ a rehabilitation administrator and may authorize the rehabilitation administrator to select and employ rehabilitation monitors.

NEW

* Sec. 5. The rehabilitation administrator is a partially exempt service under AS 39.25.120. The monthly salary of the rehabilitation administrator is equal to Step A, Range 22 of the salary schedule in AS 39.27.011(a) for Anchorage.

* Sec. 6 AS 23.30 is amended by adding a new section to read:

Sec. 23.30.041. REHABILITATION OF INJURED WORKERS. (a) The rehabilitation administrator shall implement the provisions of this section. The rehabilitation administrator shall continuously study the issue of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all qualified rehabilitation facilities, agencies, and providers, both public and private.

(b) When an employee suffers an injury covered by this chapter which precludes his return to suitable gainful employment, he shall be entitled to prompt rehabilitation services. The employer or carrier, at its own expense, shall provide for necessary and appropriate rehabilitation services. If rehabilitation services are not voluntarily offered, the rehabilitation

administrator, if he deems the services necessary and appropriate, may retain a rehabilitation provider at the expense of the employer or carrier.

(c) Rehabilitation services shall not exceed 37 weeks, provided, however, the rehabilitation services may be extended an additional 37 weeks if the rehabilitation administrator determines that special circumstances exist. Nothing in this subsection precludes an employer or carrier from providing rehabilitation services beyond such period on a voluntary basis. Where rehabilitation requires residence at or near a facility or institution, away from the employee's customary residence, reasonable cost of board, lodging and travel shall be paid by the employer.

(d) Temporary disability benefits paid pursuant to §§ 185 or 200 of this chapter shall include such period as may be reasonably required for training in the use of artificial members and appliances, and shall be paid throughout the rehabilitation process.

(e) The rehabilitation provider shall file a plan for approval with the rehabilitation administrator in accordance with board regulations. Within ten (10) days of the rehabilitation administrator's decision any party may seek review of the decision by requesting a hearing in accordance with § 110 of this chapter. A decision by the rehabilitation administrator is presumed valid absent a showing of clear error.

(f) Refusal by an injured employee to participate in an evaluation or a plan approved by the rehabilitation administrator shall result in a forfeiture of disability compensation for the period such refusal persists. However, if an employee commences participation in an evaluation or plan of rehabilitation within two months from the date of such refusal, and successfully completes such rehabilitation plan or evaluation by becoming employed for a period of thirty consecutive business days following the completion of the rehabilitation program, he shall receive a lump sum payment of 25% of the compensation forfeited by him. Such lump sum payment is available only once to an employee refusing rehabilitation. The rehabilitation administrator may find that an employee refuses to participate in an evaluation or vocational plan if, the employee fails to cooperate with the rehabilitation provider, or if the employee, or anyone acting on the employee's behalf, interferes with the rehabilitation process.

* Sec. 7. AS 23.30.045 (a) is amended to read:

(a) An employer is liable for and shall secure the payment to his employees of the compensation payable under §§ 41, 50, 95, 145, and 180 - 215 of this chapter. If the employer is a subcontractor, the contractor is liable for and shall secure the payment of the compensation to employees of the subcontractor unless the subcontractor secures the payment.

* Sec. 8. AS 23.30.045 (c) is amended to read:

(c) For a person eligible for vocational rehabilitation service under this chapter or AS 23.15.080 [AND] who is placed with an employer for service [WITHOUT WAGES] at the request of the board or the division [OFFICE] of vocational rehabilitation to give him on the job training, work readiness, [OR] work therapy experience [,] or work sampling, the liability set out in (a) of this section applies to the state rather than to the employer.

* Sec. 9. AS 23.30.080 is amended by adding a new subsection to read:

(d) If an employer fails to insure or provide security as required by AS 23.30.075, the board SHALL issue a stop order prohibiting the use of employee labor by the employer until the employer insures or provides security as required by AS 23.30.075. The failure of an employer to file evidence of compliance as required by AS 23.30.085 shall create a rebutable presumption that the employer has failed to insure or provide security as required by AS 23.30.075. If an employer fails to comply with a stop order issued under this section, the board shall assess a civil penalty of $1,000 per day. The employer may not obtain a public contract with the state or any of its political subdivisions for three years following the violation of the stop order.

* Sec. 10. AS 23.30.095(e) is amended to read:

(e) The employee shall, after an injury, at reasonable times during the continuance of his disability if requested by his employer or, when ordered by the board, submit himself to an examination by a physician or surgeon authorized to practice medicine under the laws of the state in which the employee may be found, furnished and paid for by the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR

EXAMINATIONS.] No fact relative to the injury or claim communicated to or otherwise learned by physician or surgeon who may have attended or examined the employee, or who may have been present at an examination is privileged, either in the hearings provided for in this chapter or an action to recover damages against an employer who is subject to the compensation provisions of this chapter. If an employee refuses to submit himself to any examination provided for in this section [HEREIN], his rights to compensation shall be suspended until the obstruction or refusal ceases, and his compensation during the period of suspension may, in the discretion of the board or the court determining an action brought for the recovery of damages under this chapter [HEREUNDER], be forfeited. The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. No autopsy may be held without notice first being given to the widow or widower or next of kin if they reside in the state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If no adequate notice is given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

* Sec. 11. AS 23.30.095 is amended by adding a new section to read:

(j) the board shall adopt and use a schedule for determining the existance and degree of permanent impairment based upon medically or scientifically demonstrable findings.

* Sec. 12. AS 23.30 is amended by adding a new section to read:

AS 23.30.097. RELEASE OF INFORMATION. Upon request the employee shall provide written authority to the employer, carrier, rehabilitation provider and rehabilitation administrator to obtain medical and rehabilitation information relative to his injury.

* Sec. 13. AS 23.30.~~105~~100(d)(2) is amended to read:

2. If the board excuses the failure on the ground that for some satisfactory reason notice could not be given; however, when the delay in giving notice is so excused, notwithstanding the provisions of AS 23.30.120, the burden of proof as to the validity of the claim shall shift to the employee;

* Sec. 14. AS 23.30.110(c) is amended to read:

(c) The board shall make the investigation which it considers necessary with [IN] respect to [OF] the claim, and upon application of an interested party shall provide an opportunity for [ORDER] a hearing on it. If a hearing on a claim is ordered, the board shall give the claimant and other interested parties at least 10 days' notice of hearing, served personally upon the claimant and other interested parties or sent by registered mail, and shall, within 30 [20] days after the hearing record closes [IS HAD], by order, reject the claim or make an award in respect to it. If a hearing is continued by the board, additional notice under this subsection is not required. [IF NO HEARING IS ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN RESPECT TO IT.]

* Sec. 15. AS 23.30.120(3) is amended to read:

(3) The injury was not proximately caused by the employee being under the influence of an intoxicating liquor or drugs [OCCASIONED SOLELY BY THE INTOXICATION OF THE INJURED EMPLOYEE];

* Sec. 16. AS 23.30 is amended by adding a new section to read:

Sec. 23.30.122. CREDIBILITY OF WITNESSES. The board has the sole power to determine the credibility of a witness. A finding by the board concerning the weight to be accorded any witnesses testimony, including medical testimony and reports, is conclusive even though the evidence is conflicting or susceptible to contrary conclusions. The findings of the board shall be subject to the same standard of review as a jury's finding in a civil action.

* Sec. 17. AS 23.30.155(j) is amended to read:

(j) If an employer has made advance payments or overpayments of compensation, he is entitled to be reimbursed, after approval by the board, out of any unpaid installment or installments of compensation due.

* Sec. 18. AS 23.30.155 is amended by adding new subsection to read:

(n) If the board determines that it is in the interest of an injured employee, and the parties agree, the liability of the employer for all or part of compensation payable under AS 23.30.190 (a)(1)-(11) may be discharged by the payment of a lump sum.

* Sec. 19. AS 23.30.175(a) is amended to read:

(a) The weekly rate of compensation for disability or death for a recipient residing in Alaska may not exceed the percentage of the Alaska average weekly wage in effect on the date of injury as determined by the table contained in this subsection and initially may not be less than $110 [65] a week. However, if the board determines that the employee's spendable [AVERAGE] weekly wages are less than $110 [65] a week as computed under § 220 of this chapter, it shall issue an order decreasing the weekly rate of compensation to a rate equal to the employee's spendable [AVERAGE] weekly wages, and payments made earlier in excess of the decreased rate shall be deducted from the unpaid compensation in the manner the board determines. In any case, the employer shall pay timely compensation.

On	The Rate Shall Be
July 1, 1975	80% of the Alaska Average Weekly Wage
January 1, 1976	100% of the Alaska Average Weekly Wage
January 1, 1977	133.3% of the Alaska Average Weekly Wage
January 1, 1979	166.6% of the Alaska Average Weekly Wage
January 1, 1981	200% of the Alaska Average Weekly Wage

* Sec. 20. AS 23.30.175(b) is repealed and reenacted to read:

(b) After June 30 and before December 1 of each year, the commissioner shall adopt and publish the average weekly wage for each jurisdiction for the preceding calendar year as published by the United States Secretary of Labor for the purposes of unemployment insurance. In determining the rate of compensation the commissioner shall use the average weekly wage figure for each jurisdiction, including Alaska, for which the Secretary of Labor computes an average weekly wage. These figures are the applicable average weekly wages for those jurisdictions for the following calendar year.

* Sec. 21. AS 23.30.175(c) is repealed and reenacted to read:

(c) The following rules apply to recipients who do not reside in Alaska:

(1) The weekly rate of compensation shall be calculated by multiplying the recipient's weekly compensation rate calculated in accordance with § 180, 185,190, 200 or 215 of this chapter times the ratio of the average weekly wage of the jurisdiction in which the recipient resides to the average weekly wage of Alaska. The rate is based on the average weekly wages in effect when the recipient leaves Alaska and shall be adjusted annually upon publication of the average weekly wages for all jurisdictions.

(2) The calculation required by this subsection does not apply if the recipient is absent from Alaska for medical or rehabilitation services not reasonably available in Alaska.

(3) If the spendable weekly wage of the recipient and the resulting compensation rate is determined under AS 23.30.220(2) the calculation required by this subsection applies to only those gross earnings earned in Alaska.

(4) Application of this subsection may not result in a reduction of the weekly compensation rate to less than $110 a week except as provided in (a) of this section.

* Sec. 22. AS 23.30.175(d) is repealed and reenacted to read:

(d) In a jurisdiction for which no average weekly wage is computed by the United States Secretary of Labor for the purposes of unemployment insurance, the average weekly wage shall be as determined by the commissioner.

* Sec. 23. AS 23.30.180 is amended to read:

Sec. 23.30.180. PERMANENT TOTAL DISABILITY. In case of total disability adjudged to be permanent 80 [66-2/3] per cent of the injured employee's spendable [AVERAGE] weekly wages shall be paid to the employee during the continuance of the total disability. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two of them, in the absence of conclusive proof to the contrary, constitutes permanent total disability. In all other cases permanent total disability is determined in accordance with the facts.

* Sec. 24. AS 23.30.185 is amended to read:

Sec. 23.30.185. COMPENSATION FOR TEMPORARY TOTAL DISABILITY. In case of disability total in character but temporary in quality 80 [66-2/3] per cent of the injured employee's spendable [AVERAGE] weekly wages shall be paid to the employee during the continuance of the disability.

* Sec. 25. AS 23.30.190 is amended to read:

Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL DISABILITY. (a) In case of disability partial in character but permanent in quality the compensation is 80 [66-2/3] per cent of the injured employee's spendable [AVERAGE] weekly wages in addition to compensation for temporary total disability or temporary partial disability paid in accordance with §§ 185 or 200 of this chapter, respectively, and shall be paid to the employee as follows:

(1) arm lost, 280 weeks compensation, not to exceed $59,000 [$43,680];

(2) leg lost, 248 weeks compensation, not to exceed $54,400 [$40,320];

(3) hand lost, 212 weeks compensation, not to exceed 45,400 [$33,600];

(4) foot lost, 173 weeks compensation, not to exceed 39,700 [$28,700];

(5) eye lost, 140 weeks compensation, not to exceed $30,200 [$22,400];

(6) thumb lost, 51 weeks compensation, not to exceed $14,000 [$10,400];

(7) first finger lost, 28 weeks compensation, not to exceed $8,700 [$6,440];

(8) great toe lost, 26 weeks compensation, not to exceed $7,200 [$5,320];

(9) second finger lost, 18 weeks compensation, not to exceed $5,700 [$4,200]; third finger lost, 18 weeks compensation, not to exceed $4,700 [$3,500];

(10) toe other than great toe lost, 8 weeks compensation, not to exceed $3,000 [$2,240];

(11) fourth finger lost, 7 weeks compensation, not to exceed $2,800 ~~$2,000~~ [$2,100];

(12) loss of hearing of one ear, 52 weeks compensation, not exceeding $9,800 [$7,280]: loss of hearing of both ears, 200 weeks compensation, not to exceed $37,800 [$28,000] No benefit is payable for loss of hearing above 3,000 cycles per second;

(13) compensation for loss of more than one phalange of a digit shall be the same as for loss of the entire digit; compensation for loss of the first phalange is one-half of the compensation for loss of the entire digit;

(14) amputation between the elbow and the wrist is considered equivalent to the loss of an arm, and amputation between the knee and ankle is considered equivalent to the loss of a leg;

(15) compensation for loss of binocular vision or for 80 per cent or more of the vision of an eye is the same as for loss of the eye;

(16) compensation for loss of two or more digits, or one or more phalanges of two or more digits of a hand or foot may be proportioned to the resulting loss of use of the injured hand or foot, but may not exceed the compensation for loss of a hand or foot;

(17) compensation for permanent total loss of use of a member is the same as for loss of the member;

(18) compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member;

(19) in addition to other allowable compensation, the board shall award proper and equitable compensation up to $10,000 for

(A) serious disfigurement of face, head and, when such disfigurement is likely to handicap the employee in securing or holding employment, for serious disfigurement of neck or limbs normally exposed, or

(B) partial or total loss of or loss of use of a part or function of the body not otherwise provided for under this section;

(20) in all other cases in this class of disability the compensation is 80 [66-2/3] per cent of the difference between his spendable [AVERAGE] weekly wages and his wage-earning capacity after the injury in the same employment or otherwise, payable during the continuance of the partial disability, but subject to modification [RECONSIDERATION OF THE DEGREE OF THE IMPAIRMENT] by the board on its own motion or upon application of a party in interest; Whenever the board determines that it is in the interest of justice, the liability of the employer for compensation, or any part if it as determined by the board, may be discharged by the payment of a lump sum;

(21) in a case in which there is a loss of, or loss of use of more than one member or parts of more than one member set out in (1) - (18) of this section, not amounting to permanent total disability, the award of compensation is for the loss of, or loss of use of, each member or part of the member, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, (16) of this section applies.

(b) Total compensation paid under (a)(20) of this section may not exceed

$75,000 [60,000].

* Sec. 26. AS 23.30.200 is amended to read:

Sec. 23.30.200. TEMPORARY PARTIAL DISABILITY. In case of temporary partial disability resulting in decrease of earning capacity the compensation shall be 80 [66-2/3] per cent of the difference between the injured employee's spendable [AVERAGE] weekly wages before the injury and his wage earning capacity after the injury in the same or another employment, to be paid during the continuance of the disability, but not to be paid for more than five years.

* Sec. 27. AS 23.30.210 is amended to read:

Sec. 23.30.210. DETERMINATION OF WAGE-EARNING CAPACITY. (a) In a case of partial disability under § 190(20) or 200 of this chapter the wage-earning capacity of an inured employee is determined by his actual spendable weekly wage [EARNINGS] if the actual spendable weekly wage [EARNINGS] fairly and reasonably represents his wage-earning capacity. If the employee has no actual spendable weekly wage [EARNINGS] or his actual spendable weekly wage [EARNINGS] does not fairly and reasonably represent his wage-earning capacity, the board may, in the interest of justice, fix the wage-earning capacity which is reasonable, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition, including the effect of disability as it may naturally extend into the future.

* Sec. 28. AS 23.30.215(a) is amended to read:

(a) If the injury causes death, the compensation is known as a death benefit and is payable in the following amounts to and for the benefit of the following persons:

(1) reasonable and necessary funeral expenses not exceeding $2,500 [$1,000];

(2) if there is a widow or widower or a child or children of the deceased, the following percentages of the spendable [AVERAGE] weekly wages of the deceased:

(A) 80 [66-2/3] per cent for the widow or widower with no children;

(B) 40 [33-1/3] per cent for the widow or widower with one child and 40 [33-1/3] per cent for the child;

(C) 25 [20] per cent for the widow or widower with two or more children and 55 [46-2/3] per cent divided equally among the children'

(D) [deleted]

(E) 80 [66-2/3] per cent for an only child when there is no widow or widower;

(F) [deleted]

(G) 80 [66-23/] per cent, divided equally, if there are two more more children and no widow or widower:

(3) if the widow or widower remarries, she or he is entitled to be paid in one sum an amount equal to the compensation to which the widow or widower would otherwise be entitled in the two years commencing on the date of remarriage as full and final settlement of all sums due the widow or widower;

(4) if there is no widow or widower or child or children, then for the support of father, mother, grandchildren, brothers, and sisters, if dependent upon the deceased at the time of injury, 40 [35] per cent of the spendable [AVERAGE] weekly wage of the deceased to such beneficiaries, share and share alike, not to exceed $20,000 in the aggregate.

* Sec. 29. AS 23.30.215(b) is amended to read:

(b) In computing death benefits, the spendable [AVERAGE] weekly wage of the deceased shall be computed under § 220 of this chapter and shall be paid in accordance with § 155 of this chapter and subject to the weekly maximum limitation in the aggregate as provided in § 175 of this chapter, but the total weekly compensation may not be less than $75 [45] for a widow or widower nor less than $25 [15] weekly to a child or $50 [30] for children.

* Sec. 30. AS 23.30.220 is repealed and reenacted to read:

Sec. 23.30.220 DETERMINATION OF SPENDABLE WEEKLY WAGE. Except as otherwise provided in this chapter, the spendable weekly wage of the injured employee at the time of the injury is the basis for computing compensation, and shall be the employee's gross weekly earnings minus payroll tax deductions. The gross weekly earnings shall be calculated as follows:

(1) if at the time of the injury the employee has been in the gainful employ of the employer for the full reporting quarter immediately preceding the time of injury, the gross weekly earnings shall be computed by dividing by thirteen the gross earnings said employee earned in the employ of the employer in that reporting quarter.

(2) if at the time of the injury the employee has not been in the employ of the employer for the full reporting quarter immediately preceding the time of injury, the gross weekly earnings shall be computed by dividing 100 into the gross earnings of the employee in the two calendar years immediately preceding the injury.

(3) if the board determines that the gross weekly earnings at the time of the injury cannot be fairly calculated under (1) or (2) of this section, or cannot otherwise be ascertained without undue hardship to the employee, the gross weekly earnings for calculating compensation shall be the usual gross earnings for similar service rendered by paid employees under similar circumstances as determined by the board;

(4) if an employee is a minor or an apprentice, or a trainee, as determined by the board, when injured, and under normal conditions his wages would increase during the period of disability, this fact may be considered by the board in computing his gross weekly earnings;

(5) if the employee is injured while performing his duties as a volunteer ambulance attendant, policeman or fireman, the gross weekly earnings calculating compensation shall be the minimum gross weekly earnings paid a full-time ambulance attendant, policeman or fireman employed, at a reasonable figure previously set by the subdivision to make this determination and in no case may the gross weekly earnings for calculating compensation be less than the minimum wage computed on the basis of 40 hours work per week.

* Sec. 31. AS 23.30 is amended by adding a new section to read:

Sec. 23.30.227. OTHER BENEFITS. No compensation shall be payable to an employee under §§ 180 or 185 of this chapter for any week in which the employee receives unemployment benefits (AS 23.20).

* Sec. 32. AS 23.30.235 is repealed and reenacted to read:

Sec. 23.30.235 CASES IN WHICH NO COMPENSATION IS PAYABLE. No compensation under this chapter shall be allowed for an injury:

(1) proximately caused by the employee's willful intent to injure himself or to willfully injure another;

(2) proximately caused by the employee being under the influence of an intoxicating liquor or drugs unless such drugs are being taken in quantities prescribed by employee's physician.

* Sec. 33. AS 23.30.250 is amended to read:

Sec. 23.30.250. PENALTY FOR MISREPRESENTATION. A person who willfully makes a false or misleading statement or representation for th purpose of obtaining a benefit or payment under this chapter is guilty of <u>theft as defined in AS 11.46.100(3) and is punishable as provided in AS 11.46.120 - 11.46.150</u> [A MISDEMEANOR, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $1,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH].

* Sec. 34. The board shall publish Sections 32 and 33 of this Act in a booklet defining the employee's rights and obligations under the Alaska Workers Compensation Act. The booklet shall be mailed to an injured worker upon notice of an injury.

* Sec. 35. AS 23.30.265 is amended by adding new paragraphs to read:

(29) "arising out of and in the course of employment" includes employer required or supplied travel to and from a remote job site; activities performed at the direction or under the control of the employer; and employer sanctioned activities at employer provided facilities; but excludes activities of a personal nature away from employer provided facilities.

(30) "under the influence of an intoxicating liquor or drugs" means not only all well-known and easily recognized conditions and degrees of intoxication, but any abnormal mental or physical condition which is the result of indulging intoxicating liquors or drugs, and which, to an appreciable degree, deprives one of that clearness of intellect and control of himself which he would otherwise possess.

(31) "drugs" means a controlled substance or cannabis as further defined in AS. 11.81.900.

(32) "gross earnings" means recurring payments by employer to the employee for employment before any authorized or lawfully required deduction or withholding of funds by the employer, excluding irregular bonuses, reimbursement of expenses, expense allowances, and any benefit or payment to the employee which is not taxable to the employee during the pay period. The value of room and board to the employee may be considered in determining gross earnings for those employees with gross weekly earnings which are less than the Alaska average weekly wage at the time of injury.

(33) "payroll taxes" means the following:

(a) An amount equal to the amount which would be withheld pursuant to withholding tables in effect on July 1 preceding the injury under the Internal Revenue Code of 1954, and regulations pursuant thereto, as amended, as though the employee had elected to claim the maximum number of dependants for actual dependency, blindness and old age to which the employee is entitled on the date on which he was injured; and,

(b) An amount equal to the amount required on July 1 preceding the injury by the Social Security Act of 1935 as amended to be deducted or withheld from the amount of earnings of the employee at the time of the injury as if the earnings were earned at the beginning of the calendar year in which he was injured; and,

(c) And any other legislative mandated deductions including but not limited to ESC and FUTA;

(d) The Commissioner shall annually prepare formulas which shall be used to calculate an employee's spendable weekly wage on the basis of his gross weekly earnings, number of dependants, marital status and payroll tax deducations.

(34) "reporting quarter" means one of the 3 month periods (January through March, April through June, July through September, October through December) used to report employee wages to the Internal Revenue Service.

(35) "Suitable Gainful Employment" means employment which is reasonably attainable in light of the individuals age, education, previous occupation, and injury, and which offers an opportunity to restore the individual as soon as practical and as nearly as possible to is gross earnings as determined at the time of injury.

* Sec. 36. AS 23.30.095(g), 23.30.125(b), 23.30.175(e) and (f), AS 23.30.191 and AS 23.30.265(20) are repealed.

* Sec. 37. AS 39.25.120 is amended by adding a new paragraph to read:

(20) the rehabilitation administrator of the Workers' Compensation Board.

* Sec. 38. This act takes effect July 1, 1982.

See Jacobe on B. Dressler's concern of 55¢ payment date. separate amendment.

Make sure drafter copy has typo corrections. ✓

Bill Beer
3667
3868

LABOR/MANAGEMENT WORK DRAFT

FEBRUARY 13, 1982

Original Sponsor: Rules/Legislative Council

IN THE HOUSE accept in concept.

BY THE LABOR AND COMMERCE COMMITTEE

fiscal note

CS FOR HOUSE BILL NO. 159 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

$320,0000
4 - Staff
1 Aud - 6 Trips
Travel monies
reprint booklet
Computer update

A BILL

For an Act entitled: "An Act relating to workers' compensation; and providing for an effective date."

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

* Should be in Title 21 - Insurance Code

Estimate of Savings

* Section 1. AS 23.30.025 is amended by adding a new subsection to read:

this or substance is already being done.

present in 1/25/82

(c) An insurer may issue a policy of insurance insuring the payment of benefits under this chapter which provides for a deductible amount to be paid by the employer. A policy with a deductible provision must be approved by the director of insurance and must provide that the deductible amount be paid by the insurer to the employee on behalf of the employer. After payment of the deductible by the insurer, the insurer may recover the deductible amount from the employer. The failure of an employer to reimburse an insurer for the deductible amount does not relieve the insurer from any other obligation it may have under the policy of insurance. An insurer is not required to apply for a deviation under AS 21.39.070 in order to issue a policy under this subsection. This subsection does not apply to a policy of excess insurance purchased by a self-insurer.

Recovery unsuccessful if ...

maybe 659

* Sec. 2. AS 23.30.040(e) is repealed and reenacted to read:

(e) The board may authorize payment from the second injury fund of:

OK in addition to T.T.D.

(1) up to $200 per month for maintenance to an employee being rehabilitated under § 41 of this chapter who suffers an extreme financial hardship;

(2) rehabilitation expenses exclusive of costs for provider services and testing.

1) What type of deductibles - how to be enforced

Leave for special Letter of Intent

* Sec. 3. LEGISLATIVE INTENT. It is the intent of the legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to his gross earnings at the time of the injury. The legislature recognizes five rehabilitation goals in a workers' compensation program:

(1) Early identification of injured workers who will eventually need rehabilitation;

(2) Use of competent rehabilitation providers;

(3) Opportunities for return to direct employment;

(4) Maintaining an atmosphere conducive to rehabilitation;

(5) Providing incentives and removing disincentives to rehabilitation.

The Department of Labor shall adopt regulations in accordnce with AS 23.30 005 to accomplish these goals. list responsibilities — Reg w/s Leg

Zee Jackson report

* Sec. 4. The board shall select and employ a rehabilitation administrator and may authorize the rehabilitation administrator to select and employ rehabilitation monitors.

5% of one fund to Rehab —

Zee Jackson report

Sec. 5. The rehabilitation administrator is a partially exempt service under AS 39.25.120. The monthly salary of the rehabilitation administrator is equal to Step A, Range 22 of the salary schedule in AS 39.27.011(a) for Anchorage. by region of residency

Zee Jackson report

* Sec. 6 AS 23.30 is amended by adding a new section to read:

Sec. 23.30.041. REHABILITATION OF INJURED WORKERS. (a) The rehabilitation administrator shall implement the provisions of this section. The rehabilitation administrator shall continuously study the issue of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all qualified rehabilitation facilities, agencies, and providers, both public and private.

(b) When an employee suffers an injury covered by this chapter which precludes his return to suitable gainful employment, he shall be entitled to prompt rehabilitation services. The employer or carrier, at its own expense, shall provide for necessary and appropriate rehabilitation services. If rehabilitation services are not voluntarily offered, the rehabilitation

administrator, if he deems the services necessary and appropriate, may retain a rehabilitation provider at the expense of the employer or carrier.

(c) Rehabilitation services shall not exceed 37 weeks, provided, however, the rehabilitation services may be extended an additional 37 weeks if the rehabilitation administrator determines that special circumstances exist. Nothing in this subsection precludes an employer or carrier from providing rehabilitation services beyond such period on a voluntary basis. Where rehabilitation requires residence at or near a facility or institution, away from the employee's customary residence, reasonable cost of board, lodging and travel shall be paid by the employer.

(d) Temporary disability benefits paid pursuant to §§ 185 or 200 of this chapter shall include such period as may be reasonably required for training in the use of artificial members and appliances, and shall be paid throughout the rehabilitation process.

(e) The rehabilitation provider shall file a plan for approval with the rehabilitation administrator in accordance with board regulations. Within ten (10) days of the rehabilitation administrator's decision any party may seek review of the decision by requesting a hearing in accordance with § 110 of this chapter. A decision by the rehabilitation administrator is presumed valid absent a showing of clear error.

(f) Refusal by an injured employee to participate in an evaluation or a plan approved by the rehabilitation administrator shall result in a forfeiture of disability compensation for the period such refusal persists. However, if an employee commences participation in an evaluation or plan of rehabilitation within two months from the date of such refusal, and successfully completes such rehabilitation plan or evaluation by becoming employed for a period of thirty consecutive business days following the completion of the rehabilitation program, he shall receive a lump sum payment of 25% of the compensation forfeited by him. Such lump sum payment is available only once to an employee refusing rehabilitation. The rehabilitation administrator may find that an employee refuses to participate in an evaluation or vocational plan if, the employee fails to cooperate with the rehabilitation provider, or if the employee, or anyone acting on the employee's behalf, interferes with the rehabilitation process.

* Sec. 7. AS 23.30.045 (a) is amended to read:

(a) An employer is liable for and shall secure the payment to his employees of the compensation payable under §§ 41, 50, 95, 145, and 180 - 215 of this chapter. If the employer is a subcontractor, the contractor is liable for and shall secure the payment of the compensation to employees of the subcontractor unless the subcontractor secures the payment.

* Sec. 8. AS 23.30.045 (c) is amended to read:

prov. 159

(c) For a person eligible for vocational rehabilitation service under this chapter or AS 23.15.080 [AND] who is placed with an employer for service [WITHOUT WAGES] at the request of the board or the division [OFFICE] of vocational rehabilitation to give him on the job training, work readiness, [OR] work therapy experience [,] or work sampling, the liability set out in (a) of this section applies to the state rather than to the employer.

* Sec. 9. AS 23.30.080 is amended by adding a new subsection to read:

prov. 159

(d) If an employer fails to insure or provide security as required by AS 23.30.075, the board [may] shall issue a stop order prohibiting the use of employee labor by the employer until the employer insures or provides security as required by AS 23.30.075. The failure of an employer to file evidence of compliance as required by AS 23.30.085 shall create a rebutable presumption that the employer has failed to insure or provide security as required by AS 23.30.075. If an employer fails to comply with a stop order issued under this section, the board shall assess a civil penalty of $1,000 per day. The employer may not obtain a public contract with the state or any of its political subdivisions for three years following the violation of the stop order.

x insert prov. Sec. 7 of 159

* Sec. 10. AS 23.30.095(e) is amended to read:

prov. Sec. 8

(e) The employee shall, after an injury, at reasonable times during the continuance of his disability if requested by his employer or, when ordered by the board, submit himself to an examination by a physician or surgeon authorized to practice medicine under the laws of the state in which the employee may be found, furnished and paid for by the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR

EXAMINATIONS.] No fact relative to the injury or claim communicated to or otherwise learned by physician or surgeon who may have attended or examined the employee, or who may have been present at an examination is privileged, either in the hearings provided for in this chapter or an action to recover damages against an employer who is subject to the compensation provisions of this chapter. If an employee refuses to submit himself to any examination provided for in this section [HEREIN], his rights to compensation shall be suspended until the obstruction or refusal ceases, and his compensation during the period of suspension may, in the discretion of the board or the court determining an action brought for the recovery of damages under this chapter [HEREUNDER], be forfeited. The board in any case of death may require an autopsy at the expense of the party requesting the autopsy. No autopsy may be held without notice first being given to the widow or widower or next of kin if they reside in the state or their whereabouts can be reasonably ascertained, of the time and place of the autopsy and reasonable time and opportunity given the widow or widower or next of kin to have a representative present to witness the autopsy. If no adequate notice is given, the findings from the autopsy may be suppressed on motion made to the board or to the superior court, as the case may be.

new — maybe needs staff language

* Sec. 11. AS 23.30.095 is amended by adding a new section to read:

(j) the board shall adopt and use a schedule for determining the existance and degree of permanent impairment based upon medically or scientifically demonstrable findings.

consistent with Am. Med. Assn. Guides

new sec

* Sec. 12. AS 23.30 is amended by adding a new section to read:

AS 23.30.097. RELEASE OF INFORMATION. Upon request the employee shall provide written authority to the employer, carrier, rehabilitation provider and rehabilitation administrator to obtain medical and rehabilitation information relative to his injury.

? → clarify to claimant employers

* Sec. 13. AS 23.30.~~105~~100(d)(2) is amended to read:

2. If the board excuses the failure on the ground that for some satisfactory reason notice could not be given; however, when the delay in giving notice is so excused, notwithstanding the provisions of AS 23.30.120, the burden of proof as to the validity of the claim shall shift to the employee;

Be sure that there is proof that employers shows he has received claim of injury from employee.

* Sec. 14. AS 23.30.110(c) is amended to read:

from Dorsey bill Sec 10 of present draft

(c) The board shall make the investigation which it considers necessary with [IN] respect to [OF] the claim, and upon application of an interested party shall provide an opportunity for [ORDER] a hearing on it. If a hearing on a claim is ordered, the board shall give the claimant and other interested parties at least 10 days' notice of hearing, served personally upon the claimant and other interested parties or sent by registered mail, and shall, within 30 [20] days after the hearing record closes [IS HAD], by order, reject the claim or make an award in respect to it. ~~If~~ if a hearing is continued by the board, additional notice under this subsection is not required. [IF NO HEARING IS ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN RESPECT TO IT.]

* Sec. 15. AS 23.30.120(3) is amended to read:

AS 23.30.225

(3) The injury was not proximately caused by the employee being under the influence of an intoxicating liquor or drugs [OCCASIONED SOLELY BY THE INTOXICATION OF THE INJURED EMPLOYEE];

* Sec. 16. AS 23.30 is amended by adding a new section to read:

Sec. 23.30.122. CREDIBILITY OF WITNESSES. The board has the sole power to determine the credibility of a witness. A finding by the board concerning the weight to be accorded any witnesses testimony, including medical testimony and reports, is conclusive even though the evidence is conflicting or susceptible to contrary conclusions. The findings of the board shall be subject to the same standard of review as a jury's finding in a civil action.

Dorsheff prev. Sec. 11

* Sec. 17. AS 23.30.155(j) is amended to read:

(j) If an employer has made advance payments or overpayments of compensation, he is entitled to be reimbursed, after approval by the board, out of any unpaid installment or installments of compensation due. 2? maybe consider electing — off set as subsequent payments

* Sec. 18. AS 23.30.155 is amended by adding new subsection to read:

Dorr's Bill. (n) If the board determines that it is in the interest of an injured employee, and the parties agree, the liability of the employer for all or part of compensation payable under AS 23.30.190 (a)(1)-(19) may be discharged by the payment of a lump sum.

Jerke? ——→

Consider for HB659

* Sec. 19. AS 23.30.175(a) is amended to read:

(a) The weekly rate of compensation for disability or death for a recipient residing in Alaska may not exceed the percentage of the Alaska average weekly wage in effect on the date of injury as determined by the table contained in this subsection and initially may not be less than $110 [65] a week. However, if the board determines that the employee's spendable [AVERAGE] weekly wages are less than $110 [65] a week as computed under § 220 of this chapter, it shall issue an order decreasing the weekly rate of compensation to a rate equal to the employee's spendable [AVERAGE] weekly wages, and payments made earlier in excess of the decreased rate shall be deducted from the unpaid compensation in the manner the board determines. In any case, the employer shall pay timely compensation.

On	The Rate Shall Be
July 1, 1975	80% of the Alaska Average Weekly Wage
January 1, 1976	100% of the Alaska Average Weekly Wage
January 1, 1977	133.3% of the Alaska Average Weekly Wage
January 1, 1979	166.6% of the Alaska Average Weekly Wage
January 1, 1981	200% of the Alaska Average Weekly Wage

Dav's Sec. 14, 15, 18 of 159

* Sec. 20. AS 23.30.175(b) is repealed and reenacted to read:

(b) After June 30 and before December 1 of each year, the commissioner shall adopt and publish the average weekly wage for each jurisdiction for the preceding calendar year as published by the United States Secretary of Labor for the purposes of unemployment insurance. In determining the rate of compensation the commissioner shall use the average weekly wage figure for each jurisdiction, including Alaska, for which the Secretary of Labor computes an average weekly wage. These figures are the applicable average weekly wages for those jurisdictions for the following calendar year.

Sec. 14 of 159

* Sec. 21. AS 23.30.175(c) is repealed and reenacted to read:

Dav's (c) The following rules apply to recipients who do not reside in Alaska:

(1) The weekly rate of compensation shall be calculated by multiplying the recipient's weekly compensation rate calculated in accordance with § 180, 185,190, 200 or 215 of this chapter times the ratio of the average weekly wage of the jurisdiction in which the recipient resides to the average weekly wage of Alaska. The ratio rate is based on the average weekly wages in effect when the recipient leaves Alaska and shall be adjusted annually upon publication of the average weekly wages for all jurisdictions.

(2) The calculation required by this subsection does not apply if the recipient is absent from Alaska for medical or rehabilitation services not reasonably available in Alaska.

(3) If the spendable weekly wage of the recipient and the resulting compensation rate is determined under AS 23.30.220(2) the calculation required by this subsection applies to only those gross earnings earned in Alaska.

(4) Application of this subsection may not result in a reduction of the weekly compensation rate to less than $110 a week except as provided in (a) of this section.

* Sec. 22. AS 23.30.175(d) is repealed and reenacted to read:

Dav's (d) In a jurisdiction for which no average weekly wage is computed by the United States Secretary of Labor for the purposes of unemployment insurance, the average weekly wage shall be as determined by the commissioner.

* Sec. 23. AS 23.30.180 is amended to read:

Sec. 23.30.180. PERMANENT TOTAL DISABILITY. In case of total disability adjudged to be permanent 80 [66-2/3] per cent of the injured employee's spendable [AVERAGE] weekly wages shall be paid to the employee during the continuance of the total disability. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two of them, in the absence of conclusive proof to the contrary, constitutes permanent total disability. In all other cases permanent total disability is determined in accordance with the facts.

* Sec. 24. AS 23.30.185 is amended to read:

Sec. 23.30.185. COMPENSATION FOR TEMPORARY TOTAL DISABILITY. In case of disability total in character but temporary in quality 80 [66-2/3] per cent of the injured employee's spendable [AVERAGE] weekly wages shall be paid to the employee during the continuance of the disability.

* Sec. 25. AS 23.30.190 is amended to read:

Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL DISABILITY. (a) In case of disability partial in character but permanent in quality the compensation is 80 [66-2/3] per cent of the injured employee's spendable [AVERAGE] weekly wages in addition to compensation for temporary total disability or temporary partial disability paid in accordance with §§ 185 or 200 of this chapter, respectively, and shall be paid to the employee as follows: 35% increase in ceilings

(1) arm lost, 280 weeks compensation, not to exceed $59,000 [$43,680];

(2) leg lost, 248 weeks compensation, not to exceed $54,400 [$40,320];

(3) hand lost, 212 weeks compensation, not to exceed 45,400 [$33,600];

(4) foot lost, 173 weeks compensation, not to exceed 39,700 [$28,700];

(5) eye lost, 140 weeks compensation, not to exceed $30,200 [$22,400];

(6) thumb lost, 51 weeks compensation, not to exceed $14,000 [$10,400];

(7) first finger lost, 28 weeks compensation, not to exceed $8,700 [$6,440];

(8) great toe lost, 26 weeks compensation, not to exceed $7,200 [$5,320];

(9) second finger lost, 18 weeks compensation, not to exceed $5,700 [$4,200]; third finger lost, 18 weeks compensation, not to exceed $4,700 [$3,500];

(10) toe other than great toe lost, 8 weeks compensation, not to exceed $3,000 [$2,240];

(11) fourth finger lost, 7 weeks compensation, not to exceed ~~$2,000~~ 2,800 [$2,100];

(12) loss of hearing of one ear, 52 weeks compensation, not exceeding $9,800 [$7,280]: loss of hearing of both ears, 200 weeks compensation, not to exceed $37,800 [$28,000] No benefit is payable for loss of hearing above 3,000 cycles per second;

(13) compensation for loss of more than one phalange of a digit shall be the same as for loss of the entire digit; compensation for loss of the first phalange is one-half of the compensation for loss of the entire digit;

(14) amputation between the elbow and the wrist is considered equivalent to the loss of an arm, and amputation between the knee and ankle is considered equivalent to the loss of a leg;

(15) compensation for loss of binocular vision or for 80 per cent or more of the vision of an eye is the same as for loss of the eye;

(16) compensation for loss of two or more digits, or one or more phalanges of two or more digits of a hand or foot may be proportioned to the resulting loss of use of the injured hand or foot, but may not exceed the compensation for loss of a hand or foot;

(17) compensation for permanent total loss of use of a member is the same as for loss of the member;

(18) compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member;

(19) in addition to other allowable compensation, the board shall award proper and equitable compensation up to $10,000 for

(A) serious disfigurement of face, head and, when such disfigurement is likely to handicap the employee in securing or holding employment, for serious disfigurement of neck or limbs normally exposed, or

(B) partial or total loss of or loss of use of a part or function of the body not otherwise provided for under this section;

(20) in all other cases in this class of disability the compensation is 80 [66-2/3] per cent of the difference between his spendable [AVERAGE] weekly wages and his wage-earning capacity after the injury in the same employment or otherwise, payable during the continuance of the partial disability, but subject to modification [RECONSIDERATION OF THE DEGREE OF THE IMPAIRMENT] by the board on its own motion or upon application of a party in interest; Whenever the board determines that it is in the interest of justice, the liability of the employer for compensation, or any part if it as determined by the board, may be discharged by the payment of a lump sum;

(21) in a case in which there is a loss of, or loss of use of more than one member or parts of more than one member set out in (1) - (18) of this section, not amounting to permanent total disability, the award of compensation is for the loss of, or loss of use of, each member or part of the member, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, (16) of this section applies.

(b) Total compensation paid under (a)(20) of this section may not exceed

$75,000 [60,000].

* Sec. 26. AS 23.30.200 is amended to read:

Sec. 23.30.200. TEMPORARY PARTIAL DISABILITY. In case of temporary partial disability resulting in decrease of earning capacity the compensation shall be 80 [66-2/3] per cent of the difference between the injured employee's spendable [AVERAGE] weekly wages before the injury and his wage earning capacity after the injury in the same or another employment, to be paid during the continuance of the disability, but not to be paid for more than five years.

* Sec. 27. AS 23.30.210 is amended to read:

Sec. 23.30.210. DETERMINATION OF WAGE-EARNING CAPACITY. (a) In a case of partial disability under § 190(20) or 200 of this chapter the wage-earning capacity of an inured employee is determined by his actual spendable weekly wage [EARNINGS] if the actual spendable weekly wage [EARNINGS] fairly and reasonably represents his wage-earning capacity. If the employee has no actual spendable weekly wage [EARNINGS] or his actual spendable weekly wage [EARNINGS] does not fairly and reasonably represent his wage-earning capacity, the board may, in the interest of justice, fix the wage-earning capacity which is reasonable, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition, including the effect of disability as it may naturally extend into the future.

* Sec. 28. AS 23.30.215(a) is amended to read:

(a) If the injury causes death, the compensation is known as a death benefit and is payable in the following amounts to and for the benefit of the following persons: for 19 of 159

(1) reasonable and necessary funeral expenses not exceeding $2,500 [$1,000];

(2) if there is a widow or widower or a child or children of the deceased, the following percentages of the spendable [AVERAGE] weekly wages of the deceased:

(A) 80 [66-2/3] per cent for the widow or widower with no children;

(B) 40 [33-1/3] per cent for the widow or widower with one child and 40 [33-1/3] per cent for the child;

(C) 25 [20] per cent for the widow or widower with two or more children and 55 [46-2/3] per cent divided equally among the children'

(D) [deleted] ~~Sec. 155~~ Sec- deleted in 159

(E) 80 [66-2/3] per cent for an only child when there is no widow or widower;

(F) [deleted] ~~$~~ Sec- deleted

(G) 80 [66-23/] per cent, divided equally, if there are two ~~more~~ or more children and no widow or widower;

(3) if the widow or widower remarries, she or he is entitled to be paid in one sum an amount equal to the compensation to which the widow or widower would otherwise be entitled in the two years commencing on the date of remarriage as full and final settlement of all sums due the widow or widower;

(4) if there is no widow or widower or child or children, then for the support of father, mother, grandchildren, brothers, and sisters, if dependent upon the deceased at the time of injury, 40 [35] per cent of the spendable [AVERAGE] weekly wage of the deceased to such beneficiaries, share and share alike, not to exceed $20,000 in the aggregate.

* Sec. 29. AS 23.30.215(b) is amended to read:

(b) In computing death benefits, the spendable [AVERAGE] weekly wage of the deceased shall be computed under § 220 of this chapter and shall be paid in accordance with § 155 of this chapter and subject to the weekly maximum limitation in the aggregate as provided in § 175 of this chapter, but the total weekly compensation may not be less than $75 [45] for a widow or widower nor less than $25 [15] weekly to a child or $50 [30] for children.

* Sec. 30. AS 23.30.220 is repealed and reenacted to read:

Sec. 23.30.220 DETERMINATION OF SPENDABLE WEEKLY WAGE. Except as otherwise provided in this chapter, the spendable weekly wage of the injured employee at the time of the injury is the basis for computing compensation, and shall be the employee's gross weekly earnings minus payroll tax deductions. The gross weekly earnings shall be calculated as follows:

(1) if at the time of the injury the employee has been in the gainful employ of the employer for the full reporting quarter immediately preceding the time of injury, the gross weekly earnings shall be computed by dividing by thirteen the gross earnings said employee earned in the employ of the employer in that reporting quarter.

(2) if at the time of the injury the employee has not been in the employ of the employer for the full reporting quarter immediately preceding the time of injury, the gross weekly earnings shall be computed by dividing 100 into the gross earnings of the employee in the two calendar years immediately preceding the injury.

current act. (3) if the board determines that the gross weekly earnings at the time of the injury cannot be fairly calculated under (1) or (2) of this section, or cannot otherwise be ascertained without undue hardship to the employee, the gross weekly earnings for calculating compensation shall be the usual gross earnings for similar service rendered by paid employees under similar circumstances as determined by the board;

current but clear (4) if an employee is a minor or an apprentice, or a trainee, as determined by the board, when injured, and under normal conditions his wages would increase during the period of disability, this fact may be considered by the board in computing his gross weekly earnings;

(5) if the employee is injured while performing his duties as a volunteer ambulance attendant, policeman or fireman, the gross weekly earnings calculating compensation shall be the minimum gross weekly earnings paid a full-time ambulance attendant, policeman or fireman employed, at a reasonable figure previously set by the subdivision to make this determination and in no case may the gross weekly earnings for calculating compensation be less than the minimum wage computed on the basis of 40 hours work per week.

amend #4

* Sec. 31. AS 23.30 is amended by adding a new section to read:

Sec. 23.30.227. OTHER BENEFITS. No compensation shall be payable to an employee under §§ 180 or 185 of this chapter for any week in which the employee receives unemployment benefits (AS 23.20).

* Sec. 32. AS 23.30.235 is repealed and reenacted to read:

Sec. 23.30.235 CASES IN WHICH NO COMPENSATION IS PAYABLE. No compensation under this chapter shall be allowed for an injury:

(1) proximately caused by the employee's willful intent to injure himself or to willfully injure another;

a high degree of proof in some to be need to prove for protection of employee.

(2) proximately caused by the employee being under the influence of an intoxicating liquor or drugs unless such drugs are being taken in quantities prescribed by employee's physician.

prev-Sec. 20 of 159

* Sec. 33. AS 23.30.250 is amended to read:

Sec. 23.30.250. PENALTY FOR MISREPRESENTATION. A person who willfully makes a false or misleading statement or representation for the purpose of obtaining a benefit or payment under this chapter is guilty of theft as defined in AS 11.46.100(3) and is punishable as provided in AS 11.46.120 - 11.46.150 [A MISDEMEANOR, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN $1,000, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH].

* Sec. 34. The board shall publish Sections 32 and 33 of this Act in a booklet defining the employee's rights and obligations under the Alaska Workers Compensation Act. The booklet shall be mailed to an injured worker upon notice of an injury.

→ Support Leg. intent.

* Sec. 35. AS 23.30.265 is amended by adding new paragraphs to read:

(29) "arising out of and in the course of employment" includes employer required or supplied travel to and from a remote job site; activities performed at the direction or under the control of the employer; and employer sanctioned activities at employer provided facilities; but excludes activities of a personal nature away from employer provided facilities.

Black's Law Dictionary

(30) "under the influence of an intoxicating liquor or drugs" means not only all well-known and easily recognized conditions and degrees of intoxication, but any abnormal mental or physical condition which is the result of indulging intoxicating liquors or drugs, and which, to an appreciable degree, deprives one of that clearness of intellect and control of himself which he would otherwise possess.

may be better definition.

See Title 17 for cross reference.

(31) "drugs" means a controlled substance or cannabis as further defined in AS 11.81.900. check new drug laws - make sure same number.

(32) "gross earnings" means recurring payments by employer to the employee for employment before any authorized or lawfully required deduction or withholding of funds by the emp'oyer, excluding irregular bonuses, reimbursement of expenses, expense allowances, and any benefit or payment to the employee which is not taxable to the employee during the pay period. The value of room and board to the employee may be considered in determining gross earnings for those employees with gross weekly earnings which are less than the Alaska average weekly wage at the time of injury.

(33) "payroll taxes" means the following:
check w update language - check with Dept. of Rev.

(a) An amount equal to the amount which would be withheld pursuant to withholding tables in effect on July 1 preceding the injury under the Internal ~~check date~~ Revenue Code of 1954, and regulations pursuant thereto, as amended, as though the employee had elected to claim the maximum number of dependants for actual dependency, blindness and old age to which the employee is entitled on the date on which he was injured; and,

(b) An amount equal to the amount required on July 1 preceding the
check for those who have opted out of SS
injury by the Social Security Act of 1935 as amended to be deducted or withheld from the amount of earnings of the employee at the time of the injury as if the earnings were earned at the beginning of the calendar year in which he was injured; and,

(c) And any other legislative mandated deductions including but not limited to ESC and FUTA;

(d) The Commissioner shall annually prepare formulas which shall be used to calculate an employee's spendable weekly wage on the basis of his gross weekly earnings, number of dependants, marital status and payroll tax deducations.

(34) "reporting quarter" means one of the 3 month periods (January through March, April through June, July through September, October through December) used to report employee wages to the Internal Revenue Service.

(35) "Suitable Gainful Employment" means employment which is reasonably attainable in light of the individuals age, education, previous occupation, and injury, and which offers an opportunity to restore the individual as soon as practical and as nearly as possible to his gross earnings as determined at the time of injury.

* Sec. 36. AS 23.30.095(g), 23.30.125(b), 23.30.175(e) and (f), AS 23.30.191 and AS 23.30.265(20) are repealed.

* Sec. 37. AS 39.25.120 is amended by adding a new paragraph to read:

(20) the rehabilitation administrator of the Workers' Compensation Board.

* Sec. 38. This act takes effect July 1, 1982.

AMENDMENT

Offered in the HOUSE By Rogers

TO: CSHB 159(L&C)

Page 2, after line 6: insert the following new material:

* Sec. 3. AS 23.30.040(a) is repealed and reenacted to read:

(a) There is created a second injury fund, administered by the commissioner. Money in the second injury fund may be used only for

(1) payments for the benefit of persons entitled to benefits from the second injury fund under this chapter as ordered or awarded by the board; and

(2) the cost of the rehabilitation services administered under AS 23.30.041.

Renumber subsequent bill sections.

A M E N D M E N T

Offered in the HOUSE

By Rogers

TO: CSHB 159(L&C)

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(1) payments for the benefit of persons entitled to benefits from the second injury fund under this chapter as ordered or awarded by the board; and

(2) the cost of the rehabilitation services administered under AS 23.30.041.

Renumber subsequent bill sections.

A M E N D M E N T

Offered in the HOUSE By Martin

TO: CSHB 159(L&C)

Page 3, line 19:

After "staff." insert the following:

"For administration purposes only the rehabilitation administrator and his staff shall be considered employees of the division of vocational rehabilitation in the Department of Education."

Alaska State Chamber of Commerce · HB159
Legislative Position Papers — 1982

WORKERS' COMPENSATION

Encouraged by the preliminary work of the legislature's Workers' Compensation Study Commission, the Alaska State Chamber of Commerce supports the commission's efforts to (1) improve the administration of the system, (2) make the compensation insurance program more competitive and (3) encourage changes in the rate-making process which would create more competition within the insurance industry.

The Chamber further believes that the commission's recommendations must also encourage realistic benefit revisions necessary to restore the incentive for injured workers to return to productive employment and remove the excesses in employers' workers' compensation costs.

Alaska National
INSURANCE COMPANY

A policy of service and protection

February 24, 1982

Labor and Commerce Committee
House of Representatives
State of Alaska
Pouch Y
Juneau, Alaska 91011

ATT: Honorable Terry Martin, Chairman

RE: HB 159 - Proposed Amendments to the Current Requirements for Reporting to the Division of Workers' Compensation

Dear Representatives:

In the last session, the Legislature adopted in Chapter 59 of 1981 Laws (CSHB 94 (Fin)am) which, among other things, amended Section 155 of the Alaska Workers' Compensation Act to materially extend the requirements imposed upon insurance companies to file reports of current cases with the Workers' Compensation Board.

The legislation went into effect July 11, 1981, and spawned one of the most prolific paper burdens faced by the insurance industry today.

It will be the purpose of this letter to urge the Committee to include in HS 159 the attached proposed amendments which would have the effect of materially reducing the reporting obligations of insurance carriers to the Board, but will recognize the need for continuing the provision of relevant information to claimants.

It is my understanding that the Division of Workers' Compensation, shortly after the adoption of that amendment and I believe pursuant to some discussions prior to the legislative enactment of those provisions, developed an extremely complex computer system for digesting all of the reported information.

At the invitation of Jackie McLintock, the Director of the Division of Workers' Compensation, I visited their office and reviewed the computer system, watched it work and tested the data it contains.

Frankly, I must state to the Committee that the computer system works well, provides a wide array of information and is basically a well conceived interacting data processing system for manipulation and presentation of the data that goes into the computer. Although I am frank to admit the workability of the system, I have no information as to its cost or as to the practicality of its function except as I will set forth below.

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Shortly after the adoption of the legislation, the Division of Workers' Compensation promulgated some early proposed instructions on how to prepare the necessary forms to make the system operative. The book which is 107 pages long explains in intimate detail how to fill out each of the blanks on each of the several forms.

Even with our limited experience in handling workers' compensation claims under the new system, we can tell you that the precision that is required in filling these forms out and the time consumed in answering the several questions contained on these complex forms is enormous. There is even a provision in the statute and implemented by the Division's set of instructions that requires a form be filed on the anniversary date of the claim even though there has been no change in the status of that claim.

We have two very serious concerns about this new law and the way it is being administered:

1. There is an overriding major concern which we have concerning the recent activities and proposals from the Division of Workers' Compensation and the Board. It is our belief that primary responsibility for the day to day management of all workers' compensation claims lies with the insurance carrier or the self-insurance workers' compensation claims administrator. The Division of Workers' Compensation should exercise its responsibility to resolve disputes through the Board hearing process. We also recognize that the Division of Workers' Compensation has a responsibility to assure that the system is working equitably.

   Although we recognize that the Division has specific complaints about particular insurance carriers' handling of some claims, or the handling of some claims by workers' compensation self-insurance claims administrators, we believe that on balance most all of the workers' compensation claims in the state are being handled quickly and fairly and in accordance with the law. The Division of Workers' Compensation has authority, as does the Division of Insurance, to investigate insurance carriers and workers' compensation self-insurance claim administrators and to review claim files to determine that they are being handled properly, and we believe that to be a more effective enforcement mechanism than inordinate reportings by all carriers in all cases.

   We reject the notion that the Division of Workers' Compensation should thrust itself into the position of becoming the entity primarily responsible for assuring the rights of the injured worker. If that is carried to its logical extreme, the Division of Workers' Compensation will have as many claim adjusters as there are in the whole industry.

It is our view that the Division of Workers' Compensation, the Board and the Division of Insurance need to have the ability to audit for compliance with the laws and the tools to enforce the laws, but they should not be put into the position of usurping the responsibilities of the private insurance sector in the day to day handling and administering of a very complex act.

2. The whole new reporting mechanism is adding a substantial burden of time and expense to the already expensive cost of handling a workers' compensation case. This additional cost must be loaded into the price of workers' compensation insurance and passed on to the employers. This ordinarily would prove to be no problem to the insurance carrier, however, we are concerned that with the substantially increasing costs on the benefit side of the premium dollar, more and more employers are being forced into alternatives to purchasing workers' compensation insurance. While we cannot attribute last year's legislation and the implementation by the Division of Workers' Compensation concerning these reports as the sole contributing factor to these phenomena, we have observed that the overall increase in cost for workers' compensation has driven employers to either:

   a. Ignore the law and not purchase workers' compensation insurance;

   b. Force themselves in some way to qualify for self-insurance status to avoid having to purchase insurance;

   c. Become involved with groups or alternatives to purchase of single insurance with questionable financial responsibility, or

   d. In some cases go out of business.

While we recognize that there ought to be periodic reconsideration of the benefit structures and a balancing in light of new public policy of the interest of the injured workers against the cost to employers, we do not feel that it is appropriate to continually increase the expense of the system unless there is some compelling reason to impose new administrative burdens.

We are, of course, concerned that in the last month or so in which the reports have been submitted to the Division, I have been given to understand that the Division has returned forms for minor technical errors and has indicated to the insurance carrier that until the forms were resubmitted correctly the penalty periods would be running. The impact is that for minor technical flaws in filling out the report an insurance carrier could be subjected to severe financial penalties.

We think it is ludicrous that an insurance carrier could be penalized more for failure to submit a report to the Board than for failure to submit the payment to the injured employee.

I have made some effort to try to determine what value this new computer system offers injured workers in the State of Alaska or the Division of Workers' Compensation.

The Division is quick to offer several specific examples of how they have been able to use the terminal access facility to answer questions of claimants who make phone calls to the Division. They also indicate that at some point in time the computer system will enable them to digest data for statistical purposes and also enable them to have immediate access to benefit history for a claimant in order to evaluate compromise and release agreements and other matters coming before the Board.

We believe that the limited value derived from having the computer available does not warrant its substantial expense.

Values of The System

1. Ability to answer claimant's questions.

   It is indeed of some value to have access to the history of claim payments when a claimant asks a question of the Division of Workers' Compensation. It should be observed, however, that first not all of the claim payment history is or ever will be in the computer since only changes in payments are required to be reported except at anniversary time. Accordingly, when claimants call prior to an anniversary date only inadequate data will be on the computer and it still will be necessary for the Division to refer a claimant to his insurance carrier to get the full information. Furthermore, the frequency of claimant inquiries at the Division, which they regard as substantial, is miniscule when compared to the number of injured workers in the workers' compensation system.

2. Statistical Data

   It is true that the Division has been asked by the legislature and by interested groups to provide statistics on frequency and severity of loss by different classifications in the State of Alaska. In fact, while I was Director of the Insurance Division, I argued that the Division of Workers' Compensation should have that information and in the Richard L. Block & Associates' report of 1980 I recommended that the Division have access to that information. My position in this regard has not changed, and I believe it is appropriate that the Division be able to accumulate relevant statistical information on accident frequency and severity. The computer system which they have devised certainly has the capacity for accumulating that data,

but I would point out that absolutely none of the interim reports filed by the carrier contribute in any way to that information. The only information submitted by a carrier which could be used for statistical purposes is the first notice to the Board of the existence of the accident and the last report filed by the carrier which gives a complete description and evaluation of payments, benefits, cause of loss, etc.

3. Ability to evaluate the propriety of compromise and release claims and other inquiries made by the parties.

The value that the computer will have to determine the propriety of matters coming before the Board on specific cases is, at best, questionable. The fact is that compromise and release claims are submitted to the Board for a variety of factors only a minority of which have anything to do with the amount of payments which have in fact been made to date. A compromise and release agreement submitted to the Board must be approved on the merits of each individual case based on information only some of which will be statistical or financial submitted by the employer and the employee. It is ludicrous to establish a complex computer system to accumulate data on every single claim processed in the State of Alaska in order to provide a facility to approve the few lump-sum compromise and release agreements submitted to the Board when those submitting those agreements can provide that information themselves.

Cost of The System

There is little available information on the true cost of operating this computer system, however, a review of the Division's budget would indicate that there are several employees either in the Division of Administration or in the Division of Workers' Compensation who have dedicated their time to processing the paper work to make the computer system operative.

In addition and not reflected in the Division of Workers' Compensation's budget is the computer time and computer programming costs which would be more properly buried in the Data Processing Division's budget.

Further, there is the time of employees devoted to working the system for interested inquirers.

I have been advised by Jackie McLintock that they are up to date currently in processing the paper work which has come in; but, as the system becomes more mature and claim frequencies increase, there is going to have to be a substantial additional burden placed on the Division of Workers' Compensation to process all of these reports. After all, if there are to be three or four reports for every claim, then the claim

processing capabilities of the Division of Workers' Compensation would have to essentially be equal to the claim data processing capabilities of all of the carriers processing workers' compensation claims in this state at any point in time.

It is our conclusion that this expense, whatever it may be, is not justified to obtain the limited benefits which are gained from that system.

There are some other issues upon which I can only speculate.

I did observe in reviewing the system that there is a substantial amount of confidential information in the computer. I am troubled by the fact that because it is in the possession of the State it comes under the freedom of information provisions and thus the privacy of every workers' compensation claimant is potentially violated. It is possible, for example, for anyone to go into a Department of Labor office and ask for information concerning a claimant and find out his wages, what physicians he has been seeing in connection with his injury, what his workers' compensation entitlements are and other pertinent information, all of which would not be available if the information were not filed with the State.

I was interested to observe also that the Division is maintaining a master list of attorneys and keying each attorney into the cases he is handling. It is thus possible to write a program to access a report showing all fees paid to the lawyers in the State, who their clients are and other information which I believe the members of the Bar would be concerned to learn is now publicly available information. Each lawyer is now designated in the system as an employers' lawyer or an employees' lawyer.

A further collateral issue has to do with the maintenance of the law digest portion of their program.

Frankly, the work done in preparing the law digest function on the computer appear to be extremely well done, and they are to be complimented for putting together a very good program. My concern is not that they have built this aspect of the system, but rather they have concentrated their efforts on making available to their own internal staff an excellent means of accessing opinions of the Workers' Compensation Boards in order to help draft future opinions, but they have devoted no time whatsoever to making printed versions of the workers' compensation opinions available to anyone else.

The history of access to Board opinions in this regard is that for those lawyers who had contacts with the Juneau office, photo copies of mimeographed versions of their opinions could be obtained; but no one else in the State could have access to them except the parties to each case. Now I understand that the Juneau office will not make them available even to lawyers in Juneau. This means that the Board intends to rely on prior cases in drafting its future opinions, but the lawyers who must argue before the Boards will not have access to those opinions in any way. It seems to me that it would be more appropriate for the Division of Workers' Compensation to have created a facility to make the opinions available to a private publishing firm in Alaska, who could have developed the digest and made it commercially available to all lawyers and other interested parties. It may be that the Division is considering making the opinions and the digest available to interested parties which would be a step forward, but it strikes me as completely inappropriate that such a function that could be well done by private concerns is being done by a state agency.

Alternative Suggestion

While I believe it is inappropriate for the State to be accumulating this information, there are certain things which I do believe are appropriate for the employee to have and it is interesting to note that no one has drafted any statute requiring this information be made available to the employee. It is true that in the set of instructions promulgated by the Board, they ask that the original report go to the employee.

It is further our concern that the reports are so complex that in their current form they are probably more confusing to the employee then they are helpful.

I attach a proposed alternative to be included in Section 155.

Its salient points are these:

1. The carrier must report to the employee at every change in compensation.

2. The form upon which such reports are made to the employee must meet minimum standards established by the Board but are not prepared on Board forms. This will permit each carrier to design a simple form which meets minimum standards but which are readable and understandable by the claimant.

3. There are penalties imposed upon the carrier for not submitting the reports in a timely fashion, but instead of the penalties being automatic they are imposed upon application by the employee, are paid to the employee and are determined ultimately by the Board.

4. The Board will receive only a first notice from the carrier acknowledging receipt of some information concerning the existence of a claim and a final notice which provides whatever statistical information the Board believes is relevant to monitoring the workers' compensation system. This, of course, is in addition to the notice of injury submitted by the employee.

It is our opinion that with the information the Board will be in a position to know all claims have been acknowledged by a carrier and who that carrier is, enabling the Board to refer an injured worker to the proper person handling the workers' compensation claim should any inquiries come to the Division of Workers' Compensation.

Under current law, which we do not propose be changed, an injured worker could file a specific request for hearing before the Board on their workers' compensation claim if they feel they are not being treated properly by the carrier, or may file a claim with the Division of Insurance to investigate whether the insurance company is properly handling the workers' compensation claim and giving it its due attention.

All of the interim reports currently required by Section 155 to be filed with the Board by the carrier would be eliminated.

We regard the change in direction as extremely important and hope the Committee will see fit to adopt the proposed amendment.

Yours cordially,

Richard L. Block
President

RLB/crl

23.30.155 (c) Repeal

23.30.155 (h) Repeal

23.30.155 (m) Repeal

23.30.155 (g) Add

(i) Within 14 days after receipt of any document which evidences the existence of a claim under this Act, the employer or carrier shall file with the Board and provide to the employee an acknowledgment of claim which shall be on a form prescribed by the Board and which shall be for the purpose of providing both the Board and the claimant with the name and point of contact in the state of Alaska for information concerning the claim, proposed disposition of the claim, and claimants rights and entitlements under the Act.

(ii) The employer shall notify the claimant of any change in compensation to be paid to claimant. The notice shall be delivered to claimant within 14 days after a last payment before termination or suspension of payments, or with any payment that is less than, more than or being paid pursuant to a different statutory entitlement than any previous payment or which is a resumption of payments. The notice shall be on a form prepared by the employer but which meets minimum standards set by the Board and shall contain:

1) Nature of the change in payment.

2) Reason for the change.

3) Amount of the change.

4) Method of calculation.

5) Statutory entitlement being paid, terminated, suspended or modified.

(iii) Within 14 days after final payment of compensation has been made, the employer shall send to the Board a notice on a form prescribed by the Board stating:

1. Reason for closing the case

2. Total amount paid for compensation, medical, rehabilitation and allocated loss expense.

3. Other statistical information as is necessary to determine accident frequency and severity, trends, and which is prescribed by regulation.

4. Other information which the Board determines necessary to properly administer the workers' compensation system.

(iv) If the employer fails to notify the employee, the Board, upon application of the employee, may assess a civil penalty, payable to the employee of up to $100.00 for each notice not timely rendered.

As of 10-79	$ 554,828
As of 10-80	902,697
As of 10-81	1,160,314*

*Reduced to an effective value of $902,697 as a result of the Group's Loss Limitation Agreement.

The question is often raised, "Weren't we over-reserved when dividend shares were first distributed?" The answer is, **"no!"**

The original reserve for incurred, but unreported claims (variations in claims values, unreported claims) was 12%. As of October, 1981 the shortfall in reserves for 1977 amounted to a net 15% after deducting the incurred-but-unreported original reserve. Who makes up the difference? The insurer. This is done through investment earnings on the reserves held for the account of the Group. Certainly, if this income merely decreases the loss short-fall, it certainly cannot be considered a profit to the insurer.

As of October, 1981 the 1977 Group Year carries 21 open cases valued at $554,000, all of which are still in the medical care stage of development. Next year the medical fee schedule will increase by 33% as a result of medical fee price fixing action in 1981.

Why aren't all claims for 1977 closed? Lots of reasons, mainly due to the character of the injuries themselves. Take the case of the driver who overturned and went off the road in a blizzard in December 1977. His nearly frozen body was found half a day after he was trapped in his truck with head injuries. The extent of his injuries took nearly three years to assess. Permanent brain damage requires institutional care for the rest of his life. The injury is irreversible. Lifetime medicals, lifetime pension, and ultimately, a death benefit. The man is 47 years old, otherwise physically in fairly good shape. What began as a routine frostbite and anoxia case turns out to be a massive neurological disability.

The CMSA Group Isn't The Only Victim Of Claim Maturation.

The California 8293, Mover's, Classification experience over the years shows a constant picture of upward cost development each year. Here is a seven year history disclosed by the California Workers' Compensation Insurance Rating Bureau:

Year	Six Months After Year End Loss Ratio	Thirty Months After Year End Loss Ratio
1971	40.8%	56.5%
1972	45.7	57.9
1973	46.1	45.0
1974	46.5	64.5
1975	52.6	68.4
1976	54.8	63.8
1977	58.3	65.2*

*Only 18 months development

Five Percent Of Mover's Injury Claims Cost Two-Thirds Of The Money.

Severe injuries, deaths, permanent partial and permanent total disabilities comprise only about 5% of all reported work injuries in the moving industry. Yet the dollar outlay for their care involves twice as many claims dollars as are involved in the other 95% of the injuries. The four major causes of loss in the moving industry are:

Strains, sprains including back:	38.3% of cost
Struck by, striking stationary objects:	5.3% of cost
Falls:	16.2% of cost
Moving vehicle accidents:	12.2% of cost

Vehicle overturns generate the largest individual claim cost, ($23,300 each on the average), striking fixed objects claims are at the lower end of the disabling injury average claims cost scale ($400 each on the average). Non-disabling claims, so-called medical only claims, represent 54% of all occurrences, currently cost an average of $157.

Nothing is inexpensive in the injury business. That's why renewed effort at loss frequency and severity reduction is imperative. The progress shown in the 1979-1980 year as well as the industry as a whole, despite inflating costs of services and benefit increases. How do you accomplish this objective? Better activity planning, preventative oriented supervision, training, and fitness (qualification).

How Do You Cope With An Insurance Subject In Which The Cost Of Goods Sold Cannot Be Determined For Years After The Service Has Been Sold At A Fixed Price?

At times it seems that all insurance executives are finance experts. It all looks so easy. If it is so easy, why are most of the nation's major insurers and a large number of the not-so-great companies suffering substantial underwriting losses? Inflation beats out the rising cost of claims after the protection has been sold. To offset the impact of inflation on claims costs, many insurers have made heavy investments in the short-term high earnings money market. Mostly in U.S. Government paper. What is going to happen as short money earnings continue to fall? Plenty. All the cut rates will disappear, it will be back to paying claims out of underwriting, not investment earnings. For a lot of folks that got highly discounted deals from companies using cash flow to fuel competitive strategies aimed at cornering all the cash, there is going to be a considerable shock. There will be no free lunches for the buyer, and the sellers will have

to retreat from the market, their surplus in jeapordy.

Competition can be a great leveller, a destroyer. The extent to which the cash-flow insurance theorists are going reflects their desperation. Take the hysterical effort to get open workers' compensation rating. Most of the insurers clamoring for open rates have never made a case for displayed ability to earn a consistent underwriting profit through good claims management and through efficient administration. Deferred payment plans, cash-flow plans, paid-loss-retrospective plans are systems which appeal to those who believe that there is money to be made on reserves. Large buyers may be benefitted, but at the cost to small insurance buyers. By reducing the spread of risk, economically, by distorting loss information upon which any rate system depends through impecunious claims management, the smaller buyers will suffer.

For years the objective of insurance company regulation was centered on the idea of maintaining solvency of insurers. Today the prevailing idea is that freedom of enterprise must prevail—freedom to compete and freedom to fail. The idea became fashionable as insolvency guarantee associations emerged that require surviving insurers to pick up the losses of failing and insolvent insurers. And so the number of endangered insurers have increased as weak small competitors emerged and conglomerate manipulation of well-established companies raped conservative companies for cash-flow profit. The quick buck, easy solution business is flourishing.

What this all has to do with the Group is simply this. This Group is the alternative to buffeting by all the side shoe deals that wax and wane in the industry.

Group starts out with protecting the equities of the buyer, not the fueling of impossible cross subsidies of insurer's cash-flow dilemmas. It provides quality services, stability, a constant, fair division of underwriting profits on a clear, clean-cut basis, and provides you, as a buyer, with expertise and performance overview that counts. Your Group operates through a system of contractual arrangements with an insurer that makes a commitment to support your Association's objective of a lower net cost system of outstanding protection quality. A lot of the companies now looking at your business today were in hiding years ago. They only come out in the fair weather. Look at their long-term actual performance records, then compare what our Group has done for your industry. Your Group can give more bang for your protection dollar than anyone—even the government-owned, non-profit, non-taxpaying enterprises. Your continued support of your Group means your Group's continued support of your interests. Our plan is working!

California Leads The Nation As User Of Work Comp Benefit System.

The California Workers' Compensation Institute reports that 15% of the nation's work injury benefits were paid to California workers, with a $1.422 **billion** outlay in 1979. Nationwide the payout for job injuries totaled $11.9 **billion**, up from 22% the previous year.

Drawn from Social Security research, the study deals with paid claims only, not incurred but unreported or other reserves. Tracking of work injury payments by the federal agency began in 1949. About 20% of all work comp benefits paid in the nation are covered by federal work injury programs.

Rand Institute Releases Its Report On "The Law And Economics Of Workers' Compensation".

The Rand Corporation performs independent objective policy analysis and research on a vast range of subjects, including the Civil Justice System. The report does not attempt to establish a public policy position but it does identify issues about which more should be learned. One conclusion of the report is that the dream of a self-administering system has not been realized because state agencies have not sufficiently participated in clarifying statutes and settling disputes. The clear inference is that litigation has become a popular pastime in the comp business, that's why sharper legal definitions and statutes are never realized. The report cites the fact that 17% of the cost of benefits paid go to the adjudication process. The view of the Rand people is that many workers, weary of the litigation of comp claims are looking to other social insurance programs instead for benefits.

The researchers point out that most of the alternatives to the existing system aren't so hot, either. For example, Tort suits against employers. Suits against third parties. All of which would please the legal profession but put greater distance between the injured worker and basic benefits when he most needs help. Linda Darling-Hammond and Thomas Kneisener, project authors, identify areas in which answers must be found before true work comp reform can be realized:

1. How do the practices of various actors within the system – administrators, insurers, employers, lawyers, employees, and unions – affect the system's outcome, (e.i., who pays and is paid, how much is paid and how promptly)?
2. How do statutes, administrative rulings, and judicial interpretations of the laws affect the outcomes of the system?
3. How do the rules that govern compensation affect the behaviour of the key actors? How do the actors seek to cope with uncertainties created by changes in the rules?

In 1982 there is a strong likelihood that another attempt will be mounted to reform the California Workers' Compensation System. If you would like more information about the findings of the Rand research, write Rand Corporation, 1700 Main Street, Santa Mon-

ica, California 90406 for information about their report R-2716/1CJ.

Year before last when State Senator Greene introduced his bill that was aimed at "making all the changes that would be required for the next 20 years" the only result was a substantial increase in benefits with no reform over the judicial process. Regarded in the Legislature as a matter too technical, even for legislators, the tendency has been to relegate change to the lawyers, the unions, and the government itself. What this Group seeks is to establish an effective advocacy in behalf of employers who are supposed to fund the benefits which must and should be paid to the legitimately injured with as little need for outside predators as possible. How about it? Are you ready for mounting an effort to be heard? **Support your Group, urge your peers in the moving industry to join.**

Promptness Of Payments Semi Annual Report.

The Department of Industrial Relations released its January to June, 1981 ranking of insurers and self insurers as to the promptness of first payments.

Long recognized as the critical point in which the injured worker makes the decision whether to approach his injury benefit needs on an adversary basis or on a basis of understanding and trust in the system that's supposed to operate simply, the fourteenth day following the injury is pretty important. If the worker doesn't get his first disability benefit payment by the fifteenth day, the odds are he'll get help—and that seldom includes help from a concerned employer. In 104,181 disability cases handled between January and June this year, the average number of days from disability to first payment was 19.4. The law expects the first payment will be made within 14 days. The previous six months record was an average of 18 days.

Your Group urges you to report all claims promptly. Without your report, nothing happens. If you really care, check with your injured, off duty employee to see if his benefits are coming through. If not, call your responding Claims Office or your Agent of Record. Late claims bear with them a penalty loading of 10% of the delinquent benefit. If you don't report promptly, you have no complaints when your loss costs increase. If you don't tell us when the insurer isn't apparently doing his job, we can't free up snarls. Don't wait for the doctor's first report. Simply complete the claim form and get it in. If you are short details, say so but send what you have and let us follow through. **Follow the Action Plan** in your Information To Members Booklet. If you have questions or unusual problems, let's hear about them early on. It will save you a lot of money. **Get involved, stop being a mere spectator.**

EYES LEFT!

As the 1980 legislative products of California pass in review one of the late items to graduate into law may be the harbringer of substantial increases in workers' compensation benefits next year. Senate Bill 347 (Greene) amends the Unemployment Insurance Code Section 2655 to read "weekly benefit amount from $30 to $154 to $50 to $175." That pretty well establishes the level to which permanent partial disability benefits and permanent total disability benefits will rise. If this comes to pass without any restraint or better definition of disability conditions or judicial process and review reform, the cost of just one benefit increase could represent as much as a 22% increase in insurance rates. It is difficult to argue that the truly disabled are seriously disadvantaged in the growing spread between actual wages and time-loss benefits earned while unable to work because of a job injury. But what worries everyone is that no one can yet establish, without extensive litigation and arguments in a judicial environment that shuns precedential rule making, just how injured someone is. Doctors disagree, lawyers disagree, insurers disagree, employers disagree, and suddenly the injured worker is the hostage in a system in which everyone but him profits from the uncertainty of it all. Your Group works hard at minimizing the costs of claims, increasing the promptness of benefit payment, and attempts to inform Group Members of the reasons behind questioned conclusions. Your average insurer is interested in moving claims as fast as possible, and is protected by a minimum rate law that raises the ante as costs rise. Your Group doesn't have votes. You do. You can first vote for a safe workplace or you can vote for rising costs. You can't vote or cause to be enacted effective reform legislation unless you are informed and properly led. You need the leadership of your Group, your Association. Your equities in the system aren't going to be protected by anyone else.

Group Renewal For 1981 Under Way.

Your Association has filed its statement of intent to renew the CMSA Group under the underwriting management of the Truck Insurance Exchange with the Department of Insurance and the Workers' Compensation Rating Bureau.

Renewal face sheets should be in the mail prior to December 1, 1981, together with new manual rates. Members should contact your Group by telephone or by mail to indicate changes of address, changes of ownership, or additional workplaces.

Also, if Members have changed accounting firms, the Group should be notified so that a new audit authorization can be prepared for signature.

If you require new **Information To Members** booklets, additional **Action Plan** cards, or claims supplies, call or write your Group Agent of Record, L.E. August, at (213) 986-4610, PO Box 256, Encino, California, 91316. Your Group is now beginning its fifth consecutive year of service to the Members of CMSA.

Alaska National
INSURANCE COMPANY

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LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTION

One

SUBSTANCE:

Grants specific authority to file and use a deductible workers' compensation policy.

POSITION:

Not opposed to the substance but redrafting is indicated.

ACTION:

Obtain redrafting of the language then do not oppose.

BACKGROUND:

This company has already filed and obtained approval for a deductible plan; this provision is not objectionable. The provision is more appropriately found in the Insurance Code with some language revisions.

SUGGESTED ALTERNATIVE:

SECTION 1: AS.21.42. is amended by adding a new section to read:

> "21.42.165 - An insurer issuing a workers' compensation insurance policy pursuant to AS 23.30.025 may contain a provision requiring the insured to pay a portion of the benefits due under AS.23.30. provided the provision making that requirement has the prior approval of the Director and provided further the policy provides that as to the employee and the Workers' Compensation Board the policy meets all the requirements of 23.30.025 and 23.30.030. Filing for apporval under this section is not a deviation under AS.21.39.070.

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LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTIONS

Two through Eight

SUBSTANCE:

Substantially modifies the approach to providing rehabilitation benefits.

POSITION:

Opposed.

ACTION:

All of the sections must be removed from the bill. If the sections are not withdrawn from the bills the bill must be opposed. Preventing adoption of these sections is considered of highest priority.

BACKGROUND:

Rehabilitation has always been regarded as an important part of the workers' compensation system, however, there has not been agreement as to what constitutes effective and reimbursable rehabilitation programs.

Typically, rehabilitation is provided where it is believed vocational retraining will return the injured worker to the level of gainful employment enjoyed prior to injury in a work setting as closely approximating his work setting prior to injury as his new physical condition will permit.

On the other hand, there are those who believe that the rehabilitation program ought to be used to reorient the injured worker to a life or work style unnecessarily different from that he enjoyed prior to injury.

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To develop appropriate cost effective and responsive rehabilitation programs, most carriers use professional rehabilitation counselors who determine the need for, and probable value of rehabilitation programs, develop plans and implement them, all at the expense of the employer.

This legislation would usurp the primary responsibility for making professional determinations concerning rehabilitation from the trained professionals operating in and funded by the private sector and transfer that responsibility to a new, unqualified and expensive state bureau at an initial cost of over one quarter of a million dollars.

More particularly:

Section 2 removes any limit for rehabilitation benefits paid from the Second Injury Fund at the same time the Board is granting full temporary total benefits to workers while they are on rehabilitation.

Section 3 establishes a set of principles to guide rehabilitation efforts. While the principles are essentially not objectionable, they are of no value in a statute unless other statutes in fact accomplish those objectives. It is our view that the other sections do not tend toward the intended objectives.

Sections 4, 5, 6 set up the bureaucracy to implement the intended objectives. The Director of the Division of Workers' Compensation testified that the initial cost to the state would be $350,000. It is our belief that the more difficult to assess but substantially larger cost would be in the increased costs to employers to fund unnecessary, premature, redundant, ill conceived or unwelcome rehabilitation programs designed and mandated by state designated rehabilitation specialists.

Section 6 [23.30.041 (b)], further provides that the Rehabilitation Bureau may impose a rehabilitation program when ever it deems it appropriate which could be in every permanent total disability case. The costs which could be imposed under this and following subsections could be astronomical. They include:

a) Extention of the rehabilitation program beyond the first 37 weeks at the direction of the rehabilitation administrator with no defined limit.

b) Travel to and lodging at any location away from the employees residence for the full rehabilitation period.

c) Temporary total benefits for the full period of rehabilitation.

Alaska National
INSURANCE COMPANY

A policy of service and protection

LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTION

Eleven

SUBSTANCE:

Adds a new subsection to give the Board specific definition of permanent impairment.

POSITION:

Not opposed.

ACTION:

No action except to seek modification as indicated.

BACKGROUND:

The Board currently has no specific guidelines for determining the degree of permanent impairment. The proposed section would give the Board authority to establish a schedule for determining the existence and degree of permanent impairment. We believe that the authority to adopt such a schedule is a useful device to add certainty to the system. We would urge however that giving the Board carte blanche authority to adopt a schedule without guidelines is inappropriate.

The Board is currently using, without specific statutory authority to do so, the American Medical Association Guide To Permanent Impairment, a document to which the American Medical Association has devoted a great deal of time and study. We believe this is a satisfactory, impartial, fair, easy to administer, and objective definition of permanent impairment and one with which the medical profession, which must actually render the impairment ratings, is familiar.

We believe that the Board should be directed to use this standard.

SUGGESTED ALTERNATIVE:

We would urge the language be modified as follows:

> "(j) the board shall adopt and use the American Medical Asociation Guide To Permanent Impairments as the basis for determining the existence and degree of permanent impairments".

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LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTION

Twelve

SUBSTANCE:

Requires an injured employee to grant specific authority to release medical information to the employers, carriers and so forth.

POSITION:

Favor, but would suggest an improvement.

ACTION:

Seek an improvement in the measure, but support in any event.

BACKGROUND:

When a workers' compensation claim is filed it is necessary for the insurance company to obtain medical information from the treating physicians, examining physicians, or physicians who have rendered medical care in prior cases for the injured worker.

Doctors are understandably reluctant to give out medical information without having a specific release from the employee in order not to violate their responsibilities of privacy.

This statute requires the employee to execute whatever authorities are required by other physicians in order to obtain release of medical information.

We believe that this is an important addition to the workers' compensation statute.

SUGGESTED IMPROVEMENT:

If a provision were placed in the law which had the effect of pro tanto granting the authority would eliminate the need for getting specific written authority and protect the physicians and hospitals.

Further, the authority in the proposed language relates to medical information only relative to his injury.

It is vital that we have access to medical information concerning prior medical treatments.

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For example, it is relevant to any adjustment of a case for injury to the employee to have access to medical records concerning prior injuries or prior illness since it bears on the method of handling the medical treatment of the existing case.

We would suggest the following language:

> "Upon the filing of a claim under this Act an employee thereby authorizes all providers of medical treatment pertaining to the injury or rendered prior to the date of injury to release information to the employer. If requested by the employer, the employee shall execute all releases to facilitate access to that information."

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LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTIONS

15 & 32

SUBSTANCE:

These two sections of the bill change the degree to which the presence of alcoholism or drugs can defeat the injured employees rights to compensation.

POSITION:

Support.

ACTION:

No action.

BACKGROUND:

These two sections read together change the burden of proof for the employer with respect to alcoholism from the requirement that they demonstrate liquor solely caused the accident to liquor proximately caused the accident, and adds a similar provision with respect to drugs.

We have some cases in which alcoholism was definitely present and a contributing factor to the accident, however, it is clearly the case that no single factor could ever be argued as the sole factor in a accident.

If we could demonstrate that although it wasn't the sole factor it was the proximate cause of the accident it would be useful in defeating some alcoholism and drug related claims.

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LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTION

Seventeen

SUBSTANCE:

Same as Section 11 of CSHB 159 (Sofo) January 25, 1982.

ADDITIONAL COMMENT:

We would point out that if the Legislature is concerned about those carriers which will offset for over payment or advance payments by making no payments at all, we would not be adverse to a provision which reads as follows:

> "(j) if an employer has made advance payments or over payments of compensation, he is entitled to be reimbursed, out of any unpaid installment or installments of compensation due up to an amount equal to fifty percent of each of the subsequent payments. If the employer seeks to offset by more than fifty percent of subsequent payments such additional offsets require the prior approval of the Board."

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LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTION

Eighteen

SUBSTANCE:

Authorizes lump sum payments.

POSITION:

Support.

ACTION:

Support.

BACKGROUND:

This is similar to Section 12 of CSHB 159, January 25 (Sofo), with this material change; the legislature has added the words "and the parties agree". This means that if the parties agree the Board may authorize the lump sum payment but it cannot do so without the parties concurrence. This was my principle concern with the drafting in the other bill.

IMPORTANT DRAFTING NOTE:

In Section 25 of the proposed legislation there is substantial modification to AS 23.30.190. They neglected to remove the last phrase of subsection (20). In view of the adoption of this section in the bill the last phrase in subsection (20) is unnecessary and should be removed.

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LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTION

19, 23, 24, 26, 27, 28 & 29

SUBSTANCE:

Makes changes to reflect a change basis for calculating benefits from 66 2/3% of gross wages to 80% of spendable wages.

POSITION:

Support.

ACTION:

Support.

BACKGROUND:

Changing compensation from 66 2/3% of a workers gross wages to 80% of his spendable wages will probably have salutory effect on the benefit levels particularly with respect to higher wage earners.

The exact magnitude of the savings to be effected by such a change cannot now be determined but it is believed that there will be a reduction in benefits as a result.

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STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M

February 26, 1982

SUBJECT: Worker's compensation
(CSHB 159 (L&C))

TO: Representative Terry Martin
Chairman, House Labor and
Commerce Committee

FROM: Billy G. Berrier
Director
Division of Legal Services

Paragraph (e) on page 4, lines 17 to 20 of the bill provides:

> (e) The employer and employee may agree on a vocational rehabilitation plan. If the employer and employee fail to agree on a vocational rehabilitation plan, a plan may be filed for approval with the rehabilitation administrator.

The second sentence is in the passive form and does not indicate who can file a plan. This leaves an ambiguity.

I have left the paragraph as it is since I understand final determination of who can file a plan has not been made. When that determination has been made the paragraph should be corrected to reflect the decision of the committee.

BGB:ljb

Enclosure

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for House Bill No. 159

Title "An Act relating to workers' compensation, and providing for an effective . . ."

Requested by Labor and Commerce Committee Date 2/18/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Worker Protection

BRU, Program, or Subprogram(s) Affected Workers' Compensation

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100	PERSONAL SERVICES		151.8	178.0	195.8	215.4	236.9
200	TRAVEL		20.0	22.0	24.2	26.6	29.3
300	CONTRACTUAL		122.3	71.3	78.4	86.2	94.9
400	COMMODITIES		3.4	3.7	4.1	4.5	4.9
500	EQUIPMENT		10.4	0	0	0	0
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	0	317.9	275.0	302.5	332.7	366.0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	317.9	275.0	302.5	332.7	366.0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	0	4	4	4	4	4
PART TIME						
TEMPORARY						

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

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

1. Assumes an inflation rate of 10% per annum after FY '83.

2. Assumes an effective date of July 1, 1982.

3. The total cost for FY'83 for the four new positions is detailed on attached forms 13. In addition the following items are included in the FY '83 costs.
(Continued page 2)

IV. DATE February 19, 1982 PREPARED BY Nico Bus

AGENCY Labor

PHONE 465-2720

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

33-001 (Rev. 12/81)

III. Analysis

A Workers' Compensation Officer I reclassification to a Workers' Compensation Officer II with related travel and contractual services. Cost $16.6

100 Personal Services	$ 5.5
200 Travel	5.0
300 Auto, Lease, Indirect, etc.	6.1
	$16.6

The data processing operations cost will increase by $14.0 because of enhancements for a tickler system, running two systems parallel and the files expansion to retain the addresses of all claimants.

The printing of 10,000 Workers' Compensation Ac's and 25,000 Employee Information booklets. $35.0

The design and printing of new forms. $2.5

Computer program modifications to implement the changes introduced by the bill. $20.0

Equipment expense for computer terminals, panelling, cabinets, and files. $6.0

Included one-time items in FY '83

Equipment	$10.4
Booklets and Acts	35.0
Design and printing of new forms	2.5
Computer programs	20.0
	$67.9

FY'83 Component Breakdown:

	Workers' Compensation Administration	Second Injury Fund
PS		$161.8
Travel		20.0
Contract*	$47.0	75.3
Commodities		3.4
Equipment		10.4
TOTAL	$47.0	$270.9

*$10,000 Workers Compensation Acts; $25,000 Information Booklet; $12,000 Data Processing

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION		APPROV.	DISAPP.
1	Rehabilitation Administrator			22A		EBA	GOV.		
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE			
2	PFT	12	N/A	New Position		N/A	LEG.		

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 3714 x 12	44,568	
5	BENEFITS .1592	7,095	
6	SBS .0613	2,188	
7	FIXED BENEFITS 183 x 12	2,196	
8	TOTAL PERSONAL SERVICES 01		56,047
9	TRAVEL 02		10,000
10	CONTRACTUAL 03		15,607
11	COMMODITIES 04		850
12	EQUIPMENT 05		1,600
13	OTHER		
14	TOTAL COST		84,104

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	84,104
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

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4A KEY NUMBER ..... COLUMN NO. .....

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The rehabilitation administrator is necessary to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

Extensive travel within the state is necessary to provide assistance to approximately 12,000 employers in developing programs for re-employment of injured workers and coordinating counselor services with workers, insurers/employers, labor unions, and rehabilitation providers.

9. Travel: $10,000 (20 trips @ $500 per trip)
10. Contractual: Space $3,100 (to be transferred to DOA)
Auto Lease & Operating Costs $5,600
Indirect (11.46% x 44,568 = $5,107)
Other costs which include communications, equipment rental, etc., $1,800
11. Commodities: Cost per position
12. Equipment: Desk, desk chair, side chairs, bookcase, file - $1,600

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE

FY 83

01-1136 (7/81)

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION		APPROV.	DISAPP.
1	Workers Compensation Officer II			18A	GBU	JBA	GOV.		
	TYPE OF POSITION	STAFF MONTHS	RP No. / PCN No.	PRIORITY		FORM 2 PAGE/LINE			
2	PFT	12	N/A / New Position			N/A	LEG.		

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES.		
4	SALARY 3249 x 12	38,988	
5	BENEFITS .1592	6,207	
6	SBS .0613	2,188	
7	FIXED BENEFITS 183 x 12	2,196	
8	TOTAL PERSONAL SERVICES 01		49,579
9	TRAVEL 02		5,000
10	CONTRACTUAL 03		14,968
11	COMMODITIES 04		850
12	EQUIPMENT 05		1,395
13	OTHER		0
14	TOTAL COST		71,792

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	71,792
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

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4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The workers' compensation officer is necessary to coordinate with workers, employers, insurers and rehabilitation providers to expedite the retraining and reemployment of injured workers. Travel within the Fairbanks and Northern regions will be necessary to coordinate this effort.

9. Travel: $5,000 (10 trips @ $500 per trip)

10. Contractual: Space $3,100 (to be transferred to DOA)
Auto Lease, Maintenance Agreement & Operating Costs $5,600
Indirect Costs (11.46% x 38,988 = $4,468)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair, side chair, file, worktable, bookcase $1,395

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

REVISED DATE _____

FY 83

01-1130 (7/81)

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Clerk Typist III			8B	GBU	AMA	GOV.		
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE			
2	PFT	12	N/A	New Position		N/A	LEG.		

	TYPE OF EXPENDITURE			AMOUNT
	1		2	3
3	PERSONAL SERVICES:			
4	SALARY 1530 x 12		18,360	
5	BENEFITS .1592		2,923	
6	SBS .0613		1,125	
7	FIXED BENEFITS	183 x 12	2,196	
8	TOTAL PERS SERVICES	01		24,604
9	TRAVEL	02		
10	CONTRACTUAL	03		7,004
11	COMMODITIES	04		850
12	EQUIPMENT	05		700
13	OTHER			
14	TOTAL COST			33,158

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	33,158
18		I-A RCPTS. 1007	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

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4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk III position will provide clerical assistance to the Workers' Compensation Officer in the Juneau Second Injury Fund office and will be responsible for providing and coordinating distribution of information from the claim files to the other regions.

10. Contractual: Space $3,100 (to be transferred to DOA)
Indirect (11.46% x 18,360 = $2,104)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair $700

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 83

(01-1136 (7/81))

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION		APPROV.	DISAPP.
1	Clerk IV			9B	GBU	EBA	GOV		
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE			
2	PFT	12	N/A	New Position		N/A	EGG		

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 1627 x 12	19,524	
5	BENEFITS .1592	3,108	
6	SBS .0613	1,197	
7	FIXED BENEFITS 183 x 12	2,196	
8	TOTAL PERSONAL SERVICES 01		26,025
9	TRAVEL 02		0
10	CONTRACTUAL 03		7,137
11	COMMODITIES 04		850
12	EQUIPMENT 05		700
13	OTHER		
14	TOTAL COST		34,712

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	34,712
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

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4A KEY NUMBER ..... COLUMN NO. .....

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk IV position will provide clerical assistance to the Rehabilitation Administrator and Workers' Compensation Officer and will be responsible for maintaining follow-up on all rehabilitation files.

10. Contractual: Space $3,100 (to be transferred to DOA)
Indirect (11.46% x $19,524 = $2,237)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk and desk chair $700

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

Page 4 of 4 REVISED DATE

FY 83

01 1136 (7/81)

WEEK OF FEBRUARY 1, 1982

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update:

NYIE expects to gain new authority this week

NEW YORK—New York lawmakers are expected this week to approve legislation that would allow the New York Insurance Exchange to directly underwrite risks located outside the state as a surplus lines market.The New York Assembly was to vote Monday on the measure; a Senate vote

Continued on next page

Court orders equal spouses' benefits

By JERRY GEISEL

RICHMOND, Va.—A federal appeals court ruling mandating equitable pregnancy benefits for spouses could boost thousands of employers' health insurance costs.

In a case with national significance, the U.S. Fourth Circuit Court of Appeals said Newport News Shipbuilding violated the 1978 Pregnancy Discrimination Act by refusing to provide equitable pregnancy benefits to wives of male employees in its group health insurance plan.

The appellate court decision is a victory for the Equal Employment Opportunity Commission. It had appealed a lower court decision that said the Pregnancy Discrimination Act only requires employers to offer equal pregnancy benefits to employees—and not to employees' spouses, too (*BI*, Feb. 23, 1981).

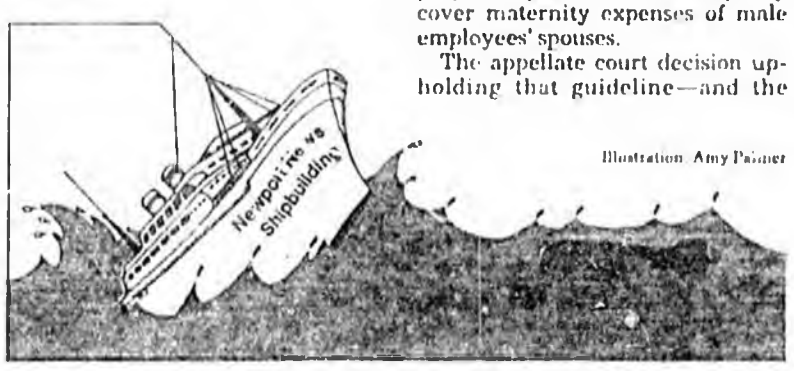

Illustration: Amy Palmer

The EEOC says if an employer's health insurance plan covers the medical expenses of female employees' spouses, it must equally cover maternity expenses of male employees' spouses.

The appellate court decision upholding that guideline—and the first appellate level ruling on the Pregnancy Discrimination Act—is a costly blow to employers, like Newport News Shipbuilding, that said EEOC had no legal authority to require equitable pregnancy coverage for male employees' wives.

Newport News Shipbuilding, which has asked the appellate court to reconsider its decision, says equalizing pregnancy benefits for male employees' wives will hike the company's health insurance costs about $700,000 a year, said Bob Ponton, manager of equal employment opportunity for Newport News which has 23,000 employees.

Nationwide, the cost of equalizing spouses' pregnancy benefits could run into the tens of millions of dollars for the thousands of employers who do not provide equal pregnancy benefits in their dependent health insurance plans.

"We are talking about massive amounts of money," said Steve Bokat, senior labor counsel for the National Chamber Litigation Center in Washington, D.C.

Employers' dependent health insurance premiums could rise 3% to 14% if they were forced to provide equitable pregnancy benefits for spouses of male employees, according to insurance company actuaries. Firms with predominantly male workforces would face the greatest increases.

However, employers who r...

Continued on page 31

Court orders equal benefits for pregnancy

Continued from page 1

quire their employees to pay some or all of the cost of dependent health care coverage would be shielded from much of this cost.

Although the appellate court decision only applies in Maryland, North Carolina, South Carolina, Virginia and West Virginia, where the 4th Circuit Court has jurisdiction, it could be cited as a precedent in other states where the EEOC is suing employers for failing to provide equitable pregnancy benefits.

For example, EEOC is suing Emerson Electric Co. because the St. Louis, Mo.-based electronics giant's group health insurance plan provides greater benefits to husbands of female employees than to wives of male employees (*BI*, Sept. 7, 1981).

And with the appellate court victory under its belt, the EEOC will continue to sue companies that won't heed its guidelines on pregnancy benefits for spouses, according to Michael Connolly, EEOC general counsel.

The EEOC maintains that the Civil Rights Act of 1964 makes it clear that there must be equality of benefits for spouses in group health insurance plans. The Pregnancy Discrimination Act amends the Civil Rights Act.

"If an employer makes available to female employees insurance that covers the cost of all the medical conditions of their spouses, but provides male employees with insurance coverage for only some of the medical conditions (i.e., all but pregnancy-related) of their spouses, male employees are receiving a less favorable fringe package," the EEOC says.

The Newport News Shipbuilding case, which benefit managers around the country were watching closely, involved a 1980 suit filed by the firm challenging the pregnancy benefit guideline issued by the EEOC.

In its largest group insurance plan covering hourly employees, Newport News Shipbuilding pays all reasonable and customary expenses for spouses of female employees, but it places a $500 cap on their pregnancy hospitalization benefits for spouses of male employees.

In the February 1981 ruling, federal Judge Calvitt Clarke Jr. agreed with Newport News Shipbuilding's argument that the Pregnancy Discrimination Act only applied to employees and not to spouses.

"The clear legislative intent behind the Pregnancy Discrimination Act was to ensure that *working women are protected against all forms of employment discrimination based on sex*," Judge Clarke wrote.

But the appellate court disagreed with this decision. It argues that the Pregnancy Discrimination Act also applies to spouses' pregnancy benefits because those benefits are employment related.

"When an employer considers extension of medical benefits to spouses of employees, it does so with an 'employment-related purpose' just as it does when it considers the extension of such benefits to employees," the appellate court said. "Benefits would never be extended to spouses if the extension did not serve an employment-related purpose."

The appellate court decision "will go a long away to ensuring that employees, both male and female, are compensated equally without regard to distinctions based on pregnancy," said Mr. Connolly. ■

Workers' compensation can pay off big—and in some strange situations

YOUR HIDDEN BENEFITS

by Andrew Tobias

A secretary unhinged by the discovery of her boss' dead body was awarded workers' compensation benefits. So was the widow of a judge whose death was held to have been related to the enormous size of his case backlog. So, too, a foundry worker who hurt his arm banging a recalcitrant vending machine during his coffee break, and an attorney who injured his back stretching across his desk to pick up a pen. (The injury laid him up for 90 days.)

Eighty-eight percent of all salaried and wage-earning Americans in 1981 were covered by workers' compensation insurance against job-related injuries and illnesses. And the definition of "job-related" grows ever broader.

A 37-year-old employee of an American auto parts manufacturer, on assignment in Birmingham, England, collapsed and died in March 1979 following sexual intercourse with a female co-worker. It was determined that vapors from a space heater in her flat had been the cause. Even though their meeting had been held after normal working hours and occurred off company premises, a Michigan administrative law judge ruled that the man's family was eligible for workers' compensation benefits. ("The deceased's work assignment in England exposed him to situations and hazards that were different in nature and degree from those in Michigan," wrote the judge.)

One could write at length about the dreadful ways insurance companies will occasionally abuse their patrons (one large insurer until recently denied that the cost of a cemetery plot, a clergyman or flowers were allowable "funeral expenses"); or, on the other hand, about the dreadful ways policyholders cheat their insurance carriers (an extreme being the man who blew up an airliner to collect on his mother's flight insurance). But here and there in the contentious, inefficient, half-trillion-dollar world of insurance, one finds a relatively bright spot. Workers' compensation insurance, although not without flaws, is one such spot. Most of us have it—we are covered, automatically, by our employers—but few of us think about it. In short, you may be better insured than you think.

Each state has its own rules, but in most, disabled workers receive two-thirds of their pre-disability wage, up to certain limits—*tax-free* (see Table A). In all but a few states, the same weekly benefits are paid during periods of *temporary* total disability, as well as to the spouse and children of workers killed on the job. Table B shows some of the lump sum payments made *in addition to* weekly benefits.

If a safety inspector in Pittsburgh falls into a blast furnace or a Philadelphia bank executive is murdered by an irate loan applicant, his or her spouse will collect $13,624 a year in workers' comp benefits, tax-free, for life (or until remarriage). That is, *unless* the deceased happened to be an employee of the federal government (a *federal* safety inspector or an executive of the Philadelphia Federal Reserve Bank), in which case the spouse would collect $37,596 a year. Federal employees, in whatever state they are employed, have their own special schedule of weekly and lump sum benefits.

A normal Nebraskan thumb is worth $10,800. If it hangs from the hand of a Nebraskan on the federal payroll, it's $54,209. Similarly, the loss of a foot brings $16,870 to a Californian, but $148,170 to a Californian on the federal payroll.

Prior to the enactment of workers' (formerly workmen's) compensation laws, beginning in 1911, an injured worker had to prove negligence on the part of his or her employer in order to recoup medical expenses and lost wages, let alone collect damages. The employer, on the other hand—presumably better equipped to wage and wait out a protracted legal struggle—had only to prove that the employee's injury was his own fault ("We never asked Charlie to stick his hand in the machine") or the fault of a fellow worker ("Caspar shouldn't have turned the thing on while Charlie was looking around inside it") or even merely that the worker had taken the job knowing it could result in his injury ("Whoever said coal mining was safe?"). It was a miserable system, not unlike the auto insurance system we still have.

Under the new laws (rather like what no-fault auto insurance ought to be but isn't), workers gave up their right to sue employers for damages in return for a guarantee of swift and certain benefit payments, regardless of fault. Benefit levels have naturally risen many times since 1911 and continue to rise with inflation. Today, coverage is mandatory everywhere but South Carolina, New Jersey and Texas, with very limited exceptions. Claims—millions of them—range from things like paper cuts and ankles sprained in company softball games to mangled limbs and worse. There were 13,000 on-the-job fatalities in 1980.

Workers' compensation insurance cost employers some $25 billion in 1981, and, like any other cost of business, it was passed on to consumers: about $300 per household. In Florida not long ago, it accounted for $2000 of the cost of building a $55,000 house,

continued

TABLE A: YOUR MAXIMUM WEEKLY BENEFITS

State	1970	1981	Increase	State	1970	1981	Increase
Ala.	$ 50	$148	196%	Neb.	$55	$180	227%
Alaska	83	859	935%	Nev.	66	245	269%
Ariz.	154	204	32%	N.H.	67	213	218%
Ark.	49	126	157%	N.J.	91	199	119%
Cal.	52	175	237%	N.M.	48	222	363%
Colo.	60	245	308%	N.Y.	80	215	169%
Conn.	84	285	239%	N.C.	50	210	320%
Del.	75	175	133%	N.D.	59	213	261%
D.C.	70	456	551%	Ohio	56	275	391%
Fla.	56	228	307%	Okla.	43	155	260%
Ga.	50	110	120%	Ore.	63	281	314%
Hawaii	113	235	109%	Pa.	60	262	337%
Idaho	43	198	360%	R.I.	70	217	210%
Ill.	71	376	430%	S.C.	50	216	332%
Ind.	57	140	146%	S.D.	50	191	282%
Iowa	56	384	586%	Tenn.	47	119	153%
Kan.	56	170	204%	Tex.	49	133	171%
Ky.	56	233	316%	Utah	47	230	389%
La.	49	163	233%	Vt.	61	208	241%
Me.	73	322	341%	Va.	62	213	244%
Md.	85	248	192%	Wash.	81	205	152%
Mass.	70	245	250%	W. Va.	66	262	300%
Mich.	104	181	74%	Wis.	79	249	215%
Minn.	70	244	249%	Wyo.	35	362	934%
Miss.	40	98	145%	**Federal Employees**	**405**	**723**	**103%**
Mo.	58	150	159%	U.S. Cost of Living Change			135%
Mont.	60	219	265%				

Andrew Tobias is the author of "The Invisible Bankers: Everything the Insurance Industry Never Wanted You To Know," to be published later this month, from which this article is adapted. *Copyright ©1982 by Andrew Tobias.*

Illustrations by Donald H. Smith

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***HIDDEN BENEFITS** /continued*

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What made the system so expensive? One worker hurt his hand so badly in a Disney World tram accident, he maintained, that he could no longer drive a bus. He received $3810 for his disability. Yet he reportedly managed to play pinball right after the tragedy, then to drive back to West Palm Beach. Another worker filed a workers' comp claim the day he was told the CETA program under which he was employed would expire. According to his boss, his injury had been sustained when he deliberately dove out of a moving car.

Florida's own former insurance commissioner—later convicted of extortion and mail fraud—collected over $19,000 for a heart attack, arthritis, ulcers and depression. The heart attack occurred in his rush to catch a flight to Las Vegas to attend a convention.

Florida's system has been tightened considerably in the last couple of years, but it typifies the sort of abuses to which *any* insurance scheme is liable. Which is one of the reasons insurance in America is as unfair and inefficient as it is—but that's another story. P

TABLE B: LUMP SUM BENEFITS FOR SELECTED DISABILITIES

State	Arm at Shoulder	Hand	Thumb*	Leg at Hip	Foot	Toe**	Eye
Ala.	$32,856	$25,160	$9176	$29,600	$20,572	$1628	$18,352
Alaska	43,680	33,600	10,400	40,320	28,700	2240	22,400
Ariz.	43,725	36,437	10,931	36,437	29,150	1822	21,862
Ark.	25,200	18,900	7560	22,050	15,750	1260	12,600
Cal.	29,488	21,770	3797	32,288	16,670	420	10,553
Colo.	17,472	8736	4200	17,472	8736	924	11,676
Conn.	88,920	71,820	27,075	67,830	56,430	3705	66,975
Del.	43,800	38,544	13,140	43,800	28,032	2628	35,040
D.C.	142,347	111,323	34,218	131,397	95,529	7300	72,998
Fla.	No schedule. Determined case by case.						
Ga.	24,750	17,600	6,600	24,750	14,850	2200	13,750
Hawaii	73,320	57,340	17,625	67,680	48,175	3760	37,600
Idaho	36,300	32,670	13,310	24,200	16,940	847	21,175
Ill.	88,438	71,503	26,343	75,266	58,331	4516	60,213
Ind.	33,750	15,000	4500	16,875	13,125	2250	13,125
Iowa	88,250	67,070	21,180	77,660	52,950	5295	49,420
Kan.	35,700	25,500	10,200	34,000	21,250	1700	20,400
Ky.	No schedule. Determined case by case.						
La.†	32,600	24,450	8150	28,525	20,375	1630	16,300
Me.	66,434	54,808	16,608	66,434	54,808	3322	33,217
Md.	74,400	62,000	24,800	74,400	62,000	2480	62,000
Mass.	6750	5250	—	6000	4500	—	6000
Mich.	56,490	45,150	13,650	45,150	34,020	2310	34,020
Minn.	65,880	53,680	15,860	53,680	40,260	3660	39,040
Miss.	19,600	14,700	5880	17,150	12,250	980	9800
Mo.	20,880	15,750	5400	18,630	13,500	1260	12,600
Mont.	30,660	21,900	8212	32,850	19,710	1752	18,068
Neb.	40,500	31,500	10,800	39,700	27,000	1800	22,500
Nev.	No schedule. Determined case by case.						
N.H.	45,582	37,275	10,650	45,582	32,103	2130	26,838
N.J.	48,161	29,255	4583	45,972	24,412	917	23,882
N.M.	44,300	26,688	12,182	44,300	25,472	3101	28,795
N.Y.	32,760	25,620	7875	30,240	21,525	1680	16,800
N.C.	50,400	42,000	15,750	42,000	30,240	2100	25,200
N.D.	10,000	10,000	3250	9360	6000	480	6000
Ohio	30,938	24,062	8250	27,500	20,625	1375	17,188
Okla.†	22,500	18,000	5400	22,500	18,000	900	18,000
Ore.	19,200	15,000	4800	15,000	13,500	400	10,000
Pa.	107,420	87,770	26,200	107,420	65,500	4192	72,050
R.I.	67,704	52,948	16,275	67,704	44,485	2170	34,720
S.C.	47,720	35,340	14,040	42,120	30,240	2160	21,600
S.D.	38,200	28,650	9550	30,560	23,875	1910	28,650
Tenn.	23,800	17,850	7140	23,800	14,875	1190	11,900
Tex.†	26,600	19,950	7890	26,600	16,625	1330	13,300
Utah	28,611	25,704	10,251	19,125	13,464	612	18,360
Vt.	44,720	36,400	10,400	44,720	36,400	2080	26,000
Va.	42,600	31,950	12,780	37,275	26,625	2130	21,300
Wash.	36,000	32,400	12,960	36,000	25,200	2760	14,400
W.Va.	41,933	34,944	13,978	41,933	24,461	2796	23,063
Wis.	35,000	28,000	11,200	35,000	17,500	1750	19,250
Wyo.	36,234	29,470	10,629	32,611	24,156	1691	22,707
Federal Employees	**225,607**	**176,358**	**54,209**	**208,161**	**148,170**	**11,564**	**115,645**

Table abbreviated from "Analysis of Workers' Compensation Laws," U.S. Chamber of Commerce, Washington, D.C. 20062

* Other fingers, not shown, are successively less valuable
** Great toe, not shown, is worth a great deal more
† Weekly benefits are deducted from these lump sums

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LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTION

19, 23, 24, 26, 27, 28 & 29

SUBSTANCE:

Makes changes to reflect a change basis for calculating benefits from 66 2/3% of gross wages to 80% of spendable wages.

POSITION:

Support.

ACTION:

Support.

BACKGROUND:

Changing compensation from 66 2/3% of a workers gross wages to 80% of his spendable wages will probably have salutory effect on the benefit levels particularly with respect to higher wage earners.

The exact magnitude of the savings to be effected by such a change cannot now be determined but it is believed that there will be a reduction in benefits as a result.

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LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTION

Eighteen

SUBSTANCE:

Authorizes lump sum payments.

POSITION:

Support.

ACTION:

Support.

BACKGROUND:

This is similar to Section 12 of CSHB 159, January 25 (Sofo), with this material change; the legislature has added the words "and the parties agree". This means that if the parties agree the Board may authorize the lump sum payment but it cannot do so without the parties concurrence. This was my principle concern with the drafting in the other bill.

IMPORTANT DRAFTING NOTE:

In Section 25 of the proposed legislation there is substantial modification to AS 23.30.190. They neglected to remove the last phrase of subsection (20). In view of the adoption of this section in the bill the last phrase in subsection (20) is unnecessary and should be removed.

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LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTION

Seventeen

SUBSTANCE:

Same as Section 11 of CSHB 159 (Sofo) January 25, 1982.

ADDITIONAL COMMENT:

We would point out that if the Legislature is concerned about those carriers which will offset for over payment or advance payments by making no payments at all, we would not be adverse to a provision which reads as follows:

> "(j) if an employer has made advance payments or over payments of compensation, he is entitled to be reimbursed, out of any unpaid installment or installments of compensation due up to an amount equal to fifty percent of each of the subsequent payments. If the employer seeks to offset by more than fifty percent of subsequent payments such additional offsets require the prior approval of the Board."

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March 17, 1982

Honorable Terry Martin
House of Representatives
Pouch 4
Juneau, Alaska 99811

Dear Terry:

For the past two weeks, I have been working delingently with representatives of the Labor and Management Coalition to work out language which meets the concerns which we all have for curing the problems in rehabilitation but doing so in the context of the existing mechanisms for case management.

As you know Terry, I am very strongly opposed to setting up a new function or staff in the bureaucracy to do that which is, by and large being properly handled and, which with some changes in the law, can work well, in the private sector.

As of last night (3/16/82) we have come close to concurrance in principle on the items which heretofore have divided us.

I have, at the request of the Labor and Management Coalition drafted language to make HB 159 acceptable to me and still meet all of the objectives of the Labor and Management Coalition. They have not had time to review this last draft (RLB 3/17/82).

Briefly, these changes:

1) Impose a statutory requirement for a rehabilitation evaluation within 90 days of injury or, if not appropriate, a preliminary evaluation.

2) Define those entitled to rehabilitation exactly as in the Labor and Management Coalition' version.

3) Set standards for qualifying a rehabilitation program.

4) Impose a mechanism for quickly resolving disagreements concerning rehabilitation.

5) Provide for no new functions or positions in Division of Workers' Compensation. Thus, there is genuinely no fiscal impact on the General Fund or the Second Injury Fund.

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6) Cleans up a number of concerns which do not deal with rehabilitation shared by all of us. All proposed changes not dealing with rehabilitation have been agreed to by labor, management and the insurers.

One final point.

I have been led to believe that Jackie McKlintock has expressed concern that she does not now have the staff to carry the current work load, any future obligations placed on the Board. I would make the following observations:

1) The recommended changes will reduce the work load because rehabilitation funding from the Second Injury Fund is eliminated. Use of DVR is eliminated and only disputed cases will go to the Board.

2) Because DVR's role in workers' compensation cases is eliminated by these changes, whatever money is released in DVR can be transferred in the budget approval process to the Division of Workers' Compensation to hire additional hearing representatives.

Terry, I believe it is imperative that the proposed changes be inserted as presented into HB 159.

Your cooperation over these last few weeks is very much appreciated. I believe, as a result of our mutual efforts a very fine bill will result.

Yours cordially,

Richard L. Block
President

RLB/cv

RLB 3/11/82

PROPOSED CHANGES
TO
CSHB 159 (L & C) 3/3/82

SECTION 1. (p. 1 l. 19)

Eliminate subsection (4)

SECTION 2.

Remove

SECTION 3. (p. 2 l. 19)

Change "AS 20.20.041" to "AS 23.30.097"

SECTION 4.

Remove and substitute a new section 4.

SEC. 23.30.005 (f) is amended to read.

(f) Two members of a panel constitute a quorum for hearing claims, and the action taken by a quorum of a panel is considered the action of the full Board; the Commissioner or his designated representative acting alone shall constitute a quorum for making determinations of propriety of a rehabilitation program pursuant to AS 23.30.097.

SECTION 5.

Remove and add proposed new section to add AS 23.30.097 to read:

AS 23.30.097 Rehabilitation Program

(a) When an employee suffers a permanent disability which precludes his return to suitable gainful employment, he shall be entitled to be fully evaluated for participation in a rehabilitation program within 90 days after date of injury. The full evaluation shall be performed by a qualified rehabilitation professional. The reasonable costs of the evaluation shall be at the expense of the employer. If in the opinion of the qualified rehabilitation professional, the medical, physical or emotional state of the employee is such that a full evaluation cannot then be made, the rehabilitation professional shall prepare a preliminary evaluation.

(b) The full evaluation by the qualified rehabilitation professional shall determine if the employee would benefit from a rehabilitation program. The determination shall be based on the following criteria:

(1) The rehabilitation program will restore the employee to a position to accept suitable, gainful employment equal to or as near as possible to that of his pre-injury employment. An employee is restored to a position of suitable gainful employment if he can return to (in the order of preference)

i) Return to work at the same or similar job with the same employer or employer in the same industry as the employer at the time of injury.

ii) A job using essentially the same skills as the job at time of injury but in a different industry.

iii) A job using different skills but the same academic achievement level as attained at the time of injury.

iv) A job requiring an academic achievement level which is different from that attained at the time of injury, but which rehabilitation evaluation determines is attainable by the employee and which job is believed to be available to the employee in his community at the time academic training is completed.

(2) The employee cannot be restored to a position to accept suitable gainful employment without the rehabilitation program.

(3) The cost of the rehabilitation program, including all costs to be incurred by the employer for and during the rehabilitation program, plus an estimate of continuing benefits due the employee after the conclusion of the rehabilitation program are equal to or less than the benefits due the employee under this Act, assuming no rehabilitation program is implemented and assuming no discounting or lump-sum payment of benefits.

(4) The rehabilitation program may consist of any of the following, however, if the employee may be restored to a suitable gainful employment with rehabilitation programs of high preference, then a rehabilitation program of a lower preference need not be offered by the employer.

In order of preference rehabilitation programs are:

i) Prosthetic devices and training enabling work at the same or similar employment as at the time of injury.

ii) Work site modification and vocational training to the same or similar occupation.

iii) On the job training for a new occupation.

iv) Vocational training for a new occupation.

v) Academic training for a new occupation. The employer is not obligated to provide academic training for a period longer then two consecutive school semesters, except that the Board may, after successful completion of the first two semesters authorize up to two more consecutive semesters.

(c) A preliminary evaluation shall include the reasons why a full evaluation cannot be rendered, an opinion as to when the employee will be eligible for a full evaluation, any information which would be included in a full evaluation which can be determined and reported by the rehabilitation professional at the time of the preliminary evaluation.

(d) If the full evaluation or preliminary evaluation is not timely scheduled for an employee entitled thereto by the employer, the employee or the Board may designate a qualified rehabilitation professional to perform the evaluation, the reasonable costs of which shall be paid by the employer. If the full evaluation shows that the employee would benefit from a rehabilitation program, the program shall be provided at the expense of the employer.

(e) Refusal by an injured employee to participate in an evaluation or a rehabilitation plan offered by the employer results in forfeiture of disability compensation for the period the refusal continues. However, if an employee begins participation in an evaluation or rehabilitation plan within two months from the date of refusal, and successfully completes the evaluation and rehabilitation plan and becomes employed for a period of 30 consecutive business days following the completion of the rehabilitation program, the employee shall receive a lump-sum payment of 25 percent of the compensation forfeited by him. The lump-sum payment is available only once to an employee refusing rehabilitation. The Board may find that an employee refuses to participate in an evaluation or rehabilitation plan if the employee fails to cooperate with the qualified rehabilitation professional.

(f) The employer responsible for the benefits under this Act shall be liable for, and any subsequent employer hiring the employee during and as part of the rehabilitation program shall not be liable for, benefits under this Act for injuries occurring to the employee while engaged in job training, work readiness, work therapy experience or work sampling which is part of the rehabilitation program offered by the employer and the earnings for which, if any, are credited to gross wages upon which compensation benefits are calculated.

(g) Compensation payable pursuant to AS 23.30.185 or AS 23.30.200 shall be paid, in lieu of any other compensation except compensation due under AS 23.30.190 during the period the employee is actively engaged in a rehabilitation program.

(h) In this section

i) "Suitable gainful employment" means employment that is reasonably attainable in light of an individual's age, education, previous occupation, and injury, and that offers an opportunity to restore the individual as soon as practical to a remunerative occupation and as nearly as possible to his average weekly wage as determined at the time of injury.

ii) "Qualified rehabilitation professional" means a person who by education, professional training and experience has the skills to make judgements, administer and interpret tests, counsel, and make recommendations with respect to a persons medical, intellectual, emotional, physical or motivational capacity to accept and perform suitable gainful employment, and to design, implement and supervise programs which tend to enhance a person's medical, intellectual, emotional, physical or motivational capacity to accept suitable gainful employment.

SECTION 6.(p. 5 l. 15)

Change "AS 23.30.041" to "AS 23.30.097"

SECTION 7.

Remove

SECTION 8.

No changes

SECTION 9.

No changes

SECTION 10.

No changes

SECTION 11.

No changes

SECTION 12.

Remove and adopt a new section to read:

add to Chapter 23.30 a section to read
"AS 23.30.096."

Upon the filing of a claim under this Act, an employee thereby authorizes all providers of medical treatment pertaining to the injury or rendered prior to the date of injury to release information to the employer. If requested by the employer, the employee shall execute all releases to facilitate access to that information.

SECTION 13.

No changes

SECTION 14.

Acceptable except add to the subsection (c) the following additional sentence to read:

"If a claim is controverted by the employer and the employee does not request a hearing for a period of two years following the date of controversion, the claim is deemed denied by the Board."

SECTION 15. (p. 8 l.25)

Strike "occasioned solely" and insert in lieu "proximately caused".

SECTION 16. (p. 9 l. 3)

Add after "...is conclusive" and before "even if..." a phrase to read:

", provided there is some evidence of record to support the finding,"

SECTION 17.

Strike and instead add a section to read:

"AS 23.30.155(j) if an employer has made advance payments or overpayments of compensation, he is entitled to be reimbursed out of any unpaid installment or installments of compensation due up to an amount equal to twenty per cent of each of the subsequent installments. If the employer seeks to offset by more than twenty per cent of the amount of each subsequent installment, prior Board approval is required.

SECTION 18.

No change

SECTION 19.

No change

SECTION 20.

No change

SECTION 21.

No change

SECTION 22.

No change

SECTION 23.

No change

SECTION 24.

Add to subsection (12) (p. 13 l. 3) a clause to read:

"but no benefit is payable for loss of hearing above 3,000 cycles per second unless hearing above 3,000 cycles per second is a requirement of the job held at the time of injury."

SECTION 25.

No change

SECTION 26.

No change

SECTION 27.

No change

SECTION 28.

No change

SECTION 29.

No change

SECTION 30.

No change

SECTION 31. (p. 18 l. 13)

Change "occasioned solely" to "proximately caused"

SECTION 32.

No change

SECTION 33.

No change

SECTION 34.

No change

SECTION 35 (p. 20 l. 10)

Add after "---of injury" and before ";" a phrase to read:

"up to the amount which when added to all other components of gross earnings brings gross weekly earnings up to the state's average weekly wage "

SECTION 35 (p. 20 l. 19-21)

Should be amended to read:

"and (b) the amount that is or would be deducted or withheld as of January 1, preceding the injury under the Social Security Act of 1935 from the earnings of"

SECTION 36.

Remove and insert new section to read:

SEC. 23.30.145 (a) is amended to read as follows:

Fees for legal services rendered in respect to a claim are not valid unless approved by the Board, and the fees may not be less than 25 percent on the first $1,000 of compensation or part of the first $1,000 of compensation, and 10 percent of all sums in excess of $1,000 of compensation. When the Board advises that a claim has been controverted, in whole or in part, the Board may direct that the fees for legal services be paid by the employer or carrier in addition to compensation awarded; the fees may be allowed only on the amount of compensation controverted and awarded. For purposes of this section a hearing before the Board on the propriety of a rehabilitation program pursuant to AS 23.30.097 is not a controversion of a claim. When the Board advises that a claim has not been controverted, but further advises that bonafide legal services have been rendered in respect to the claim, then the Board shall direct the payment of the fees out of the compensation awarded. In determining the amount of fees the Board shall take into consideration the nature, length and complexity of the services performed, transportation charges, and the benefits resulting from the services to the compensation beneficiaries.

SECTION 37.

Add sections to be repealed as follows:

23.30.040(e)
23.30.191

SECTION 38.

Remove

SECTION 39.

Add new section to read:

SEC. 23.30.125 add new subsection

23.30.125 (c) An order of determination of the propriety of a rehabilitation program pursuant to AS 23.30.097 issued by the Commissioner or his designated representative acting alone, may be heard before a full panel upon the petition of employee or employer filed within 10 days after issuance of the order.

The Board shall give priority in calendaring its cases for hearing to hearings to determine the propriety of a rehabilitation program pursuant to AS 23.30.097.

SECTION 39.

This Act shall take effect October 1, 1982, and shall effect only claims occurring on or after the effective date hereof.

ARCTIC SLOPE AS/AG ALASKA GENERAL

ARCTIC SLOPE ALASKA GENERAL CONSTRUCTION COMPANY, INC.

April 29, 1982

Representative Terry Martin
Pouch V
Juneau, AK 99811

Dear Representative Martin:

Just this morning I was alerted to the possibility of the State Legislatures voting to make changes in the Workmen's Compensation Act.

Due to the finality of legislative changes in the Act, full public understanding of all changes (and how they affect employees and employers alike) is extremely important.

Since this cannot be done before adjournment,I am asking you to help defeat passage and re-submit this bill in the next session.

Very truly yours,

ARCTIC SLOPE ALASKA GENERAL

Cliff Tomlinson

Cliff Tomlinson
Senior Vice President

TELEPHONE: (907) 279-5486 • TELEX: 090-26-369 • TELECOPIER: 907-274-2168
P.O. BOX 6223 • 536 EAST 48TH AVENUE • ANCHORAGE, ALASKA 99502

ARCTIC SLOPE ALASKA GENERAL CONSTRUCTION COMPANY, INC.

April 29, 1982

Representative Terry Martin

Pouch V
Juneau, Ak 99811

Dear Representative Martin:

I have just learned that HB 159 is scheduled for a vote this session. Certainly a bill of this magnitude should be given more time and consideration.

With the session so close to adjournment, we feel that defeat of this bill is the only sensible course of action for you to take.

Please do not consider voting on HB 159 this session.

Sincerely,

ARCTIC SLOPE ALASKA GENERAL

C. L. Conger

C. L. Conger
Executive Vice President

TELEPHONE: (907) 279-5486 • TELEX: 090-26-369 • TELECOPIER: 907-274-2168
P.O. BOX 6223 • 536 EAST 48TH AVENUE • ANCHORAGE, ALASKA 99502

ARCTIC SLOPE ALASKA GENERAL CONSTRUCTION COMPANY, INC.

April 29, 1982

Representative Terry Martin
Pouch V
Juneau, Ak 99811

Dear Representative Martin:

I hope this letter reaches you before HB 159 comes up for passage or defeat.

Any change in the Alaska Workmen's Compensation Act should be carefully considered, changes or amendments debated then compromised.

Voting on this bill at this late date (when adjournment is receiving much publicity) would not be in the best interests of workers or their employers.

I ask you to vote for defeat of this bill.

Very truly yours,

ARCTIC SLOPE ALASKA GENERAL

Irene Bartee

Irene Bartee
Office Manager

TELEPHONE: (907) 279-5486 • TELEX: 090-26-369 • TELECOPIER: 907-274-2168
P.O. BOX 6223 • 536 EAST 48TH AVENUE • ANCHORAGE, ALASKA 99502

ARCTIC SLOPE ALASKA GENERAL CONSTRUCTION COMPANY, INC.

April 29, 1982

Representative Terry Martin
Pouch V
Juneau, AK 99811

Dear Representative Martin:

I understand HB 159 is scheduled for a vote this session of the Legislature. Certainly more careful study must be given to a bill of this nature.

Both employers and employees must be given time to study and consider a bill of this type.

I ask for immediate defeat of HB 159 should it come up for vote in this session.

Sincerely,

ARCTIC SLOPE ALASKA GENERAL

Kelly Crick

Kelly Crick
Vice President

TELEPHONE: (907) 279-5486 • TELEX: 090-26-369 • TELECOPIER: 907-274-2168
P.O. BOX 6223 • 536 EAST 48TH AVENUE • ANCHORAGE, ALASKA 99502

ARCTIC SLOPE
AS/AG
ALASKA GENERAL

ARCTIC SLOPE ALASKA GENERAL CONSTRUCTION COMPANY, INC.

April 29, 1982

Representative Terry Martin
Pouch V
Juneau, AK 99811

Dear Representative Martin:

Before HB 159 comes up for vote in this session (if in fact it does get out of committee) I wish to enlist your help to defeat this bill in its entirety.

I am in the Safety field and after several calls to other people that also deal in Workmen's Compensation Cases, none of us have any idea of what the bill encompasses.

I know there has been a lot of pressure to adjourn, and I don't want a bill that affects the future of so many to be rushed through.

Please defeat this bill if it comes up for vote.

Very truly yours,

ARCTIC SLOPE ALASKA GENERAL

Leo Gilbert

Leo Gilbert
Safety Manager

TELEPHONE: (907) 279-5486 • TELEX: 090-26-369 • TELECOPIER: 907-274-2168
P.O. BOX 6223 • 536 EAST 48TH AVENUE • ANCHORAGE, ALASKA 99502

ARCTIC SLOPE
AS/AG
ALASKA GENERAL

ARCTIC SLOPE ALASKA GENERAL CONSTRUCTION COMPANY, INC.

April 29, 1982

Representative Terry Martin
Pouch V
Juneau , Ak 99811

Dear Representative Martin:

Defeat of HB 159 is of utmost importance for this session.

Proper time and investigation must be given to a bill affecting so many people.

With adjournment such an imminent possibility, we ask you to defeat HB 159 for this session.

Sincerely,

ARCTIC SLOPE ALASKA GENERAL

Dick McMillian

Dick McMillian
Vice President

TELEPHONE: (907) 279-5486 • TELEX: 090-26-369 • TELECOPIER: 907-274-2168
P.O. BOX 6223 • 536 EAST 48TH AVENUE • ANCHORAGE, ALASKA 99502

Scott Wetzel Services Incorporated

An Affiliate of The Home Group, Inc

741 Sesame Street • Suite 1A • Anchorage, Alaska 99503

Phone: (907) 276-2111

February 9, 1982

The Honorable Terry Martin
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Re: David Butler/Municipality of Anchorage

Dear Mr. Martin:

The attached decision from the Workers' Compensation Board is a classic example of the serious problems inherent in our current Workers' Compensation laws.

This employee, who had a minor hearing loss, basically corrected by a hearing aid, was kept on full salary through non-cashable sick leave for the period 4/1/80 through 12/8/80 while he was awaiting action on his request for retirement from the Municipality, which was subsequently granted. After he was retired and after he had received full payment in the amount of $27,658.67 from his employer for the period 4/1/80 through 12/8/80, he filed for worker's compensation for the same period of time and the Board has now ruled that the employer must also pay him compensation benefits of an additional $21,668.04 for the exact same period of time loss. The employee has therefore recovered in excess of 200% of his normal salary for a period of 9 months. Full payment by an employer, regardless of what fund it is paid from, or what they call it, should certainly satisfy the requirements of the Workers' Compensation Board.

Your comments will be appreciated.

Very truly yours,

SCOTT WETZEL SERVICES, INC.

Renee Murray
Claims Manager

RM/vb

cc: Ed Hite - Daryl Cody & Assoc.
Harry Sjoberg - MOA

P. O. Box 1149 Juneau, Alaska 99811

DAVID W. BULTER,
Employee,
Applicant,

vs.

MUNICIPALITY OF ANCHORAGE
(Self-Insured),
Employer,
Defendant.

DECISION AND ORDER
Case No. 80-04-0548.

On December 10, 1981 the defendant requested modification of the Board's November 19, 1981 Decision and Order. No opposition was submitted by the employee and the Board deemed the record closed on January 15, 1982.

Defendant alleges the Board erred in a determination of fact. The defendant asserts that employee is not entitled to compensation between April 1, 1980 and December 8, 1980 because he was being paid his full salary.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

There was no mistake in a factual determination. Evidence was presented at the November 12, 1981 hearing that employee received sick leave payments in the amount of his full salary between April 1, 1980 and December 8, 1980. Evidence was also presented, and the defendant does not dispute, that employee was disabled.

There is no provision in the Alaska Workers' Compensation Act permitting for offsets of amounts received by an injured worker from any private source as a result of the same injury. A special exception is made for Social Security payments. See AS 23.30.225

In the instant case the employee was paid his full salary from his non-cashable sick leave reserve. We have no knowledge of the terms of the Municipality's sick leave program nor do we have jurisdiction over it. If sick leave payments were made to the employee in error the defendant must seek another forum for his recovery.

ORDER

Defendant's petition for Modification is denied and dismissed.

Dated at Anchorage, Alaska, this 4th day of February 1982.

ALASKA WORKERS' COMPENSATION BOARD

/s/ William F. Reeves
William F. Reeves, Designated Chairman

/s/ Jim Robison
Jim Robison, Member

/s/ Ann Pittenger
Ann Pittenger, Member

WFR/cw

APPEAL PROCEDURES

A compensation order may be appealed through proceedings in Superior Court brought by a party in interest against the Board and all other parties to the proceedings before the Board, as provided in the Rules of Appellate Procedure of the State of Alaska.

A compensation order becomes effective when filed in the office of the Board, and unless proceedings to appeal it are instituted, it becomes final on the 31st day after it is filed.

CERTIFICATION

I hereby certify that the foregoing is a full, true and correct copy of the Decision and Order in the matter of David Bulter, employee/applicant; vs. Municipality of Anchorage/Police Department employer; Case No. 80-04-0548; dated and filed in the office of the Alaska Workers' Compensation Board in Anchorage, Alaska, this 4th day of February 1982.

Cynthia Williams
Clerk

David Cottrell, C.P.A. Special Master
3301 Denali
Anchorage, Alaska 99503

January 31, 1982

Dear Mr. Cottrell:

As advised by my attorney, I am submitting to you, a claim for Compensation forte settlement, as a former employee of the Southcentral Regional Resource Center in the amount of $7,826.63.

$4,175.32	Salary: bounced payroll check, October wages, 30 day difference in pay — from 9/80
1,604.00	tax Sheltered annuities - payroll "deduction"
603.31	attorney fees, to collect wages
336.84	T.S.A. interest @ 14.00% - Comm. Mutual
1,034.76	Salary interest @ 17.38 Merrill Lynch Ready Assets Annualized Interest Rate.
72.40	lawyers fee. interest @ 10.00%.
$7,826.63	

Christine Talasz

c.c. ✓ Terry Martin, Representative
Joe Montgomery, Representative
Hliss Sturgulewski, Senator

Christine Talasz
4101 Resurrection Dr.
Anchorage, Alaska 99504
337-5578 (home)

Terry - Although the legislature has appropriated $300,000 the word I've gotten so far is that "there isn't enough money to pay me my claim." I've been offered $4,000+ if I'll sign a release. I'm told, if I don't sign the release, I may not get any money. Since the claim in this letter is [illegible]

just a portion of my loss, I don't feel I should accept any less. (I wonder where all the money has gone??) There will be a hearing to try to settle outstanding employee claims which will be on either Feb. 18th or 19th in Anchorage. I'm ready to do battle!

Wish me luck. Do you have any other suggestions on how I can get my money?

Chris

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Anchorage, Alaska 99510

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Division of Banking & Securities

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ADMINISTRATIVE SERVICES, FISCAL
Pouch D, Juneau, Alaska 99811

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STATE OF ALASKA

PUBLIC NOTICE

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

Notice is hereby given that the Department of Commerce and Economic Development, Division of Banking and Securities, under authority vested in AS 06.01.020 and AS 06.30.030, proposes to adopt regulations to Title 3, Chapter 5 of the Alaska Administrative Code to implement AS 06.30.500 and AS 06.30.530 as follows:

> 3 AAC is amended by adding new provisions that allow savings associations to participate in conventional loans or pools of conventional loans secured by a mortgage on a one-to-four family residence where the mortgaged property is located outside the state.

Notice is also given that any person interested may present oral or written statements or arguments relevant to the action proposed at hearings to be held in the Commissioner's Conference Room, Ninth Floor, State Office Building, Juneau, Alaska, at 1:00 p.m., Tuesday, February 9, 1982.

Written testimony may also be submitted to the Division of Banking and Securities so long as it is received by 4:30 p.m., on February 9, 1982.

TO BE COMPLETED BY ORDERING DEPARTMENT

TRANS.	DEPT.	DIV. & PROG.	FUNCTION	SUB FUNCTION	OBJECT RECEIPT	MAJ. FUNCT	PROJECT LEDGER	PER CENT OR ITEM NO.
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DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
ADMINISTRATIVE SERVICES, FISCAL
Pouch D, Juneau, Alaska 99811

ADVERTIS

STATE OF ALASKA

Copies of the proposed regulations may be obtained by writing to:

Division of Banking & Securities
Pouch D
Juneau, Alaska 99811

The Department of Commerce and Economic Development, upon its own motion or at the insistence of any interested person, may, at the hearing or after it, adopt the proposals substantially as described above without further notice or may decide to take no action on them.

Charles R. Webber, Commissioner

12/22/81
Date

TO BE COMPLETED BY ORDERING DEPARTMENT

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CHAPTER 5. SAVINGS ASSOCIATIONS

ARTICLE 2. ASSOCIATION PRACTICES

Section
110. Communication between members
120. Service charges on dormant accounts
130. Redemption of savings accounts
140. General reserve account
150. Net worth requirements
160. Alternative mortgage instruments
170. NOW accounts
180. Participation in first mortgages where property is located outside of State

3 AAC 05 is amended by adding one new section to read:

3 AAC 05.180. PARTICIPATION IN FIRST MORTGAGES WHERE MORTGAGED PROPERTY IS LOCATED OUTSIDE OF STATE. An association may participate in conventional loans or pools of conventional loans secured by a mortgage on a one-to-four family residence where the mortgaged property is located outside the State.
(Eff. / / , Reg.)

Authority: AS 06.01.020
AS 06.30.030
AS 06.30.500(3)
AS 06.30.530

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STATE OF ALASKA

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

Notice is hereby given that the Department of Commerce and Economic Development, under authority vested by AS 06.05.005, AS 06.15.010, AS 06.20.340, AS 06.25.315, AS 06.30.025, AS 06.30.030, AS 06.40.180 and AS 06.45.010, proposes to adopt regulations to Title 3, Chapter 1 of the Alaska Administrative Code to implement AS 06.05.060 as follows:

3 AAC is amended by adding new provisions that provide for the confidentiality of the records, reports and correspondence files of the Division of Banking, Department of Commerce & Economic Development.

Notice is also given that any person interested may present oral or written statements or arguments relevant to the action proposed at a hearing to be held in the Conference Room of the Commissioner of Commerce & Economic Development, Room 203, Michael Building, 610 East Tenth Street, Anchorage, Alaska, at 10:00 a.m., Tuesday, February 16, 1982.

Written testimony may also be submitted to the Division of Banking and Securities so long as it is received by 4:30 on February 16, 1982.

Copies of the proposed regulations may be obtained by writing to:

Division of Banking & Securities
Pouch D
Juneau, Alaska 99811-0800

TO BE COMPLETED BY ORDERING DEPARTMENT

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STATE OF ALASKA

The Department of Commerce and Economic Development, upon its own motion or at the insistence of any interested person, may, at the hearing or after it, adopt the proposals substantially as described above without further notice or may decide to take no action on them.

Charles R. Webber

Charles R. Webber, Commissioner

Date: 12/24/81

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CHAPTER 1. FINANCIAL INSTITUTION GENERAL ADMINISTRATION

ARTICLE 4. GENERAL PROVISIONS

Section
905. Records; disclosure and limitation on disclosure
910. Definitions

3 AAC 01 is amended by adding one new section to read:

3 AAC 01.905. RECORDS; DISCLOSURE AND LIMITATION ON DISCLOSURE. (a) The records, reports and correspondence files of the division shall not be public documents, shall not be subject to subpoena nor shall they be open for inspection by the public. Neither the commissioner, the director nor any member of their respective staffs may disclose any information obtained in the discharge of official duties to any person not connected with the division, except that the commissioner may disclose such information:

(1) to representatives of federal agencies insuring accounts in the financial institution;

(2) to representatives of federal agencies, other states and foreign countries having supervisory authority over the activities of the financial institution or enterprises or similar financial institutions or enterprises if such representatives are permitted to and do upon request of the commissioner disclose similar information respecting those financial institutions under their supervision;

(3) to the attorney general of this state; and

(3) prepare and circulate reports provided by law.

(c) Nothing in this section shall prevent any person or a financial institution covered under this chapter from access to records, reports and correspondence which apply to him or the institution to the extent that those portions of the records, reports and correspondence which do so apply are reasonably segregable from the portions of the records, reports and correspondence which do not apply to him or the institution and also to the extent that federal laws and statutes do not proscribe the disclosure. (Eff. / / , Reg.)

Authority: AS 06.05.005
AS 06.05.060
AS 06.15.010
AS 06.20.340
AS 06.25.315
AS 06.30.025
AS 06.30.030
AS 06.40.180
AS 06.45.010

3 AAC 01.910 is amended by adding new sections to read:

(6) "director" means the director of banking, securities, small loans and corporations or his designee;

(7) "division" means the Division of Banking, Securities, Small Loans and Corporations. (Eff. / / , Reg.)

Authority: AS 06.05.005
AS 06.15.010
AS 06.20.340
AS 06.25.315
AS 06.30.025
AS 06.40.180
AS 06.45.010

B. as democracy.
Committee is a catalyst. ——
However there are some over riding public concerns.
that we a leg. must consider —
You need to compromise and at times the
leg. must bite the bullet..

FLORIDA'S NEW WORKERS' COMPENSATION SYSTEM: AN INTERIM REPORT

March 1981

(WITH OCTOBER 1981 ADDENDUM)

Prepared By:

BUREAU OF ECONOMIC ANALYSIS
DIVISION OF ECONOMIC DEVELOPMENT
FLORIDA DEPARTMENT OF COMMERCE

ADDENDUM

October 1981

Since the completion of this report in March 1981 there has been a second Workers' Compensation premium reduction ordered by the State Insurance Commissioner. This reduction can be described briefly.

The effective date of the rate reduction was July 1, 1981. On average, Workers' Compensation premiums paid to private insurance carriers were decreased 15.6%. Since the volume of premiums paid in a year in Florida is about $1 billion, that would mean a savings of $156 million for Florida employers annually.

The actual premium reduction varied by employment class. All 600 classes were guaranteed at least a 5% reduction. The manufacturing classes averaged a 22.7% decrease with rates for some manufacturing classes falling by as much as 48%.

This latest action was the third Workers' Compensation premium decline since the 1979 reforms. The first, a 15% across-the-board reduction was enacted by the Legislature as a part of the 1979 reform package. The Insurance Commissioner ordered an 11.4% rate reduction in January 1981 which actually translated into a 5.1% premium dollar reduction when other changes were considered.

Cumulatively, the impact of these premium reductions has been to lower premium rates by 36.4% and save Florida employers $325 million annually in premiums. The average Workers' Compensation premium rate is now at its lowest point since September 1975 and places the State only 23rd highest in the nation. Before the reforms, Florida had ranked among the five most expensive states in this regard.

Further premium reductions may be in the offing. As is indicated on pages 21-24 of this report, early indications of claims activity, total claim costs, attorney involvement and other factors are quite promising. The State Insurance Commissioner has requested another Workers' Compensation premium rate filing later this year to take effect January 1, 1982.

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I. OVERVIEW

At one time, Florida's Workers' Compensation program was a system seriously in need of fundamental reform. Injured workers genuinely entitled to assistance received inadequate benefits. Employers were overburdened with premiums while insurance carriers lost millions of dollars annually attempting to provide Workers' Compensation coverage. The State's efforts to attract new industry were severely hampered by the reputation of the Florida Workers' Compensation system as extremely costly to employers.

Study of the system indicated that its very structure encouraged subjectivity in benefit determination. This fact, in turn, provided incentives for exaggerated if not invalid claims, and for the unusually frequent involvement of attorneys and medical specialists. The inadequate authority and resources accorded those government agencies charged with overseeing Workers' Compensation further contributed to the problem.

These problems were directly addressed in sweeping changes to the Workers' Compensation law effective August 1, 1979. These reforms were aimed at making Florida's Workers' Compensation system affordable, equitable and efficient. Perhaps the most important change was a switch to the "wage-loss" concept in benefit determination. Under this concept, a worker disabled by an injury on the job would receive (in addition to coverage of his medical expenses) compensation based on the actual decrease in average wages he suffered as a result of his disability.

Among the more important additional changes were: 1) an increase in statutory benefit levels for injured workers; 2) fundamental revisions in the authority and responsibilities of the Bureau of Workers' Compensation; 3) an enhancement of the ability of both the citizenry and its government to participate in the rate-making process; 4) a shift, to the claimant, of responsibility for paying attorneys' fees; 5) the discouragement of lump sum settlements of claims; and, 6) an across-the-board 15 percent reduction in premium rates with further reductions anticipated as experience was gained under the new law.

Any future reductions in Workers' Compensation premium rates are likely to be ordered by the Florida Insurance Commissioner based on his evaluation of rate filings made by the insurance industry. (Direct action by the Legislature is always a theoretical possibility.) Not until June 1981 will the insurance industry make its first premium rate adjustment filing based directly on experience under the new law.

Nevertheless, the early indications are quite positive in regard to the Legislative objective of reducing the cost of the Workers' Compensation system. Substantial progress already has been made; available information encourages the belief that further premium rate reductions are a distinct possibility. At this point, the following observations are warranted:

1. The Workers' Compensation insurance industry has been able to absorb two sizable premium rate reductions. Estimates made at the time these rate reductions were put into effect suggest that they will result in combined premium savings of approximately $170 million annually for Florida employers. The two rate reductions marked the reversal of a long-term trend of rapidly increasing Workers' Compensation premiums in the State. Before the 1979 legislative action, Florida ranked 5th in the nation in terms of its premium rates for Workers' Compensation coverage. It now has fallen to 13th.

2. These significant premium reductions have occurred even while statutory benefits available to injured workers were being increased substantially. The maximum weekly benefit amount has gone from $130 in 1978 to $228 in 1981, moving Florida's rank among the states from 41st to 18th. The maximum period for benefit collection has been extended; the inflation adjustment used in benefit calculation, increased; and the schedule of fees for medical services, revised upward by nearly 30 percent.

3. Available analyses suggest that the new law is having its intended effects in terms of the costliness of Workers' Compensation claims.

   - A study commissioned by the Insurance Committee of the Florida House of Representatives found that, during the first five months of operation of the new law, the percentage of claims of the particularly expensive "permanent partial" injury type had declined significantly. So too had indemnity costs and the percentage of claims involving attorney representation. The proportion of workers returning to their same employer after recovery from their injury had increased.

   - A November 1980 analysis by the National Council on Compensation Insurance (NCCI) also found a decrease in the frequency of permanent partial injury claims. While concluding that available data did not yet provide an adequate basis for a premium rate adjustment decision, one preliminary finding was an indication of significant insurance carrier cost reductions resulting from experience under the new law.

   - A Division of Workers' Compensation comparison of 1979 and 1980 data revealed that, during the first full year under the new law, there was a 4 percent reduction in total premiums paid by employers in the State. The number of formal claims declined by 48 percent. The number of joint petition settlements of Workers' Compensation claims fell by 36 percent while benefits paid in these claims dropped by 18 percent--a savings of $15.7 million. The amount of attorneys' fees awarded in Workers' Compensation cases decreased by 10.6 percent.

As the first state in the nation to adopt the wage-loss concept as the basis for determining permanent disability benefits for injured workers, Florida is serving as an experimental model watched closely by other states. Perhaps the best guarantee that Florida's Workers' Compensation reforms will succeed is the number of determined and careful monitoring programs being conducted both inside and outside government.

II. WORKMEN'S COMPENSATION IN FLORIDA (1935-1979)

A System in Need of Reform

In 1935, the State of Florida established a Workmen's Compensation system designed to lend stability and predictability to an employer's obligations to his injured employees while, at the same time, insuring that the injured worker would receive prompt and adequate compensation for his injury.[1] By the 1970s, Workmen's Compensation had evolved into a system which was unsatisfactory from virtually every perspective.

Consider the plight of the parties directly involved in the Workmen's Compensation system prior to its reform in 1979:

The Injured Worker--The benefits available to the average injured worker in Florida were quite low compared to those available in other states. An analysis conducted by the National Council on Compensation Insurance (NCCI) revealed that Florida's "statutory benefits", that is the maximum benefit amounts and collection periods set by law, ranked the state 37th in the nation.[2] For example, while in most states an injured worker received 66-2/3 percent of his average weekly wage while disabled, in Florida he received 60 percent.

Furthermore, compensation claims were taking a long time to resolve. The Miami Herald, in a comprehensive analysis of Florida's Workmen's Compensation system, reported that many injured workers were forced to hire attorneys because their legitimate claims were not being paid on time.[3]

The Employer--The cost to Florida employers of carrying the required Workmen's Compensation insurance was extremely high. Florida's premium rates (the decimal fractions applied to payrolls to calculate premiums due) were the fifth highest in the nation in 1979 according to NCCI data.[4] These premium rates had increased 229 percent from 1970 to 1978 and further rate increases were being requested by the insurance industry.[5] In 1979, the total premiums paid by Florida employers ranked it seventh in the nation according to figures from the National Association of Insurance Commissioners.[6]

These ever-increasing premiums did more than just force up the cost of doing business in Florida. They also put the State's businesses at a disadvantage when bidding for contracts against out-of-state firms. Bids submitted by Florida firms reflected the unusually high Workmen's Compensation premiums.[7]

The Insurance Companies--During the five-year period extending from 1973 through 1977, insurance companies offering Workmen's Compensation coverage in the State experienced $205.1 million in net losses according to NCCI data.[8] Although investment returns did result in a 3 percent net profit in 1978, there had not been an underwriting profit in Florida Workmen's Compensation since the 1950s.[9]

The impact of this unsatisfactory system extended beyond those directly involved. Ultimately, all Floridians felt the effects of the escalating premiums. Producers of goods and services passed their increased operating costs on to consumers.

State efforts to diversify the Florida economy, to further develop the industrial base, were severely hampered by the costly Workmen's Compensation system. Premium rates paid by Florida employers were nearly triple those paid by Alabama, North Carolina and South Carolina--states very much in competition with Florida in efforts to attract new industries. The NCCI reported that the cost of claims from permanently and totally disabled Florida workers was double that of seven other southern states.[10] An "Economic Development Study" prepared by the Fantus Company for the Florida Council of 100 cited high Workmen's Compensation premium rates as a competitive disadvantage for the State in its effort to recruit industry.[11]

In their efforts to attract new industry to Florida, officials often were confronted with questions about the reputation of Florida's Workmen's Compensation system. Former Commerce Department Secretary Phil Ashler once described a standard industrial recruitment scenario demonstrating the obstacle posed by Florida's high Workmen's Compensation premiums. According to Ashler, a prospective employer typically would ask a series of questions about the adequacy of labor supply and other business conditions. As State officials responded to these questions, the attractiveness of Florida to the prospect would grow--until the issue of Workmen's Compensation was encountered. At that point, Florida's image suffered a setback.[12]

The Miami Herald reported that the Governor and Lieutenant Governor had similar experiences. While delivering a promotional speech in Chicago, Governor Bob Graham was interrupted by a firm's indignation over Florida's Workmen's Compensation rates. Lieutenant Governor Wayne Mixson lamented the effects of a costly Workmen's Compensation system on industrial recruitment.

> Several prospects that we've had, specific prospects that we've talked to in other states that have had the kind of industry or business that we would desire to locate in Florida, have been reluctant to make any commitment because of that, the workmen's comp.[13]

Further Defining the Problem

Florida's Workmen's Compensation system was costing employers and insurance companies far more than the typical benefits paid to the vast majority of injured workers warranted. Why was this the case?

In 1978, a study was conducted by the National Council on Compensation Insurance (NCCI) with the results printed by the Florida Association of Insurance Agents.[14] This analysis, which compared Florida's claim and benefit figures to those of Alabama and Georgia, identified the major elements of Florida's Workmen's Compensation problem.

1. Total medical benefits paid to injured workers in Florida were significantly higher than those paid in other states.[15] The average medical benefits paid, the proportion of cases in which specialized medical practitioners were used, the frequency with which injured workers were confined to a hospital and the average hospital bill in Florida were invariably higher than in Alabama and Wisconsin.

2. Benefits paid for impairment or disability in Florida were higher than for Alabama and Wisconsin despite Florida's comparatively low statutory benefits.

3. Workmen's Compensation activity in Florida featured an unusually great amount of litigation. The percentage of Florida cases in which attorneys were involved on the plaintiff side (20.8 percent) was far above that of Alabama (2.8 percent) and Wisconsin (3.0 percent). Attorneys typically became involved at an earlier point in Florida cases; Florida cases normally took a longer time to be resolved; and, a greater number of cases were reopened by plaintiff attorneys. According to the Division of Workers' Compensation, Florida Compensation lawyers took in $19.7 million in fees during 1978.[16]

4. The proportion of cases which involved "permanent partial" disabilities was far higher in Florida than in Alabama or Wisconsin. Furthermore this injury category was responsible for a disproportionately large share of the Workmen's Compensation benefits paid in the State.

Because this fourth item was perhaps the key finding, it deserves more detailed attention. In the table below, Florida's

distribution of Workmen's compensation by injury type is compared to those of Alabama and Wisconsin.

TABLE 1

PERCENTAGE DISTRIBUTION OF RESOLVED WORKMEN'S COMPENSATION CASES BY INJURY TYPE: FLORIDA, ALABAMA AND WISCONSIN (November-December 1977)

Injury Type	Florida	Alabama	Wisconsin
Death	0.4	0.2	0.4
Permanent Total	0.8	0.1	0.5
Permanent Partial	30.0	7.1	9.0
Temporary Total	68.5	90.6	89.0
Temporary Partial	0.3	2.1	1.2

SOURCE: Florida Association of Insurance Agents, 1977 Workmen's Compensation Closed Claim Study, conducted by the National Council on Compensation Insurance, March, 1978.

Note that the proportion of resolved Florida cases which fall into the permanent partial category was more than three times the proportion recorded in Wisconsin and more than four times the Alabama figure.

The disproportionately large role of permanent partial injuries is just as striking when the distribution of benefits by injury type is examined as in Table 2.

TABLE 2

PERCENTAGE DISTRIBUTION OF BENEFITS PAID IN RESOLVED WORKMEN'S COMPENSATION CASES BY INJURY TYPE: FLORIDA, ALABAMA AND WISCONSIN (November-December 1977)

Injury Type	Florida	Alabama	Wisconsin
Death	1.6	2.1	5.4
Permanent Total	10.8	1.9	2.2
Permanent Partial	67.2	37.5	40.8
Temporary Total	20.3	57.4	50.8
Temporary Partial	0.0	1.0	0.8

SOURCE: Florida Association of Insurance Agents, 1977 Workmen's Compensation Closed Claim Study, conducted by the National Council on Compensation Insurance, March, 1978.

As the table reveals, permanent partial injury cases accounted for 67.2 percent of medical and indemnity benefits paid in Florida but only 37.5 percent and 40.8 percent of Alabama and Wisconsin benefits, respectively.

Causes Underlying the Problems

The responsibility for these problems appeared to rest with the structure of Florida's Workmen's Compensation system itself. More specifically, it was a system which placed too much reliance on the subjective judgments required of doctors and of Judges of Industrial Claims. It was a system which encouraged the active involvement of attorneys and the granting of lump sum settlements by insurance companies. It was a system which provided government agencies with insufficient authority and resources with which to regulate the program in the public interest. Finally, it was a system which provided indemnity benefits to injured workers who had not actually suffered any loss in wages.

The subjectivity of procedures was most evident at the point of "maximum medical improvement" or MMI, i.e., the point of which a doctor decided that the injured worker had recovered to the greatest extent possible. At that point, it would be determined whether the worker had either: 1) no disability, 2) a partial disability which was nonetheless permanent (permanent partial), or 3) a permanent and total disability (permanent total).

As noted previously the permanent partial category was responsible for an unusually large number of cases and a disproportionately high level of benefits in Florida. If a worker had received a permanent partial disability in the form of an injury specified in the Florida Statutes (a "scheduled" injury), he received a specific number of weeks of compensation at 60 percent of his average weekly wage. These benefits were paid whether or not the worker had been able to resume employment at his previous wage or even higher.

For "unscheduled" injuries within the permanent partial category, a doctor assigned a percentage disability rating to the worker. This percentage disability rating then was multiplied first by a specified number of weeks (175 for a 1-to-10 percent rating, 350 for an 11-to-50 percent rating, and 525 for a 51-to-100 percent rating) and then by 60 percent of the worker's average weekly wage.

This rating system was not only highly judgmental, it also provided a strong incentive for attempting to increase the disability rating. Fred Karl, speaking for the Florida Association of Insurance Agents, provided an example of this. At the time his example was formulated, the maximum weekly benefit amount available to an injured worker was $130. Note the difference in benefits paid if the worker's disability rating were to be raised from 10 percent to 11 percent.

10% x 175 weeks @ $130 per week = $2,275
11% x 350 weeks @ $130 per week = $5,005

A one percentage point revision in the disability rating raised the benefits paid to twice the original amount. This was because, as was explained earlier, the 11 percent disability rating marked a threshold in the benefit structure. The disability rating increased by one percentage point, but, more significantly, the number of weeks of benefits paid jumped from 175 to 350. This latter change was primarily responsible for the huge jump in the benefit amount. A similar threshold existed at the 51 percent rating level.

The subjectivity did not stop with the doctor's disability rating however. In recognition of the fact that the same injury could affect the careers of two people in different occupations to a much different extent (for example, compare the ramifications of the loss of a finger to a lawyer as opposed to a pianist), the system had a second form of disability rating, wage diminution. The worker's lifelong wage earning capacity could be diminished by his injury. This contention would be presented to a Judge of Industrial Claims who would determine a diminution of wage earning capacity rating based on such factors as the age, occupation, education of the worker and other circumstances. In the end, the higher of the two disability ratings, the wage diminution rating from the judge or the physical disability (impairment) rating from the doctor, would determine the worker's benefits.

In other words, the system provided the injured worker with an incentive to obtain a higher disability rating. This incentive, combined with the subjectivity of the ratings themselves, resulted frequently in the use of legal counsel and the involvement of medical specialists. The NCCI study of two months' of resolved permanent partial cases in 1977 revealed that 71 percent of injured Florida workers were represented by an attorney. This proportion was more than twice the Alabama figure and four times that of Wisconsin.[17] Medical specialists, as opposed to general practioners, were involved in 63.4 percent of the Florida cases in which physicians were consulted. The corresponding percentages for Alabama and Wisconsin were 30.8 percent and 39.3 percent, respectively.[18] This suggested what the Miami Herald called "doctor shopping", an attempt to find the physician who would give a higher disability rating.[19]

While the role of subjective judgments in benefit determination was perhaps the most central deficiency in the system, there were other, often related problems.

1. Attorneys' fees were related to benefit and settlement amounts. Until 1978, the claimant paid no attorney's fees. Legislation in that year required that claimants pay 25 percent of the fees with certain exceptions. Thus, attorneys had an incentive to strive for the largest award possible unencumbered by concern about the claimant's ability to pay an attorney's fee.

2. According to the Miami Herald, many Judges of Industrial Claims tended to give the benefit of the doubt to the Workmen's Compensation claimants. That publication reported instances of compensation awards when there was, in fact, no injury.[20]

3. Insurance companies frequently faced lengthy and costly litigation. To extricate themselves, they tended to offer lump sum settlements or washouts of medical expenses to injured workers.[21]

4. The government agencies involved lacked the authority and resources to remedy the situation. The Bureau of Workmen's Compensation was too overwhelmed with paperwork to advise claimants on rights and procedures or to see that benefits were paid equitably and in a timely manner. The Department of Insurance had to rely on the National Council on Compensation Insurance, an insurance industry organization, to provide the statistical basis for evaluating rate adjustment requests.[22]

III. THE MAJOR ELEMENTS OF THE 1979 CHANGES TO THE WORKMEN'S COMPENSATION LAW

The Intent of the Legislature

It had become clear that rather fundamental changes were needed in Florida's Workmen's Compensation system. A joint Senate-House Select Committee was appointed and the Workmen's Compensation issue was identified as the key issue facing the 1979 Legislature.[23]

The overall goal of the legislative effort was to reduce the cost of Workmen's Compensation to employers. However, the aims of restoring equity in benefit awards and of reducing the delays in claims resolution were also important. In other words, it was hoped that the system could be made affordable, efficient and equitable.

Two major targets of reform were identified. The first was comprised of the indemnity benefit determination provisions in the existing law which required subjective estimates of disability by doctors and by Judges of Industrial Claims. This subjectivity had led to extensive litigation which, in turn, had been a major factor in the high cost of the system. The second target consisted of the administrative provisions used in handling a claim. The ineffectiveness of these provisions had resulted in delays in claims processing and had contributed to the extensive litigation characteristic of the system. An improved administrative structure was seen as increasing the equity of benefit determination by reducing the system's dependence on ". . .the vagaries of the adversary process."[24]

The Changes in the Law

By the end of the 1979 Legislative sessions, Florida had a new "Workers'" Compensation law. The major changes were the following.[25]

1. Florida became the first state to adopt a "wage-loss" concept for a considerable proportion of Workers' Compensation benefit determination. The switch to a wage-loss concept was intended to decrease dramatically the subjectivity involved in benefit determination.

   This change concerned the indemnity component rather than the medical services component of Workers' Compensation benefits. Recall that, under the old system, injured workers suffering a permanent and partial disability either were eligible for benefits specified by statute (scheduled injuries) or were compensated based on a disability rating (unscheduled injuries). Within the unscheduled category, workers received the higher of the physical impairment and the diminution of earning capacity ratings.

Under the new system, impairment benefits would be paid for certain severe injuries: amputation, 80 percent loss of vision (after correction), or serious head or facial disfigurement. However, indemnity benefits in the majority of cases were to be determined solely by the actual loss in wages experienced by the injured worker due to his disability.[26] Under the wage-loss concept, the injured worker would receive 95 percent of the difference between 85 percent of his pre-injury wages and his wages after maximum medical improvement. This rule translates into the proposition that the worker must have experienced at least a 15 percent wage loss. After the worker had collected wage-loss benefits for two years, his post-injury wages would be discounted to adjust for inflation.

2. The statutory benefit levels for injured workers were raised. The maximum weekly benefit amount was increased from 66-2/3 percent of the statewide average weekly wage to 100 percent of that figure.

3. The structure and authority of the agency responsible for overseeing the operation of the Workers' Compensation were changed in the interest of making that agency more administratively effective. The Bureau of Workmen's Compensation was upgraded to a Division within the Department of Labor and Employment Security. This Division was instructed to ". . .assume an active and forceful role" in administering the system.[27] Under the new law, the employer would report employee injuries directly to the Division rather than indirectly to the Division through the insurance carrier. Steps were to be taken to ensure that injured workers were fully and promptly informed of proper procedures and their rights under the law. For example, injured workers were to be mailed an informational brochure while those suffering injuries which might permanently disable them were to be contacted personally. The Workers' Compensation Division would become more actively involved in controverted claims issuing advisory opinions as to benefits payable in each case. The judges of industrial claims were retitled deputy commissioners. Appeals of rulings by the deputy commissioners would now go to the First District Court of Appeals rather than to the Industrial Relations Commission, abolished by the 1979 legislation. The main burden of workers rehabilitation was shifted from the Division to the insurance carrier and employer. Finally, the Division was required to examine claims files, report annually on carrier promptness of payment and notify the Department of Insurance of patterns of questionable claims handling techniques by carriers.

4. The ability of citizenry and government to participate in the rate-making process was increased. A Bureau of Workers' Compensation Rating was established within the Department of Insurance to provide analytical support to the Insurance Commissioner in his review of insurance industry rate filings. Insurance company reporting requirements were changed in order to facilitate analysis by the Department of Insurance. Meetings by insurance industry rate-making authorities were required to take place in Florida and in the "sunshine." Excessive profits by insurance companies were prohibited.

5. The responsibility for paying attorneys' fees was shifted entirely to the claimants. Previously the claimant was to pay 25 percent of the fees while the remaining 75 percent was paid by the employer or insurance carrier. Certain exceptions to the rule of claimant payment were set forth. For example, attorneys' fees for recovery of medical benefits were to be paid by the employer or insurance carrier.

6. "Washouts" of benefits were to be strongly discouraged. Prior to the 1979 legislation, all parties could agree to a one-time payment to the claimant for benefits, thereby ending or "washing out" the employer's liability. Washouts of medical benefits would be prohibited. Lump sum settlements of disability benefits would be barred until six months after maximum medical improvement and then permitted only in special circumstances.

7. A 15 percent, across-the-board reduction in premium rates was mandated by the statute. The Legislature expected changes in the Workers' Compensation law--particularly the switch to a wage-loss system of disability benefit determination--to result in a substantial decline in insurance carrier costs. This decline was expected to more than counter-balance the increases called for in compensation benefits. To avoid excessive insurance carrier profits, the 15 percent premium rate reduction was ordered.

IV. THE EARLY PERFORMANCE OF FLORIDA'S NEW WORKERS' COMPENSATION SYSTEM

Examining the Impact

The fundamental reforms made in the Workers' Compensation law in 1979 were intended to make the system more equitable and efficient in meeting the genuine needs of injured workers while at the same time, making the system less costly to employers and insurance carriers. The reforms have been in effect for twenty months as of this writing. Although the new system will not have been given a fair test until it has been in operation for a number of years, an examination of the early performance of the law is warranted. Essentially, the question to be asked is this: Does the new Workers' Compensation law appear to be having its intended effects?

The scope of this analysis will be limited to the effects on employer costs (which reflect insurance carrier costs to a substantial extent). Certainly, the new system will not be considered a success unless it results in the fast, efficient and equitable delivery of compensation and services to the injured worker. However, an evaluation of that aspect of the system's performance is considerably more complicated than an assessment of the impact of the new law on employer costs. An examination of available statistics--benefits paid, numbers of claimants, premium rates and amounts--can provide a good preliminary indication of the impact of the new law on costs.

Reductions Already Accomplished in Employer Premiums

As was reported in Section III, one element of the 1979 legislation was a 15 percent, across-the-board reduction in Workers' Compensation premium rates. Simplifying somewhat, premium rates are multiplied by the employer's payroll to determine his Workers' Compensation insurance premium. At the time this rate reduction was enacted, a legislative staff analysis estimated that it would save Florida employers $135-142 million annually.[28]

As of yet, the insurance industry has not filed for a premium rate adjustment based directly on performance of Florida's new Workers' Compensation law. Nevertheless, an insurance industry rate filing submitted in December 1980 is worth noting. That filing concerned changes to the expense program used in calculating premiums and to the transition program for switching to a "total payroll" concept in computing premiums. As approved by the State Insurance Commissioner on January 1, 1981, this filing resulted in average premium rate reductions of 11.4 percent overall.[29] The Department of Insurance estimated that this premium rate reduction would result in savings of $34 million to Florida employers.[30] The NCCI determined that Florida's average manual premium rate following this change would rank it 13th among the 45 states permitting private Workers' Compensation insurance in the nation.[31] As was noted earlier, Florida had ranked fifth in the nation prior to the 1979 legislation. While the 11.4 percent rate reduction was

not based directly on experience under the new law, it does seem to suggest an improved economic state for insurance carriers after over a year and a half under the new law.

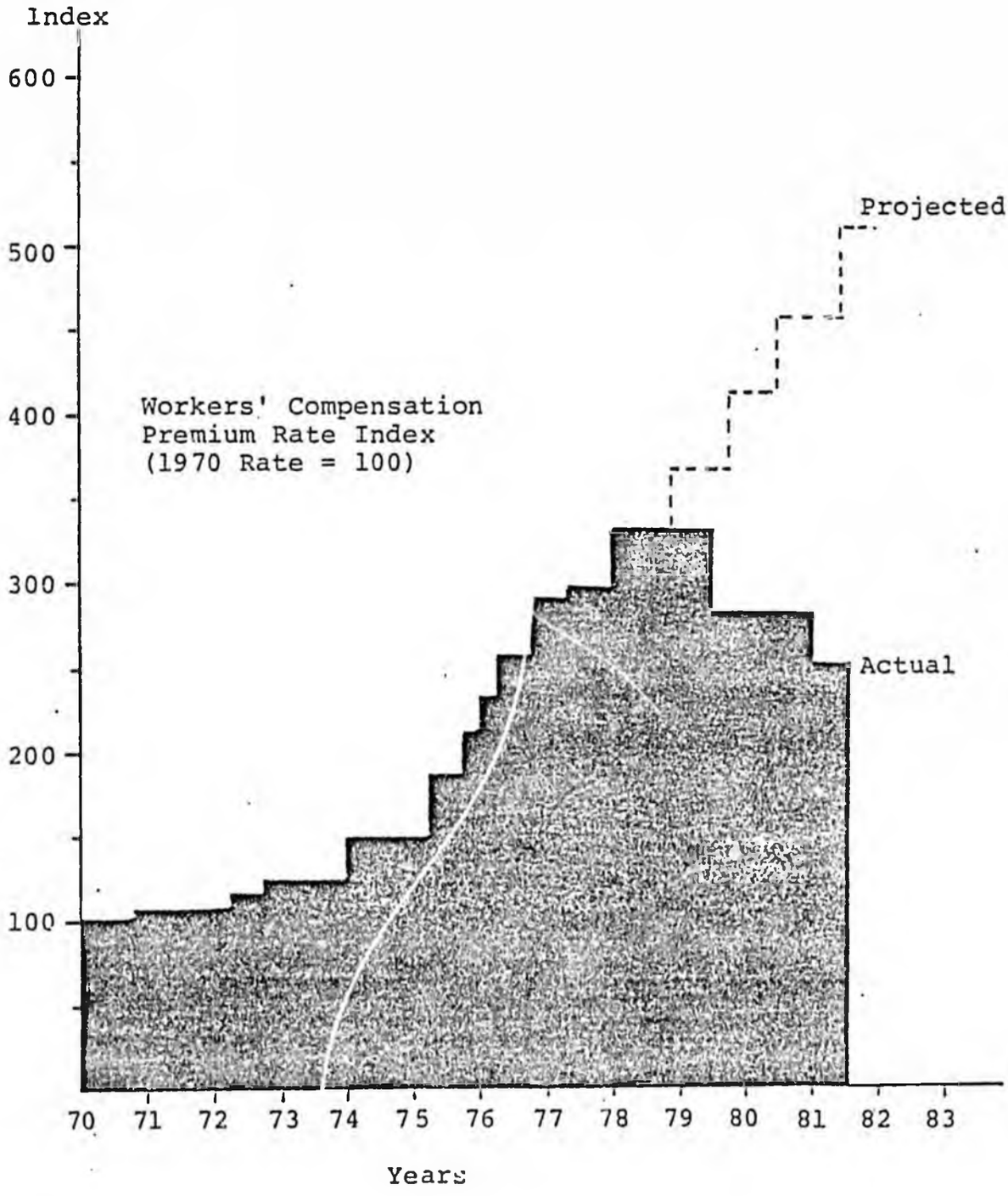
These premium rate reductions give early indication that the long-term trend of ever-increasing Workers' Compensation insurance premiums in Florida has been ended or perhaps even reversed. To demonstrate this development, an index of the overall Workers' Compensation manual premium rate has been developed. The average manual premium rate for all covered Florida employers, excluding those with self-insurance arrangements, as of January 1970 was set equal to 100.[32] Changes in the index over time then were calculated by applying the percentage changes in the overall manual premium rate reported at the time of the legislative action or the approved industry filing.[33] For example, an insurance industry filing for a rate increase was approved by the Insurance Commissioner and made effective August 1, 1970. This increase was estimated to have the effect, on the average, of raising Workers' Compensation premium rates by 7.2 percent. Thus, the value of the index was increased from 100 to 107.2 (100 + 7.2 percent) as of August 1, 1970.

In Figure 1, the trend in the manual premium rate index from 1970 to the present is portrayed. (The actual index trend is portrayed by the darkened area. The dashed lines are explained subsequently.) Note the rapid--even accelerating--rate of increase prior to the 1979 legislation. The 15 percent rate reduction ordered by the legislation was the first rate reduction of the decade. The second rate reduction, effective January 1, 1981, brought the premium rate index to its lowest level since September, 1976.

The reduced premium rate levels stand in stark contrast to what might have been the case had the Workers' Compensation legislation not been enacted. From January 1970 through July 1979, there were eleven premium rate increases affecting most or all classifications. That constitutes an average of one rate increase every 10.5 months. The average rate increase was 11.5 percent, compounded. Assuming that this trend had continued from the date of the final premium rate increase (effective January 1, 1979) prior to the 1979 legislation, the Workers' Compensation premium rate index would have stood at 457.0 in March 1981 rather than at its actual level of 248.3. The dashed-line bars in Figure 1 portray this possible path of the index had the 1979 changes to the Workers' Compensation law <u>not</u> been put into effect.

FIGURE 1

OVERALL TREND IN FLORIDA WORKERS' COMPENSATION PREMIUM RATES, 1970-1982: IMPACT OF NEW LAW



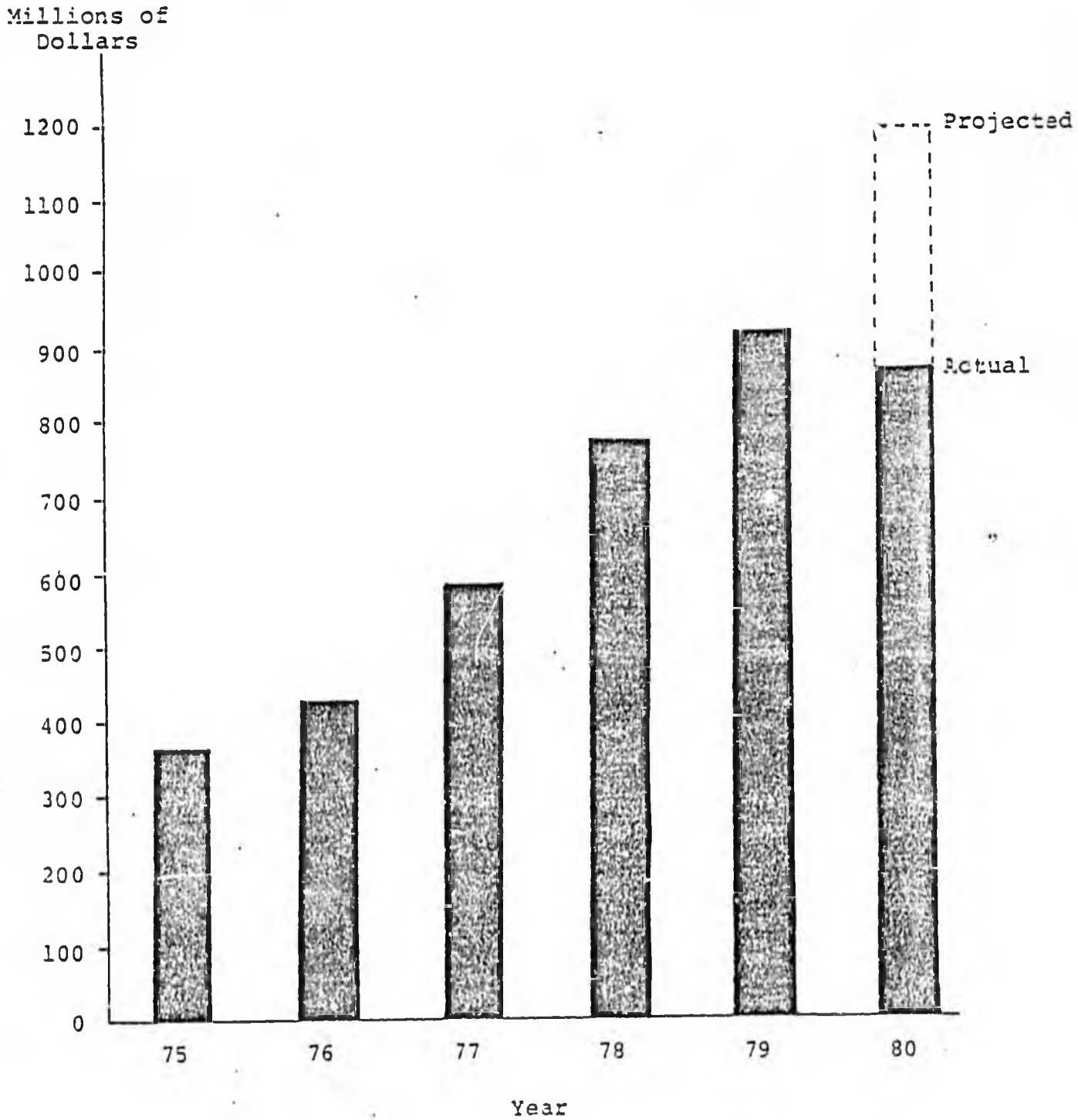
SOURCE: Historical rate increase data series provided upon special request by Bureau of Workers' Compensation Rating, Florida Department of Insurance. All index values, including hypothetical projections, calculated by Bureau of Economic Analysis, Florida Department of Commerce.

These premium rate reductions already have had an effect on actual Workers' Compensation premiums paid by Florida employers. Each year, the Division of Workers' Compensation within the Department of Labor reports the total premiums paid for Workers' Compensation coverage in the State.[34] In Figure 2, the historical trend in total premiums paid is shown. The darkened bars represent the actual premium totals for each year. Note the decrease in total value of premiums reported in 1980--the first full year affected by operation of the new law. This reduction occurred despite a 4.2 percent rise from 1979 to 1980 in the number of employees covered by Workers' Compensation and a 8.1 percent increase in the official average weekly wage in the State.

The dashed-line extension of the 1980 bar represents an estimate of the premium level which would have been attained without the 1979 legislation. The estimate assumes that the average annual percentage increase in premiums paid from 1975 through 1979 would have occurred once more in 1980. That average annual increase was 26.3 percent, compounded. Such an increase would have resulted in a 1980 premium total of $1.2 billion rather than the actual $377.6 million.

FIGURE 2

TREND IN WORKERS' COMPENSATION PREMIUMS REPORTED, 1975-1980: IMPACT OF THE NEW LAW

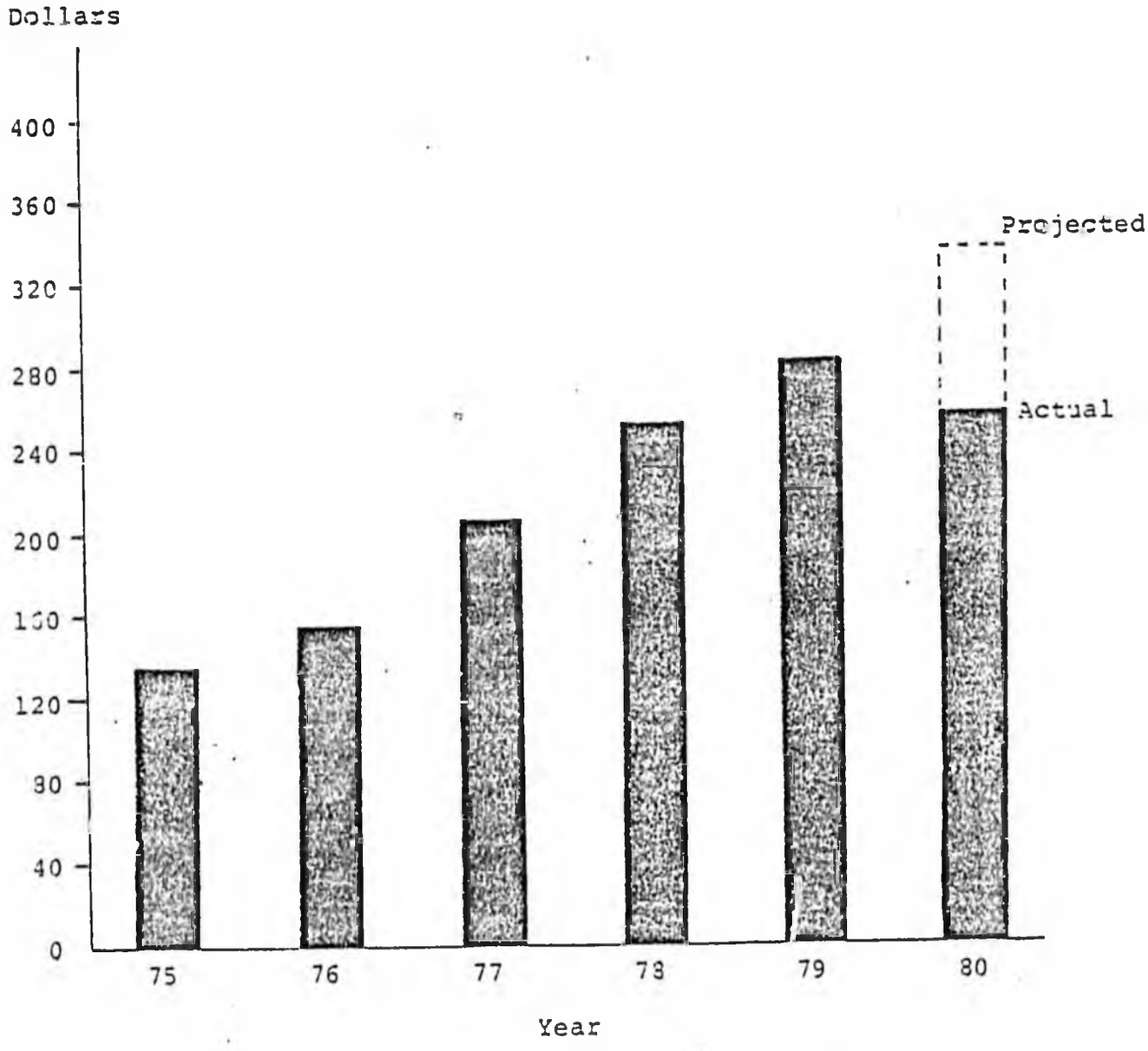


SOURCE: Actual historical data from 1977-1978 Cases Causes Costs, Division of Workers' Compensation, Department of Labor and Employment Security, 1979, p. 214 and by special request. 1980 projection by Bureau of Economic Analysis, Florida Department of Commerce.

Because the number of employees covered by Workers' Compensation is a major determinant of premiums paid, it might be expected that "controlling for" Florida's rapid employment growth might significantly alter the trend in Workers' Compensation costs. However, Figure 3 demonstrates that this is not the case. When the Workers' Compensation premiums paid per covered employee figure is plotted over time, the trend appears quite similar to that of total premiums paid (Figure 2). Once again, the rapid rise in premiums from 1975 to 1979 is clearly evident as is the positive effect of the 1979 legislation. On the average, Florida employers paid substantially less in Workers' Compensation premiums for each of their employees in 1980 than they would have without the new law.[35]

FIGURE 3

TREND IN WORKERS' COMPENSATION
PREMIUMS PER COVERED EMPLOYEE, 1975-1980:
IMPACT OF THE NEW LAW



SOURCE: Actual historical data from 1977-1978, Cases Causes Costs, Division of Workers' Compensation, Department of Labor and Employment Security, 1979, p. 214 and by special request. 1980 projection by Bureau of Economic Analysis, Florida Department of Commerce.

Increasing Benefits While Decreasing Premiums

It is important to note that these positive developments in terms of employer costs have taken place at the same time that benefits available to injured workers were being increased rather dramatically. The fact that the maximum weekly benefit amount was increased from 66-2/3 percent of the statewide average weekly wage to 100 percent of that figure has been mentioned. This maximum benefit amount was increased from $195 to $211 as of January 1, 1980, and increased again to $228 as of January 1, 1981. The NCCI has reported that these changes moved Florida from 37th place to 18th place in the nation in this regard.[36]

Other benefit increases were a direct or indirect result of the 1979 legislation. The maximum period for collecting wage-loss benefits, following maximum medical improvement, was raised from 350 to 525 weeks. The annual inflation adjustment used in calculating wage-loss benefits was increased from 3 percent per annum to 5 percent per annum. An overall 29.3 percent increase was made in the schedule of medical fees.[37] The medical fee schedule is to be revised annually.

Many of these benefit changes concern "maximum" benefits available. They are aimed at ensuring that injured workers receive just and adequate medical benefits and disability compensation for their injuries. Continued monitoring and careful examination of experience of the new law will be necessary in order to determine whether the wage-loss concept and the other benefit changes are indeed achieving the objectives for which they were established.

The Possibility of Further Premium Reductions: Early Signals

It was the hope of the Governor and the Legislature that the 1979 amendments to the Workers' Compensation law would result in further premium reductions in subsequent years. More specifically, the use of an objective wage-loss system of disability benefit determination and the deemphasis of subjective disability ratings were expected to result in considerable cost savings through a reduction in controverted claims, the decreased use of attorneys and medical specialists, a lower frequency of unjustified claims, and so on. These savings would be reflected in the experience of insurance carriers and ultimately result in premium reductions.

Comprehensive data pertaining directly to the possibility of further premium rate reductions will be available in June of this year. At that time, the insurance industry, through the National Council on Compensation Insurance, will make its first "experience filing" under the new law. This request for a rate adjustment (or, if no adjustment is requested, this "informational filing") will reflect 100 percent of the first full calendar year's experience under the new law and 83 percent of the 1979 policy year experience, five month's of which came under the new law.[38] It is, in effect, the average of the experiences during these two conceptual years which will serve as the basis for any rate adjustment. The final determination on any Workers' Compensation premium rate adjustment, unless the Legislature decides to directly mandate a reduction as in 1979, will be made by the State Insurance Commissioner, after considering supporting material submitted by

the NCCI, public comments and the advice of the Workers' Compensation Rating Bureau within the Department of Insurance.

Until those data are available it is necessary to rely on information from other sources to obtain an indication of possible future rate reductions. Three sets of preliminary data were available at the time of this writing.

Data Call by Florida House of Representatives, Committee on Insurance--In January, 1980, the Committee on Insurance of the Florida House of Representatives issued to the top fifteen Workers' Compensation Carrier Groups in the State a request for claims data.[39] Two samples of data were requested, one consisting of 30 percent of the population of time claims with injury dates between August 1, 1979 and December 31, 1979; the second, the same proportion of claims having injury dates ranging between August 1, 1978 and December 31, 1978. The former sample thus concerned the first five months of operation of the new law. The latter sample covered the same months in the preceding year, while the old law was still in effect. The five insurance carriers responding had written 22 percent of Florida's Compensation Insurance. The actuarial consultant hired by the Committee to conduct the study, Dr. Lena Chang, described the sample of respondents as a "good cross representation" with regard to the company size and the mix of mutual versus stock companies.[40]

In her report to the Insurance Committee, Dr. Chang compared the distribution of Workers' Compensation claims under the new law to that under the old law, for a number of different dimensions. She cited several instances in which the comparison indicated that the intent of the new law was being achieved.

1. The percentage or claims of the permanent partial injury type appeared to have decreased dramatically under the new law. Such claims comprised 24.0 percent of all claims for the five-month survey period under the old law (1978), but only 6.7 percent of claims under the new law. As was discussed in Section II, the permanent partial category was the foremost problem area under the old system accounting for an inordinate amount of Workers' Compensation claim costs.[41]

2. Total indemnity costs, including wage-loss and impairment benefits, were 25.8 percent lower in the new law period.

3. The percentage of claims involving attorney representation decreased from 13.0 percent prior to the new law's enactment to 4.1 percent during the first five months of operation under the new law.

4. The time lag from the date of injury to the first reporting date was reduced by seven days. This suggested faster notification and initial processing of Workers' Compensation claims.

5. The proportion of workers returning to their same employer after recovery from their injury increased 9 percent (from 74 percent to 83 percent). Dr. Chang theorized that the new wage-loss system may have been responsible for this development.

Several other findings were presented in Dr. Chang's report. Some further supported the impression that the 1979 amendments were having their intended effects in terms of cost reductions. Other findings showed no definite trend. One comparison, that concerning medical costs, appeared to contradict the intent of the law. However, Dr. Chang attributed at least a part of this unexpected trend to technical adjustments by the insurance companies which would not ultimately affect premium levels.[42]

Early Analysis by the National Council on Compensation Insurance (NCCI)--On November 12, 1980, the NCCI staff presented to the Florida Classification and Rating Committee (an insurance industry board) an analysis of the need for a Workers' Compensation premium rate adjustment.[43] The analysis was based on a supplementary data call to insurance carriers issued during the summer.

On the advice of the NCCI staff, the Classification and Rating Committee decided to postpone a decision on whether to file for a rate adjustment based on experience under the new law until May 1981. The major reason for this was the fact that, at that time, data concerning only 51 percent of experience under Florida's new law was available for analysis. The insurance industry representatives preferred to wait until a more complete picture of the effects of the new law was available.

Despite this decision, the preliminary analysis prepared by the NCCI did include notable findings. First, as with the study prepared for the Florida House of Representatives discussed previously, the data indicated a significant drop in the proportion of Workers' Compensation claims of the permanent partial injury type. According to a NCCI statistical table, the proportion of claims in the permanent partial injury category fell from 20.0 percent prior to enactment of the 1979 legislation to 6.9 percent under the new law. Thus, further evidence was provided of a lower frequency for this particularly costly type of claim. Second, the analysis suggested that, if it were possible to consider experience alone, a 17.3 percent premium level reduction would have been warranted. This indicates considerable claim costs reductions from the perspective of the insurance carriers. However, it is not possible to consider experience alone. At the time the analysis was prepared, it was estimated that the expense of a series of scheduled benefit increases would slightly outweigh the cost savings stemming from claim cost experience.

1980 Data From the Division of Workers' Compensation--The Secretary of the Department of Labor and Employment Security presented a report to the Commerce Committee of the Florida Senate on March 3, 1981. This report included a discussion of the progress made by

the Division of Workers' Compensation in implementing the reforms mandated by the 1979 legislation. It also contained evidence of the effects of the new law on Workers' Compensation claims activity.

This statistical evidence was in the form of comparisons between calendar year 1980 and calendar year 1979 figures.

1. The number of formal Workers' Compensation claims filed fell dramatically from 1979 to 1980.[44] During the former year, 24,082 such claims were reported while only 12,472 were received during the latter year. That is a decline of 11,610 or 48.2 percent.

2. A substantial decrease was also experienced in the number of joint petitions and washouts. The number of such petitions fell from 15,422 in 1979 to 9,806 in 1980--a 36.4 percent drop.

3. The amount of benefits awarded in these joint petitions fell from $91.7 million in 1979 to $76.0 million in 1980. This amounted to an 17.1 percent reduction and a $15.7 million savings in benefits paid.

4. The amount of attorneys' fees awarded in controverted claims for Workers' Compensation fell from $18.9 million in 1979 to $16.9 million in 1980, a 10.6 percent decline.[45] The 1980 figure was 20.3 percent below the highest yearly attorney fee figure ever recorded, $21.2 million in 1977. In 1978, the Legislature began to shift to the claimant the responsibility for attorney fee payment. This trend was continued in the 1979 legislation as has been discussed.

Again, it is important to remember that the further premium rate reductions in all probability will be decided by the State Insurance Commissioner based primarily on his evaluation of a rate filing by the insurance industry. The positive trends suggested by the House Insurance Committee Report, the NCCI analysis and the 1980 data from the Division of Workers' Compensation will not necessarily translate into further rate reductions when all factors are considered. Nevertheless, those desiring further Workers' Compensation premium rate reductions in Florida should be encouraged by the data available at this point.

V. THE FUTURE OF FLORIDA'S WORKERS' COMPENSATION SYSTEM: MAKING SURE IT WORKS

Florida as a Model

The 1979 amendments to Florida's Workers' Compensation law were fundamental reforms to the system. As has been noted, Florida became the first state to adopt the wage-loss concept as the basis for long-term disability benefits for injured workers.

The nature of such reforms has given the Florida Workers' Compensation system the status of an experimental model. The ultimate success of that model is of great interest to other states. Representatives from the States of Washington, California and Delaware have visited Florida to observe the Workers' Compensation system in operation. The Director of the Division of Workers' Compensation has been invited to appear before legislative committees in several states to explain the wage-loss system and administrative reforms.[46]

Monitoring the System's Effectiveness

Perhaps the most important factor in determining the ultimate success of Florida Workers' Compensation system will be the determination of those who participated in its reforms--both inside and outside government--to monitor closely its operation. The Florida Legislature assured continued monitoring of the Workers' Compensation system by statute and by the Legislature's own activities. Several business, professional and labor organizations also have demonstrated their intent to continue their scrutiny of the system.

An example of a monitoring program established by statute is the Medical Utilization and Peer Review program.[47] Under this program, Workers' Compensation claim histories would be examined for possible instances of needless medical tests or treatment and of excessive charges for medical services. Ultimately, physicians involved in over-utilization of medical services would be subject to review by a committee of their peers. By February of this year, the Division of Workers' Compensation was able to report substantial progress toward establishing this program. A program budget had been prepared, positions established and a program director hired. The Division had entered into a contractual agreement with the Florida Medical Foundation to provide peer review services.[48]

The activities of Legislative Committees constitute another form of governmental monitoring of the Workers' Compensation system. Following the passage of the 1979 legislation, the Speaker of the House of Representatives officially charged the Committee on Insurance with the responsibility for legislative oversight of the implementation of the new law. The Insurance Committee Chairman delegated this responsibility to the Subcommittee on Oversight. That subcommittee has met periodically over the months since then obtaining detailed progress reports from the

Division of Workers' Compensation and hearing testimony from other interested parties.[49] The subcommittee has issued two calls for claims data from the insurance carriers. The results of the first call have been discussed in some detail earlier in this report.

The Senate Commerce Committee also has maintained an active program of monitoring the success of the Workers' Compensation system. The Division of Workers' Compensation data reported in Section IV was largely taken from testimony offered before that committee.[50]

Just as important to the success of the new system will be the efforts of organizations outside government. Naturally, the insurance industry, through the National Council on Compensation Insurance, will play a central role in future developments--particularly as regards future premium rate changes. The direct and continuing role of the NCCI has been apparent in the frequent reference to that organization throughout this report.

Associated Industries of Florida, which describes itself as "the voice of business" in the State, was very much involved in the 1979 reforms to the Workers' Compensation law and has remained in close touch with the implementation process. This business association issues periodic newsletters on potential problems in the law and recently has commissioned an analysis of a sample of Workers' Compensation claims filed during the first year of the new law's operation.[51]

The Florida Association of Insurance Agents, very active in promoting the adoption of the wage-loss concept, has begun a two-year program of monitoring the total effectiveness of Florida's Workers' Compensation system. The efficiency of claims processing, rehabilitation services and safety programs are early subjects of study.[52]

Having participated directly in the efforts leading to the 1979 Workers' Compensation legislation, the Florida AFL-CIO has continued its involvement in the Workers' Compensation program. The labor organization's major emphasis has been in monitoring the efficiency and equity with which injured workers have been provided their benefits. The current monitoring technique used is to randomly select case files then to telephone the claimants asking whether they have been satisfied with the way their case has been handled by the employer, the insurance carrier and the Division of Workers' Compensation.[53]

Notes

[1]For an excellent discussion of the theory underlying Florida's Workmen's Compensation system and Worker's Compensation systems in general, see: William E. Sadowski, Jack Herzog, R. Terry Butler and Ruth L. Gokel, "The 1979 Florida Workers' Compensation Reform: Back to Basics," Florida State University Law Review 7 (Fall 1979): 641-649.

[2]"The Payoff for Pain: A Look at Florida's Workmen's Compensation System," reprinted from The Miami Herald, 18 March through 25 March 1979, p. 2.

[3]Ibid., p. 11.

[4]Ibid., p. 2.

[5]Florida Department of Insurance, History of Florida Workers' Compensation Rate Revisions Since 7/1/70, special table prepared for this report, January 28, 1981.

[6]Florida Association of Insurance Agents, Workmen's Compensation Wage-Loss Reform Conferences: January 16-February 9, 1979, p. 10.

[7]"Payoff for Pain," Miami Herald, p. 3.

[8]Ibid., p. 11.

[9]Florida Association of Insurance Agents, Wage-Loss Conferences, p. 14.

[10]"Payoff for Pain," Miami Herald, p. 2.

[11]The Fantus Company, Economic Development Study: The State of Florida (Ft. Lauderdale: The Florida Council of 100, 1978), p. 6.

[12]Florida Association of Insurance Agents, Wage-Loss Conferences, p. 5.

[13]"Payoff for Pain." Miami Herald, p. 5.

[14]National Council on Compensation Insurance, 1977 Workmen's Compensation Closed Claim Study (Tallahassee: Florida Association of Insurance Agents, 1978).

[15]Previously, the comparatively low statutory benefits in Florida were noted. Here, the medical benefits paid to injured workers are described as ". . .unusually high compared to those paid in other states." This apparent paradox is resolved by noting that the benefits were claimed more often, and more frequently up to their maximum allowable limits, than in other states. As a result, the total amount of benefits paid was much higher in Florida.

[16]Division of Workers' Compensation, 1977-1978 Cases Causes Costs: Analysis of Work Injuries Covered by Workers' Compensation (Tallahassee: Department of Labor and Employment Security, 1979), p. 23.

[17]NCCI, Closed Claim Study, p. 6.

[18]Much of the discussion of compensation determination is based on an analysis presented by Fred Karl, Florida Association of Insurance Agents, Wage-Loss Conferences, pp. 30-33. The data for medical specialist involvement is from the NCCI Closed Claim Study, p. 2.

[19]"Payoff for Pain," Miami Herald, p. 16.

[20]Ibid, p.2.

[21]Ibid., pp. 11.

[22]Ibid., pp. 19-20, 24.

[23]Ibid., p. 2.

[24]Sadowski et al., "The 1979 Florida Workers' Compensation Reform," p. 650. The preceding discussion of legislative intent is based primarily on this same source, pp. 649-654.

[25]The following discussion of the major changes in the Workers' Compensation law is based on Sadowski et al., "The 1979 Florida Workers' Compensation Reform," pp. 654-686 and two "Staff Analyses and Economic Impact Statements," prepared by the Senate staff, April 18 and June 1, 1979.

[26]Actually, those workers who suffer the impairment injuries previously described would be able to collect wage-loss benefits in addition to their impairment benefits.

[27]Florida Statutes, Section 440.44.

[28]Senate, "Staff Analysis," April 18, 1979, p. 9.

[29]The 11.4 percent reduction in the manual premium rate was partially counter-balanced by other changes affecting other determinants of the premiums paid by employers. When all changes are considered, the actual reductions in premiums paid was an estimated 5.1 percent.

[30]Florida Department of Insurance, "Commissioner Gunter Approves Workers' Compensation Rate Cut of $34 Million," statement released to the press January 6, 1981.

[31]Letter from Bob Hilton of National Council on Compensation Insurance to Florida Insurance Commissioner Bill Gunter, December 2, 1980.

[32]An index is used here rather than the actual average manual premium rate. The National Council on Compensation Insurance estimates the overall premium rate impact, in terms of a percentage change, for each approved rate filing. However, the

National Council is hesitant to provide a calculated average manual rate due to the complications which would arise in attempting to weigh the different premium rates for each of the 500 or so employment classifications and due to the possibility of misleading comparisons with the overall rates of other states. The historical trend of the index used here is, in all probability, identical to the trend of the actual manual rate if that data were available.

[33]Florida Department of Insurance, History of Rate Revisions.

[34]Data provided Bureau of Research and Planning, Division of Workers' Compensation, Department of Labor and Employment Security, Special Request, March 16, 1981.

[35]The hypothetical 1980 value was calculated by applying the average compounded rate of increase from 1975 through 1979 in premium amount paid per employee to the 1979 value for premium per employee.

[36]Letter from Bob Hilton to Bill Gunter, December 2, 1980 (previously cited). This ranking also was confirmed in a letter from Clifford Wess, National Council on Compensation Insurance, to Dennis Harmon, Florida Department of Commerce, March 4, 1981.

[37]National Council on Compensation Insurance, Memorandum to Florida Classification and Rating Committee: Exhibit I, November 12, 1980.

[38]Ibid.

[39]Memorandum from Lena Chang, Actuarial Consultant, to the Honorable William Sadowski, Chairman, Committee on Insurance, Florida House of Representatives, August 8, 1980, "Preliminary Report on Committee Study of the New Workers' Compensation Law."

[40]Ibid, pp. 2-3.

[41]The decrease in the claims share accounted for by the permanent partial category was accompanied by an increase in the proportion held by the temporary total category. The number of claims in this category also increased absolutely. Historically, the temporary total injury type claim has not had the extreme claim costs associated with it that has the permanent partial category. Nevertheless, trends in this category probably will be closely watched for problems.

[42]Chang memorandum to Sadowski, p. 4.

[43]NCCI Memorandum to Florida' lassification and Rating Committee. This committee is compr ed of representatives of insurance carriers which sell Workers' Compensation insurance in Florida. The insurance industry bases its rate filing decisions on the recommendations of this committee.

[44]A formal claim is a claim filed by an injured worker with the Division of Workers' Compensation. The filing of such a claim indicates that the worker is dissatisfied with the benefits he has received.

[45]If the unrounded data are used, this percentage change is 10.3 percent. This particular data was provided upon special request by the Bureau of Research and Planning, Division of Workers' Compensation, Department of Labor and Employment Security, March 19, 1981.

[46]Testimony of Wallace Orr, Secretary, Department of Labor and Employment Security, before Senate Commerce Committee, "Status of Florida's Workers' Compensation Law," March 3, 1981, pp.3-4.

[47]Section 440.13(3)(C-D), Florida Statutes.

[48]Department of Labor and Employment Security, Division of Workers' Compensation, "Response to the Report of the Subcommittee on Overview, Committee on Insurance, Florida House of Representatives," February 1981, p. 17.

[49]Florida House of Representatives, Committee on Insurance, Subcommittee on Oversight, "Legislative Oversight of the Implementation of the 1979 Reform of Florida's Workers' Compensation Law," April 1980.

[50]Testimony by Secretary Orr, pp. 3-4.

[51]An example is the Special Notice issued by Associated Industries of Florida, February 19, 1981 entitled: "Report to the Governor and Legislature on the Implementation of the New Workers' Compensation Law."

[52]Telephone conversation with Jim Brainerd, Florida Association of Insurance Agents, March 27, 1981.

[53]Telephone conversation with Ken Cooper, Florida AFL-CIO, March 27, 1981.

Alaska National
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LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTIONS

15 & 32

SUBSTANCE:

These two sections of the bill change the degree to which the presence of alcoholism or drugs can defeat the injured employees rights to compensation.

POSITION:

Support.

ACTION:

No action.

BACKGROUND:

These two sections read together change the burden of proof for the employer with respect to alcoholism from the requirement that they demonstrate liquor solely caused the accident to liquor proximately caused the accident, and adds a similar provision with respect to drugs.

partly probable cause of the accident

We have some cases in which alcoholism was definitely present and a contributing factor to the accident, however, it is clearly the case that no single factor could ever be argued as the sole factor in a accident.

If we could demonstrate that although it wasn't the sole factor it was the proximate cause of the accident it would be useful in defeating some alcoholism and drug related claims.

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LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTION

Twelve

SUBSTANCE:

Requires an injured employee to grant specific authority to release medical information to the employers, carriers and so forth.

POSITION:

OK Favor, but would suggest an improvement.

ACTION:

Seek an improvement in the measure, but support in any event.

BACKGROUND:

When a workers' compensation claim is filed it is necessary for the insurance company to obtain medical information from the treating physicians, examining physicians, or physicians who have rendered medical care in prior cases for the injured worker.

Doctors are understandably reluctant to give out medical information without having a specific release from the employee in order not to violate their responsibilities of privacy.

This statute requires the employee to execute whatever authorities are required by other physicians in order to obtain release of medical information.

We believe that this is an important addition to the workers' compensation statute.

SUGGESTED IMPROVEMENT:

If a provision were placed in the law which had the effect of pro tanto granting the authority would eliminate the need for getting specific written authority and protect the physicians and hospitals.

Further, the authority in the proposed language relates to medical information only relative to his injury.

It is vital that we have access to medical information concerning prior medical treatments.

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For example, it is relevant to any adjustment of a case for injury to the employee to have access to medical records concerning prior injuries or prior illness since it bears on the method of handling the medical treatment of the existing case.

We would suggest the following language:

> "Upon the filing of a claim under this Act an employee thereby authorizes all providers of medical treatment pertaining to the injury or rendered prior to the date of injury to release information to the employer. If requested by the employer, the employee shall execute all releases to facilitate access to that information."

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LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTION

Eleven

SUBSTANCE:

Adds a new subsection to give the Board specific definition of permanent impairment.

POSITION:

Not opposed.

ACTION:

No action except to seek modification as indicated.

BACKGROUND:

The Board currently has no specific guidelines for determining the degree of permanent impairment. The proposed section would give the Board authority to establish a schedule for determining the existence and degree of permanent impairment. We believe that the authority to adopt such a schedule is a useful device to add certainty to the system. We would urge however that giving the Board carte blanche authority to adopt a schedule without guidelines is inappropriate.

The Board is currently using, without specific statutory authority to do so, the American Medical Association Guide To Permanent Impairment, a document to which the American Medical Association has devoted a great deal of time and study. We believe this is a satisfactory, impartial, fair, easy to administer, and objective definition of permanent impairment and one with which the medical profession, which must actually render the impairment ratings, is familiar.

We believe that the Board should be directed to use this standard.

SUGGESTED ALTERNATIVE:

We would urge the language be modified as follows:

"(j) the board shall adopt and use the American Medical Association Guide To Permanent Impairments as the basis for determining the existence and degree of permanent impairments".

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LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTIONS

Two through Eight

SUBSTANCE:

Substantially modifies the approach to providing rehabilitation benefits.

POSITION:

Opposed.

ACTION:

All of the sections must be removed from the bill. If the sections are not withdrawn from the bills the bill must be opposed. Preventing adoption of these sections is considered of highest priority.

BACKGROUND:

Rehabilitation has always been regarded as an important part of the workers' compensation system, however, there has not been agreement as to what constitutes effective and reimbursable rehabilitation programs.

Typically, rehabilitation is provided where it is believed vocational retraining will return the injured worker to the level of gainful employment enjoyed prior to injury in a work setting as closely approximating his work setting prior to injury as his new physical condition will permit.

On the other hand, there are those who believe that the rehabilitation program ought to be used to reorient the injured worker to a life or work style unnecessarily different from that he enjoyed prior to injury.

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To develop appropriate cost effective and responsive rehabilitation programs, most carriers use professional rehabilitation counselors who determine the need for, and probable value of rehabilitation programs, develop plans and implement them, all at the expense of the employer.

This legislation would usurp the primary responsibility for making professional determinations concerning rehabilitation from the trained professionals operating in and funded by the private sector and transfer that responsibility to a new, unqualified and expensive state bureau at an initial cost of over one quarter of a million dollars.

More particularly:

Section 2 removes any limit for rehabilitation benefits paid from the Second Injury Fund at the same time the Board is granting full temporary total benefits to workers while they are on rehabilitation.

Section 3 establishes a set of principles to guide rehabilitation efforts. While the principles are essentially not objectionable, they are of no value in a statute unless other statutes in fact accomplish those objectives. It is our view that the other sections do not tend toward the intended objectives.

Sections 4, 5, 6 set up the bureaucracy to implement the intended objectives. The Director of the Division of Workers' Compensation testified that the initial cost to the state would be $350,000. It is our belief that the more difficult to assess but substantially larger cost would be in the increased costs to employers to fund unnecessary, premature, redundant, ill conceived or unwelcome rehabilitation programs designed and mandated by state designated rehabilitation specialists.

Section [23.30.041 (b)], further provides that the Rehabilitation Bureau may impose a rehabilitation program when ever it deems it appropriate which could be in every permanent total disability case. The costs which could be imposed under this and following subsections could be astronomical. They include:

a) Extention of the rehabilitation program beyond the first 37 weeks at the direction of the rehabilitation administrator with no defined limit.

b) Travel to and lodging at any location away from the employees residence for the full rehabilitation period.

c) Temporary total benefits for the full period of rehabilitation.

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LEGISLATIVE POSITION PAPER

LEGISLATION: Labor and Management Compromise substitute for CSHB 159

SECTION

One

SUBSTANCE:

Grants specific authority to file and use a deductibl workers' compensation policy.

POSITION:

Not opposed to the substance but redrafting is indicated.

ACTION:

Obtain redrafting of the language then do not oppose.

BACKGROUND:

This company has already filed and obtained approval for a deductible plan; this provision is not objectionable. The provision is more appropriately found in the Insurance Code with some language revisions.

Maybe consider for HB659

SUGGESTED ALTERNATIVE:

SECTION 1: AS.21.42. is amended by adding a new section to read:

> "21.42.165 - An insurer issuing a workers' compensation insurance policy pursuant to AS 23.30.025 may contain a provision requiring the insured to pay a portion of the benefits due under AS.23.30. provided the provision making that requirement has the prior approval of the Director and provided further the policy provides that as to the employee and the Workers' Compensation Board the policy meets all the requirements of 23.30.025 and 23.30.030. Filing for apporval under this section is not a deviation under AS.21.39.070.

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5. AMENDMENTS PROPOSED

A. On page 7, line 24, a stay of revocation provision is included which provides the stay "until the hearing process is completed." This is ambiguous language since no definition provides when the process is completed. We would suggest removing the words "hearing process is completed" and add "the time noted in the order issued by the director following the hearing but not sooner than five days following the order."

B. On page 9, line 5, a requirement for workers compensation insurance groups is the filing and approval of a rating program. Safety groups do not have standing to make such filings, but insurers do. A minor insertion would clarify the situation. Following the word "has," insert the words "through an insurer."

C. On page 16, lines 22-29 and page 17, line 1, AS 23.30.030(7) is revised to change "insurance commissioner" to "director of insurance." The section is however not workable. Form filings are made by a rating organization on behalf of all its member and subscriber companies, so that it is not possible to disapprove the form in the manner outlined. The director of insurance does not presently accept or receive proofs of insurance from any insurer so this language is meaningless. The approach here would penalize all other insured employers of the insurance company and could leave them uninsured. A better approach would be to allow specific penalty to be determined on the basis of the severity of the specific situation. This could range from a fine to suspension of authority. We would suggest the following language:

"(7) If the insurer fails or refuses to pay a final award or judgement (except during the pendency of an appeal) made against it, or its insured, or if it fails or refuses to comply with a provision of this chapter, the director of insurance [COMMISSIONER SHALL REVOKE THE APPROVAL OF THE POLICY FORM, AND MAY NOT ACCEPT FURTHER PROOFS OF INSURANCE FROM IT UNTIL IT HAS PAID THE AWARD OR JUDGEMENT OR HAS COMPLIED WITH THE VIOLATED PROVISION OF THIS CHAPTER, AND HAS RESUBMITTED ITS POLICY FORM AND RECEIVED THE APPROVAL OF THE FORM BY THE INSURANCE COMMISSIONER] may suspend or revoke the insurer's Certificate of Authority pursuant to AS 21.09.150 or impose a fine upon the insurer of not less than $25 and not more than $100 for each day the insurer fails or refuses to pay a final award or judgement (excluding the period permitted for appeal) made against it, or its insured, or it fails or refuses to comply with a provision of this chapter."

D. On page 23, line 28, omit the word "board" and insert the words "director of insurance."

E. On page 25, line 13, following the word "State," add "provided that the contracting agency has obtained proof of self-insurance from the employer designating the contracting agency as a person to receive notice under this section."

5. AMENDMENTS PROPOSED (continued)

F. On page 38, line 21, remove the words "or draft."

G. Provide a different effective date for sections 1, 2, 19, 20, part of 25, part of 26, 29, and part of 64. The effective date for these sections should be July 1, 1982.

The change on page 23, lines 14, 18, 20, 22, 23 and 24 should be effective July 1, 1981.

The change on page 23, lines 17 and 19 should be effective on July 1, 1982.

The change on page 46, lines 19, 21 and 22 should be effective on July 1, 1981.

The change on page 46, line 20 should be effective on July 1, 1982.

THE CHANGE ON PAGE 24, LINES 2, 4, 7 AND 8 SHOULD BE EFFECTIVE ON JULY 1, 1981.

THE CHANGE ON PAGE 23 LINE 28 (SEE PROPOSED AMENDMENT D) SHOULD BE EFFECTIVE ON JULY 1, 1982.

ED HOLDEN

North American Re-Insurance Co.

- will show film on rehabilitation of catastrophic injury cases

Lee Jackson

Brief recap of study

John Leeds

Preliminary report on Benefit Stream

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

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FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for House Bill No. 159 (L & C)

Title "An Act relating to workers' compensation, and providing for an effective . . ."

Requested by Labor and Commerce Committee Date 3/1/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Worker Protection

BRU, Program, or Subprogram(s) Affected Workers' Compensation

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		161.8	178.0	195.8	215.4	236.9
200 TRAVEL		20.0	22.0	24.2	26.6	29.3
300 CONTRACTUAL		122.3	71.3	78.4	86.2	94.9
400 COMMODITIES		3.4	3.7	4.1	4.5	4.9
500 EQUIPMENT		10.4	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	317.9	275.0	302.5	332.7	366.0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	(132.3)	(197.2)	(216.9)	(238.6)	(262.5)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
**Second Injury Fund		450.2	472.2	519.4	571.3	628.5

POSITIONS

FULL TIME	0	4	4	4	4	4
PART TIME						
TEMPORARY						

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

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

This fiscal note provides that the state administrative costs for rehabilitation under the proposed AS 23.30.041 be paid from the Second Injury Fund. This includes the costs of four new positions, plus the cost of four existing positions which entails a transfer in funding source from General Funds to Second Injury Funds.
(Continued page 2)

IV. DATE 3/2/82 PREPARED BY Nico Bus

AGENCY Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

1. Assumes an inflation rate of 10% per annum after FY '83.

2. Assumes an effective date of July 1, 1982.

3. The total cost for FY'83 for the four new positions is detailed on attached forms 13. In addition the following items are included in the FY '83 costs.

A Workers' Compensation Officer I reclassification to a Workers' Compensation Officer II with related travel and contractual services. Cost $16.6

100 Personal Services	$ 5.5
200 Travel	5.0
300 Auto, lease, Indirect, etc.	6.1
	$16.6

The data processing operations cost will increase by $14.0 because of enhancements for a tickler system, running two systems parallel and the files expansion to retain the addresses of all claimants.

The printing of 10,000 Workers' Compensation Acts and 25,000 Employee Information booklets. $35.0

The design and printing of new forms. $2.5

Computer program modifications to implement the changes introduced by the bill. $20.0

Equipment expense for computer terminals, panelling, cabinets, and files. $6.0

Included one-time items in FY '83

Equipment	$10.4
Booklets and Acts	35.0
Design and printing of new forms	2.5
Computer programs	20.0
	$67.9

Funding Change

Items included in the FY 83 Governor's budget that will change funding sources from General Fund to the Second Injury Fund.

4 positions (including benefits)	$141.3
Non-personal service costs relating to these 4 existing positions	
200: travel	9.9
300: contractual	25.8
400: commodities	2.3
	179.3

FY'83 Component Breakdown:

	Workers' Compensation Administration	Second Injury Fund
PS		$161.8
Travel		20.0
Contract*	$47.0	75.3
Commodities		[illegible]
Equipment		10.4
TOTAL	$47.0	$270.9

Funding	General Fund	Second Injury
Funding transfer	(179.3)	179.3
Rehabilitation Services/ delivery system	47.0	270.9
	(132.3)	450.2

*$35,000 Workers Compensation Acts and Information Booklets; [illegible]2,000 Data Processing

**Second Injury Fund is currently being reviewed to determine whether revenues are sufficient to cover the cost of rehabilitation. It may be necessary to amend AS 23.30.040 to increase the maximum percentage contribution rate.

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION	GOV.	APPROV.	DISAPP.
1	Clerk Typist III			8B	GBU	AVA			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		
2	PFT	12	N/A	New Position		N/A			

	TYPE OF EXPENDITURE		1	2	AMOUNT 3
3					
4	PERSONAL SERVICES: SALARY 1530 x 12			18,360	
5	BENEFITS .1592			2,923	
6	SBS .0613			1,125	
7	FIXED BENEFITS 183 x 12			2,196	
8	TOTAL PERSONAL SERVICES	01			24,604
9	TRAVEL	02			
10	CONTRACTUAL	03			7,004
11	COMMODITIES	04			850
12	EQUIPMENT	05			700
13	OTHER				
14	TOTAL COST				33,158

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1008	
20	841	OTHER Second Injury Fund	33,158
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER ..... COLUMN NO. ____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk III position will provide clerical assistance to the Workers' Compensation Officer in the Juneau Second Injury Fund office and will be responsible for providing and coordinating distribution of information from the claim files to the other regions.

10. Contractual: Space $3,100 (to be transferred to DOA)
Indirect (11.46% x 18,360 = $2,104)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair $700

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE ____

FY 83

01-1136 (7/80)

DM-16

	POSITION TITLE				RANGE/STEP	BARG. UNIT.	LOCATION	GOV.	APPROV.	DISAPP.
1	Clerk IV				9B	GBU	EBA			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY		FORM 12 PAGE/LINE	LEG.		
2	PFT	12	N/A	New Position			N/A			

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
3	PERSONAL SERVICES: SALARY 1627 x 12	19,524	
4	BENEFITS .1592	3,108	
5	SBS .0613	1,197	
6	FIXED BENEFITS 183 x 12	2,196	
7	TOTAL PERSONAL SERVICES 01		26,025
8	TRAVEL 02		0
9	CONTRACTUAL 03		7,137
10	COMMODITIES 04		850
11	EQUIPMENT 05		700
12	OTHER		
13	TOTAL COST		34,712

	RECEIPT CODE	FUNDING SOURCE	
14		FED RCPTS. 1002	
15		GF MATCH. 1003	
16	100	GEN. FUND 1004	
17		I-A RCPTS. 1005	
18		PGM RCPTS 1028	
19	841	OTHER Second Injury Fund	34,712
20	CONTINUATION		
21	ADDITION	X	

FOR B&M USE ONLY

4A-KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk IV position will provide clerical assistance to the Rehabilitation Administrator and Workers' Compensation Officer and will be responsible for maintaining follow-up on all rehabilitation files.

10. Contractual: Space $3,100 (to be transferred to DOA)
Indirect (11.46% x $19,524 = $2,237)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk and desk chair $700

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 83

01-1136 (7/81)

1	POSITION TITLE: Workers Compensation Officer II			RANGE/STEP: 18A	BARG. UNIT: GBU	LOCATION: JBA	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP No.: N/A	PCN No.: New Position	PRIORITY:	FORM 12 PAGE/LINE: N/A	LEG.		

	TYPE OF EXPENDITURE	1	2	AMOUNT 3
	PERSONAL SERVICES:			
4	SALARY 3249 x 12		38,988	
5	BENEFITS .1592		6,207	
6	SBS .0613		2,188	
7	FIXED BENEFITS 183 x 12		2,196	
8	TOTAL PERSONAL SERVICES	01		49,579
9	TRAVEL	02		5,000
10	CONTRACTUAL	03		14,968
11	COMMODITIES	04		850
12	EQUIPMENT	05		1,395
13	OTHER			0
14	TOTAL COST			71,792

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH 1003	
17	100	GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20	841	OTHER Second Injury Fund	71,792
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The workers' compensation officer is necessary to coordinate with workers, employers, insurers and rehabilation providers to expedite the retraining and reemployment of injured workers. Travel within the Fairbanks and Northern regions will be necessary to coordinate this effort.

9. Travel: $5,000 (10 trips @ $500 per trip)

10. Contractual: Space $3,100 (to be transferred to DOA)
Auto Lease, Maintenance Agreement & Operating Costs $5,600
Indirect Costs (11.46% x 38,988 = $4,468)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair, side chair, file, worktable, bookcase $1,395

ENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 83

01 1136 (7/81)

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION		APPROV.	DISAPP.
1	Workers Compensation Officer II			18A	GBU	JBA	GOV.		
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE			
2	PFT	12	N/A	New Position		N/A	LEG.		

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES:		
4	SALARY 3249 x 12	38,988	
5	BENEFITS .1592	6,207	
6	SBS .0613	2,188	
7	FIXED BENEFITS 183 x 12	2,196	
8	TOTAL PERSONAL SERVICES 01		49,579
9	TRAVEL 02		5,000
0	CONTRACTUAL 03		14,968
1	COMMODITIES 04		850
2	EQUIPMENT 05		1,395
3	OTHER		0
4	TOTAL COST		71,792

	RECEIPT CODE	FUNDING SOURCE	
5		FED RCPTS. 1002	
6		GF MATCH. 1003	
7	100	GEN. FUND 1004	
8		I-A RCPTS. 1005	
9		PGM RCPTS 1028	
0	841	OTHER Second Injury Fund	71,792
1	CONTINUATION		
2	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER ..... COLUMN NO. .....

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The workers' compensation officer is necessary to coordinate with workers, employers, insurers and rehabilitation providers to expedite the retraining and reemployment of injured workers. Travel within the Fairbanks and Northern regions will be necessary to coordinate this effort.

9. Travel: $5,000 (10 trips @ $500 per trip)

10. Contractual: Space $3,500 (to be transferred to DOA)
Auto Lease, Maintenance Agreement & Operating Costs $5,600
Indirect Costs (11.46% x 38,988 = $4,468)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12 Equipment: Desk, desk chair, side chair, file, worktable, bookcase $1,395

ENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE

FY 83

01 1136 (7/81)

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for House Bill No. 159

Title "An Act relating to workers' compensation, and providing for an effective . . ."

Requested by Labor and Commerce Committee Date 2/18/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Worker Protection

BRU, Program, or Subprogram(s) Affected Workers' Compensation

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100	PERSONAL SERVICES		161.8	178.0	195.8	215.4	236.9
200	TRAVEL		20.0	22.0	24.2	26.6	29.3
300	CONTRACTUAL		122.3	71.3	78.4	86.2	94.9
400	COMMODITIES		3.4	3.7	4.1	4.5	4.9
500	EQUIPMENT		10.4	0	0	0	
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	0	317.9	275.0	302.5	332.7	366.0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	317.9	275.0	302.5	332.7	366.0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	0	4	4	4	4	4
PART TIME						
TEMPORARY						

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

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

1. Assumes an inflation rate of 10% per annum after FY '83.

2. Assumes an effective date of July 1, 1982.

3. The total cost for FY'83 for the four new positions is detailed on attached forms 13. In addition the following items are included in the FY '83 costs.
(Continued page 2)

IV. DATE February 19, 1982 PREPARED BY Nico Bus

AGENCY Labor

PHONE 465-2720

Original: Legislative Finance

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

33-001 (Rev. 12/81)

III. Analysis

A Workers' Compensation Officer I reclassification to a Workers' Compensation Officer II with related travel and contractual services. Cost $16.6

100 Personal Services	$ 5.5
200 Travel	5.0
300 Auto, Lease, Indirect, etc.	6.1
	$16.6

The data processing operations cost will increase by $14.0 because of ennancements for a tickler system, running two systems parallel and the files expansion to retain the addresses of all claimants.

The printing of 10,000 Workers' Compensation Acts and 25,000 Employee Information booklets. $35.0

The design and printing of new forms. $2.5

Computer program modifications to implement the changes introduced by the bill. $20.0

Equipment expense for computer terminals, panelling, cabinets, and files. $6.0

Included one-time items in FY '83

Equipment	$10.4
Booklets and Acts	35.0
Design and printing of new forms	2.5
Computer programs	20.0
	$67.9

FY'83 Component Breakdown:

	Workers' Compensation Administration	Second Injury Fund
PS		$161.8
Travel		20.0
Contract*	$47.0	75.3
Commodities		3.4
Equipment		10.4
TOTAL	$47.0	$270.9

*$10,000 Workers Compensation Acts; $25,000 Information Booklet; $12,000 Data Processing

	POSITION TITLE				RANGE/STEP	BARG. UNIT.	LOCATION	GOV.	APPROV.	DISAPP.
1	Rehabilitation Administrator				22A		EBA			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY		FORM 12 PAGE/LINE	LEG.		
2	PFT	12	N/A	New Position			N/A			

	TYPE OF EXPENDITURE		1	2	AMOUNT 3
3					
4	PERSONAL SERVICES: SALARY 3714 x 12			44,568	
5	BENEFITS .1592			7,095	
6	SBS .0613			2,188	
7	FIXED BENEFITS 183 x 12			2,196	
8	TOTAL PERSONAL SERVICES	01			56,047
9	TRAVEL	02			10,000
10	CONTRACTUAL	03			15,607
11	COMMODITIES	04			850
12	EQUIPMENT	05			1,600
13	OTHER				
14	TOTAL COST				84,104

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	84,104
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The rehabilitation administrator is necessary to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

Extensive travel within the state is necessary to provide assistance to approximately 12,000 employers in developing programs for re-employment of injured workers and coordinating counselor services with workers, insurers/employers, labor unions, and rehabilitation providers.

9. Travel: $10,000 (20 trips @ $500 per trip)
10. Contractual: Space $3,100 (to be transferred to DOA)
Auto Lease & Operating Costs $5,600
Indirect (11.46% x 44 568 = $5,107)
Other costs which include communications, equipment rental, etc., $1,800
11. Commodities: Cost per position
12. Equipment: Desk, desk chair, side chairs, bookcase, file - $1,600

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 83

01-1136 (7/81)

	POSITION TITLE				RANGE/STEP	BARG. UNIT	LOCATION	GOV.	APPROV.	DISAPP.
1	Workers Compensation Officer II				18A	GBU	JBA			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY		FORM 12 PAGE/LINE	LEG.		
2	PFT	12	N/A	New Position			N/A			

	TYPE OF EXPENDITURE			AMOUNT
	1		2	3
3				
4	PERSONAL SERVICES: SALARY 3249 x 12		38,988	
5	BENEFITS .1592		6,207	
6	SBS .0613		2,188	
7	FIXED BENEFITS 183 x 12		2,196	
8	TOTAL PERSONAL SERVICES	01		49,579
9	TRAVEL	02		5,000
10	CONTRACTUAL	03		14,968
11	COMMODITIES	04		850
12	EQUIPMENT	05		1,395
13	OTHER			0
14	TOTAL COST			71,792

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	71,792
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The workers' compensation officer is necessary to coordinate with workers, employers, insurers and rehabilation providers to expedite the retraining and reemployment of injured workers. Travel within the Fairbanks and Northern regions will be necessary to coordinate this effort.

9. Travel: $5,000 (10 trips @ $500 per trip)

10. Contractual: Space $3,100 (to be transferred to DOA)
Auto Lease, Maintenance Agreement & Operating Costs $5,600
Indirect Costs (11.46% x 38,988 = $4,468)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair, side chair, file, worktable, bookcase $1,395

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 83

01-1136 (7/81)

1	POSITION TITLE: Clerk Typist III			RANGE/STEP: 8B	BARG. UNIT: GBU	LOCATION: AWA	GOV.	APPROV.	DISAPP.
2	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP No.: N/A	PCN No.: *New Position	PRIORITY:	FORM 12 PAGE/LINE: N/A	LEG.		

	TYPE OF EXPENDITURE		1	2	AMOUNT 3
4	PERSONAL SERVICES: SALARY 1530 x 12			18,360	
5	BENEFITS .1592			2,923	
6	SBS .0613			1,125	
7	FIXED BENEFITS 183 x 12			2,196	
8	TOTAL PERSONAL SERVICES	01			24,604
9	TRAVEL	02			
10	CONTRACTUAL	03			7,004
11	COMMODITIES	04			850
12	EQUIPMENT	05			700
13	OTHER				
14	TOTAL COST				33,158

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	33,158
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk III position will provide clerical assistance to the Workers' Compensation Officer in the Juneau Second Injury Fund office and will be responsible for providing and coordinating distribution of information from the claim files to the other regions.

10. Contractual: Space $3,100 (to be transferred to DOA)
Indirect (11.46% x 18,360 = $2,104)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair $700

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 83

01-1136 (7/81)

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION	GOV.	APPROV.	DISAPP.
1	Clerk IV			9B	GBU	EBA			
	TYPE OF POSITION	STAFF MONTHS	RP No. / PCN No.	PRIORITY		FORM 12 PAGE/LINE			
2	PFT	12	N/A / New Position			N/A	L&G		

	TYPE OF EXPENDITURE	1	2	AMOUNT 3
4	PERSONAL SERVICES: SALARY 1627 x 12		19,524	
5	BENEFITS .1592		3,108	
6	SBS .0613		1,197	
7	FIXED BENEFITS 183 x 12		2,196	
8	TOTAL PERSONAL SERVICES	01		26,025
9	TRAVEL	02		0
10	CONTRACTUAL	03		7,137
11	COMMODITIES	04		850
12	EQUIPMENT	05		700
13	OTHER			
14	TOTAL COST			34,712

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	34,712
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk IV position will provide clerical assistance to the Rehabilitation Administrator and Workers' Compensation Officer and will be responsible for maintaining follow-up on all rehabilitation files.

10. Contractual: Space $3,100 (to be transferred to DOA)
Indirect (11.46% x $19,524 = $2,237)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk and desk chair $700

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

Page 4 of 4 REVISED DATE _____

FY 83

01-1136 (7/81)

HB 165

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

2/17/81

(5)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 165

"An Act creating the public utility revolving loan fund; and providing for an effective date."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 165 (L&C) [ ] same title [X] new title

and recommends DO PASS

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

CHAIRMAN

H 60 (Rev. 12/78)

TO: MEMBERS OF THE HOUSE LABOR AND COMMERCE COMMITTEE

REGARDING: HB 161

FROM: Joseph Merrill, Ph.D, CPA
Vice President - RAI Public Utilities
Consultants, Inc., Anchorage

Below is a brief summary of why we feel a bill supporting a Public Utilities Revolving Loan Fund is necessary - that is, the problems that such a bill can help resolve -

1. Public utilities are regulated as to the rate of return they are allowed to earn. When the regulated rate is less than the interest rate a utility is required to pay for construction, the result is obvious - no construction.

2. Most rural telephone systems in Alaska have obtained their construction funds from the federal REA program at interest rates of 2% - 5%. However, the process is slow and recently doubts have arisen as to the reliability of the long-term aspects of that program. Because of the delays in dealing with Washington, construction seasons are missed, costs increase and the nature of the program makes interim (short-term) financing difficult, if not impossible.

3. The type of collateral offered by a utility makes potential lenders leery. For example, who wants to repossess 30 miles of underground telephone cable?

4. When a utility is organized as a co-op, requiring co-signers on a bank note is not relevant, resulting in a hesitancy to loan on the part of many lenders.

5. Short construction seasons, barged freight, etc., make delays of a few weeks, delays of a year in practice.

6. An example of the effect of differing interest rates is given below. Assume a $1,000,000 loan and 200 telephone subscribers, with a 30 year loan amortization schedule.

Continued on Page 2

Interest Rate	Total annual payment to amortize loan	Monthly amount per subscriber
5%	$ 65,000	$27.08
8%	88,800	37.00
10%	106,000	44.16
15%	152,300	63.45
20%	200,800	83.66

A state program designed to resolve these types of problems should incorporate the following features:

1 - An awareness of the common aspects of all utilities as well as the unique aspects of each type (i.e. telephone, power, etc.).

2 - A process whereby construction - period funding can be handled more speedily than permanent long-term financing, yet deal with both.

3 - Distinctions between co-ops and privately owned corporations.

4 - The recognition of the unique collateral and equity circumstances of utilities.

5 - An awareness of the need for loans at interest rates well below the rate of return permitted under regulated circumstances.

Accordingly, we would recommend that the program be administered and serviced through banks with a minimum amount of their direct participation and be goverened by a special board under the Department of Commerce and consisting of -

A banker (of a participating bank).
A lawyer.
An accountant and finance person.
A representative from the public utilities commission.
An engineer of the specialty of the type of utility applying for the loan.
A public representative.
A representative of the Department of Commerce.

These brief notes are not meant to be comprehensive explanations but rather to highlight the aspect of an ideal bill.

Our firm is representing the support of such a bill by the Alaska Telephone Association, and our clients.

WORK ORDER REQUEST FORM

112-

KEYWORDS: _____ ASSIGNED TO _____

_____

_____

REQUEST FOR: BILL ☐ RESOLUTION ☐ RESEARCH ☐ OTHER ☐

SUBJECT _____

REQUESTED FOR _____ BY _____ EXT. _____

* DELIVER TO _____ TAKEN BY _____

INSTRUCTIONS, EXPLANATIONS _____

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED ☐

AUTHORIZED TO CONFER WITH _____

_____

RETURN _____

_____ TO REQUESTER

APPROVED: _____ Director, Legal Services

REVIEWED _____

IN 4/8 DUE _____

TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT ☐ FINAL ☐

LA-L 10

FROM THE DESK OF .

Jackie N. Dukes

Ken

This analysis is comparison of total payback assuming ten consecutive loans (one per year) of $6,000,000 each, 20 year life, using 5% and 12% cost of money.

If you need more data, let me know.

Jackie

Form PP 107 © The Drawing Board Inc., Box 303, Dallas, Texas

EXPRESS MAIL NEXT DAY SERVICE

POST OFFICE TO ADDRESSEE

B 35634498

FROM:

Customer Number, if any:

TO:

Capitol Bld Room 409
Pouch V
Juneau AK 99811

ORIGIN:	
Initials of Receiving Clerk:	SJ
P.O ZIP	99645
Date in	2/11
Time in	1:01
Weight	Postage
Lbs	.00

DESTINATION:	
Date of Delivery:	2/12
Time of Delivery:	3:27
Initials of Delivering Employee:	JA
Signature of Addressee or Agent:	

DELIVERY WAS ATTEMPTED

Date	Time:

Notice Left By:

EXPRESS MAIL SERVICE

TO REMOVE PEEL BACK HERE

LABEL 11B JUNE 79 U.S.G.P.O. 1979—300—285

Date	

	Initials	Date
Prepared By		
Approved By		

	1	2	3	4
		17% Loan		
		Cumulative Balance	Payment Amounts	
1		60002.00	-	1
2		11916727	803273	2
3		17740189	1606546	3
4		23459194	2409819	4
5		29061207	3213092	5
6		34532189	4016365	6
7		39856416	4819638	7
8		45016278	5622911	8
9		49992051	6426184	9
10		54761644	7229457	10
11		53300315	8032730	11
12		51663627	8032730	12
13		49830536	8032730	13
14		47777474	8032730	14
15		45478044	8032730	15
16		42902687	8032730	16
17		40018277	8032730	17
18		36787743	8032730	18
19		33169544	8032730	19
20		29117161	8032730	20
21		24578492	8032730	21
22		20298455	7229457	22
23		16308086	6426184	23
24		12642145	5622911	24
25		9239564	4819638	25
26		6443946	4016365	26
27		4004126	3213092	27
28		2074800	2409819	28
29		717228	1606546	29
30		-0-	803273	30
31				31
32				32
33				33
34			16065460	34
35				35
36				36
37				37
38				38
39				39
40				40
41				41
42				42
43				43
44				44
45				45
46				46
47				47

Initi

Prepared By

Approved By

MTA

Loan Repayment Schedules

Years As Shown

	End of Year	Amounts Borrowed Annualy	590 Loan Cumulative Balance	Payment Amounts
1	#1	6000000	6000000	—
2	2	6000000	11818544	1456
3	3	6000000	17446560	2912
4	4	6000000	22874522	1444368
5	5	6000000	28092427	1925824
6	6	6000000	33089772	2407280
7	7	6000000	37855529	2888736
8	8	6000000	42378118	3370192
9	9	6000000	46635381	3851648
10	10	6000000	50644552	4333104
11	11	-0-	48362226	4814560
12	12		45965784	4814560
13	13		43449520	4814560
14	14		40807442	4814560
15	15		38033260	4814560
16	16		35120369	4814560
17	17		32061833	4814560
18	18		28850370	4814560
19	19		25478334	4814560
20	20		21937696	4814560
21	21		18220026	4814560
22	22		14317928	4333104
23	23		11686180	3815648
24	24		8900300	3370192
25	25		6456581	2888736
26	26		4372131	2407280
27	27		2664914	1925824
28	28		1353792	1444368
29	29		458569	962912
30	30		-0-	481456
31	31		-0-	-0-
32				
33				
34	totals			96291200
35				
36				
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39				
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46				
47				

ALASKA TELEPHONE ASSOCIATION 3400 LaTouche • Suite 201 • Anchorage, Alaska 99504 (907) 276-3293

Gordon Parker
Executive Director

March 25, 1981

Honorable Vern Hurlbert
Alaska State House
Pouch V
Juneau, Alaska 99811

Dear Representative Hurlbert:

At the request of Ken Spray, I have compiled a set of figures to demonstrate the possible loss of revenue caused by cuts in REA funding. It is still unclear how deep the cuts will go, therefore these figures represent the worst possible damage. They consist of dollars applied for but not yet approved and approved but not received. In other words, the figures include all money which could be lost.

United Utilities, Inc.	26.4 million
Cordova Telephone Cooperative	3.45
OTZ Telephone Cooperative, Inc.	3.74
Interior Telephone Company, Inc.	2.2
Matanuska Telephone Association	16.0
Nushagak Telephone Cooperative, Inc.	.3
Bush-Tell, Inc.	5.0

We appreciate your assistance with this problem. I plan to be in Juneau on April 7 and hope to discuss it further with you. If you need any assistance before then, I am available at any time.

Sincerely yours,

Gordon Parker

GP/jv

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

LETTER OF INTENT

CSHB 165 (Labor & Commerce)

Dear Mr. Speaker:

Your committee on Labor and Commerce has had under consideration HB 165, " An act creating the public utility revolving loan fund; and providing for an effective date."

We have approved a committee substitute that still addresses the intention of the orginal legislation: that is, to create a revolving loan fund for public telecommunications.

During public testimony the committee was convinced that administration of the fund should be on a priority basis so those public telecommunications utilities desiring to expand services to unserviced areas would be given a priority.

The committee believes such priority would best serve the rurual areas of the state that are in desperate need of a communications system and this in turn would best serve the state as a whole.

Respectively submitted,

Vern Hurlbert

Rep. Vern Hurlbert
Chairman

MSG 81-00015965 PRTY 1 05/08/81 16:12:03 ORIG: LM00 IN= 0005
FROM: MARTIE/MATSU TO: JUNEAU INFORMATION
TARGET: LJ08 SUBJ: PAGE 0001

TO: REP. HURLBURT FOR KEN SPRAY
FROM: JACKIE DUKES, MATANUSKA TELEPHONE, BOX 1388, PALMER
745 3211
RE: HB506
PER YOUR REQUEST, THE IMPACT OF INCREASING THE ANNUAL PERCENTAGE RATE FROM 5% TO 12% UPON THE SUBSCRIBERS OF MTA. ASSUMING $6,000,000 LOAN WOULD BE APPROXIMATELY $322,000. THIS EQUATES TO ABOUT $30 PER CUSTOMER PER YEAR. TO OFFSET THIS WOULD REQUIRE AN INCREASE IN RATES OF 15% TO 20%. EACH YEAR THAT MTA WOULD BE REQUIRED TO BORROW AT THE HIGHER RATE WOULD REQUIRE ANOTHER INCREASE OF THE SAME MAGNITUDE. IF I CAN PROVIDE ADDITIONAL DATA, PLEASE CALL.

NXT MSG U/R/S _ PREV MSG U/R/S _ RESEND _ CANCEL

Eagle River

Current: Business $9.10 month — Residential $11.65 month.

Outside Eagle River

Business $19.10 month. — Residential 11.65 month.

3822

MSG 01-00016174 PRTY 1 05/11/01 18:19:23 ORIG: LA00 IN= 0011 OUT= 0072
FROM: MARCIE, ANC INFO TO: JUNEAU INFORMATION
TARGET: LJH2 SUBJ: IMPORTANT MESSAGE FOR REP HURLBERT PAGE 0001

JUNEAU INFO. PLEASE CALL AND HAVE KEN SPRAY PICK THIS UP AS SOON AS POSSIBLE. REPRESENTATIVE HURLBERT IS EXPECTING. THANKS, MS
(PLEASE ACKNOWLEDGE RECEIPT INDICATING # OF PAGES)

TO: REPRESENTATIVE HURLBERT
ATTENTION: KEN SPRAY

FROM: BILL ECHOLS, ACCOUNTANT, R.A.I. FOR BUSH-TELL, INC.,
3201 C STREET, SUITE 601, ANCHORAGE 99503 (WK 276-5208)

RE: HOUSE BILL 165

THE ANALYSIS OF BUSH-TELL, INC. 1981 CONSTRUCTION BUDGET WITH A PROJECTED COST OF $ 2,244,365.00 WOULD ADD AN ESTIMATED 458 TELEPHONE SUBSCRIBERS TO SERVICE.

MSG 01-00016174 PRTY 1 05/11/01 18:12:23 ORIG: LA00 IN= 0011 OUT= 0072
FROM: MARCIE, ANC INFO TO: JUNEAU INFORMATION
TARGET: LJH2 SUBJ: IMPORTANT MESSAGE FOR REP HURLBERT PAGE 0002

A COMPARATIVE PRINCIPLE AND INTEREST CALCULATION:

AT 5% WOULD BE $ 130,064.00 ANNUAL PAYMENTS AND A TOTAL PAYBACK OF $ 3,601,287 IN 20 YEARS.

AT 12% WOULD BE $ 300,424 ANNUAL PAYMENTS AND TOTAL PAYBACK OF $ 6,008,480 IN 20 YEARS.

THE DIFFERENCE TO THE SUBSCRIBER WOULD BE AN ADDITIONAL $ 17.40 PER MONTH FOR THE COST OF MONEY AT 5% VERSUS 12%.

AN INCREASE IN BUSINESS SERVICE RATES FOR:

ONE PARTY	OF	87%
TWO PARTY	OF	97%
FOUR PARTY	OF	1.09%
FIVE PARTY	OF	1.16%

Current Phone cost
Bus. $20 per month | Residential $13.00 per month.

MSG 01-00016174 PRTY 1 05/11/01 18:19:23 ORIG: LA00 IN= 0011 OUT= 0072
FROM: MARCIE, ANC INFO TO: JUNEAU INFORMATION
TARGET: LJH2 SUBJ: IMPORTANT MESSAGE FOR REP HURLBERT PAGE 0003

AN INCREASE IN RESIDENCE SERVICE RATE FOR:

ONE PARTY	OF	1.34%
TWO PARTY	OF	1.50%
FOUR PARTY	OF	1.74%
FIVE PARTY	OF	1.94%

BUSH-TELL, INC. HAS A TELEPHONE PRODUCT SERVICE MIX OF 58% RESIDENCE AND 5% BUSINESS. THEREFORE, THE CONSUMER WOULD BE PAYING AS MUCH AS 1.94% MORE OVER THE PRESENT RATES CHARGED.

-EOM

INTERIOR TELEPHONE COMPANY
604 West 6th Avenue, Anchorage, Alaska 99501, Main Office 272-2575, Warehouse 333-4333

May 11, 1981

The Honorable Vernon Hurlbert
Attn: Mr. Kent Spray
Alaska State Legislature
Pouch "Y"
Juneau, AK 99811

Re: Proposed House Bill 165

Dear Mr. Spray:

Interior Telephone Company, Inc., currently provides telecommunications services to nine rural Alaskan communities, serving approximately 1,425 customers.

Our 1981 capital expansion budget has been drastically reduced from $680,000 to $210,000 because of the non-availability of low interest Rural Electrification Administration (REA) loan funds. We project that approximately 88 new customers will be served during 1981 after our construction efforts connect them to the telephone network.

Interest rates on loan funds for construction have a direct effect on rates we charge our customers. Should HB 165 incorporate a 12% interest rate instead of 5%, we would have to pass on to our customers a $.66 per month increase in basic telephone rates. This increase assumes a 20 year pay back on a $210,000 loan, spread over 1,413 customers.

We respectfully request your thoughtful consideration to the sensitivity of interest rates as they relate to the bills our customers pay each month. We feel that basic telephone rates paid by rural Alaskans should be kept as low as possible to insure the continuing development of the State and its resources.

Sincerely yours,

INTERIOR TELEPHONE COMPANY, INC.

Earl H. Land
Executive Vice President
General Manager

EHL/sar

cc: Matanuska Telephone Association

Current

Business	Residential
King Cove	King Cove
Galena	Galena
Cooper Landing	Cooper Landing
UnAlaska	UnAlaska
Illiamni	Illiamni
$36.26 per month	$24.42 per month
Ft. Yukon - Cold Bay Bus $31.82 per month	Ft. Yukon - Cold Bay Residential $21.42
Pt. Lions/Seal Point Bus $21.46	Res $13.32

STATE
of ALASKA

MEMORANDUM

TO: Representative Vernon L. Hurlbert
Attn: Kent Spray

DATE: May 11, 1981

TELEPHONE NO.:

FILE NO.:

FROM: John B. Farleigh
Executive Director
Alaska Public Utilities Commission

SUBJECT:

In response to the request from your office we have compiled the following information from our files and those of the Alaska Telephone Association.

Gross revenue data reflects year end 1979 for regulated utilities. The utilities certificated but not regulated are identified by an asterisk. 1980 gross revenue information will not be available until after June 30, 1980. However, station and employee information is year end 1980 as reported by the ATA:

Utility	Gross Revenues	Station	Employees
Alascom, Inc.	$150,797,429		1385
Anchorage Telephone Utility	47,444,697	142,161	672
Bristol Bay Telephone Communications	510,742	331	5
Copper Valley Telephone Cooperative, Inc.	2,218,988	3,817	22
*Cordova Telephone Coop., Inc.		1,121	9
*FMUS		37,371	120
General Telephone Company of Alaska	4,432,128	12,517	59
Glacier State Telephone Company	16,125,746	24,151	140
Interior Telephone Company	1,737,336	2,027	20

Juneau & Douglas Telephone Company	8,095,895	16,259	82
*Ketchikan Public Utilities		7,521	39
Matanuska Telephone Association, Inc.	7,260,999	17,078	127
Mukluk Telephone, Inc.		167	1
National Utilities, Inc.	516,974	1,185	23
Nushagak Telephone Cooperative, Inc.	619,632	755	6
OTZ Telephone Cooperative, Inc.	764,235	919	7
Sitka Telephone Company	2,243,832	7,188	38
Telephone Utilities, Inc.		2,990	15
Bush-Tel, Inc.	147,748	100	4
United Utilities, Inc.	222,266	824	30
Yukon Telephone Company	111,884	163	3
Whittier Telephone Company	71,303	98	1
Bettles Telephone, Inc.	38,437	50	1

MSG 81-00016174 PRTY 1 05/11/81 10:19:23 ORIG: LA00 IN= 0011 OUT= 0072
FROM: MARCIE, ANC INFO TO: JUNEAU INFORMATION
TARGET: LJH2 SUBJ: IMPORTANT MESSAGE FOR REP HURLBERT PAGE 0001

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ATTENTION: KEN SPRAY

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EOM

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FROM: MARTIE/MATSU TO: JUNEAU INFORMATION
TARGET: LJ08 SUBJ:
PAGE 0001

TO: REP. HURLBURT FOR KEN SPRAY
FROM: JACKIE DUKES. MATANUSKA TELEPHONE, BOX 1388. PALMER
745 3211
RE: HB506
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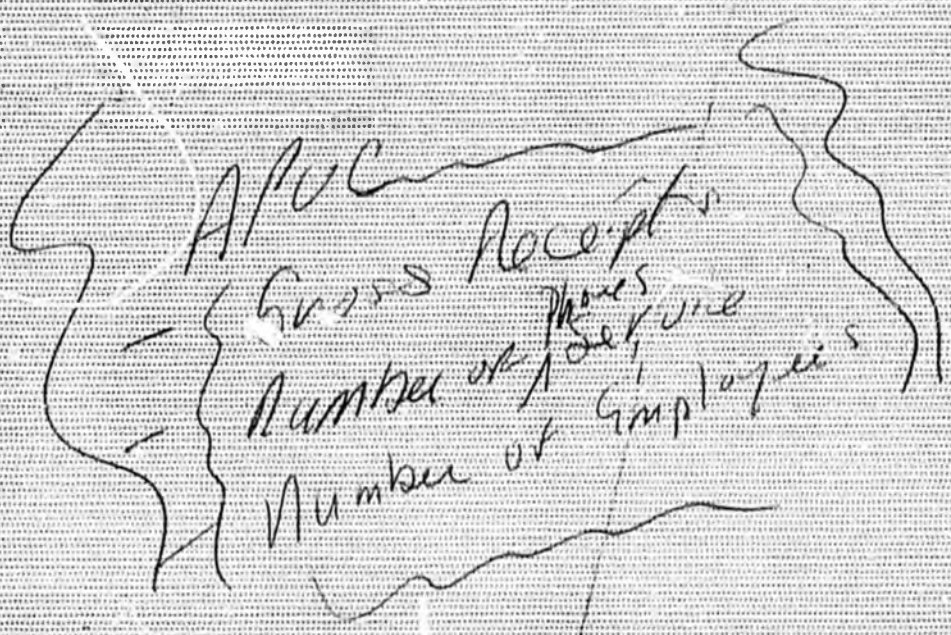
NXT MSG U/R/S _ PREV MSG U/R/S _ RESEN / _ CANCEL



Before the
Federal Communications Commission
Washington, D.C. 20554

FCC 81-18
28753

In the Matter of	)	
	)	
Amendment of Parts 2, 21, 87, and	)	
90 of the Commission's Rules to	)	General Docket No. 79-188
Allocate Spectrum for, and to	)	
Establish Other Rules and Policies	)	
Pertaining to, the Use of Radio in	)	
Digital Termination Systems	)	
for the Provision of digital	)	
communications services.	)	

FIRST REPORT AND ORDER

Adopted: January 14, 1981 Released: April 17, 1981

By the Commission: Commissioner Fogarty issuing a separate statement.

I. INTRODUCTION

1. On November 16, 1978, the Xerox Corporation (hereinafter "Xerox") filed a Petition for Rulemaking ("Petition") requesting the reallocation of the 130 MHz of radio frequency spectrum between 10.55 and 10.68 GHz and the adoption of the necessary rules and policies to permit the establishment of nationwide common carrier digital telecommunications networks that would provide for the high-speed, end-to-end, two-way transmission of digitally encoded information. As proposed by Xerox, these networks would consist of intercity facilities employing satellites and terrestrial point-to-point microwave and intracity facilities which would include Digital Termination Systems (DTS) 1/ and intermodal links. Xerox proposed that these facilities be employed to provide a new end-to-end common carrier radio service (which we call Digital Electronic Message Service or DEMS) which would meet the needs of widely dispersed business and governmental organizations for document distribution, data communications, and teleconferencing within and among the major U.S. cities.

2. In response to the Petition and the comments filed regarding it, the Commission, on August 29, 1979, issued a Notice of Proposed Rulemaking and Inquiry (hereinafter "Notice"). 2/ In that

1/ The term Digital Termination System (DTS) refers to two-way point-to-multipoint microwave radio facilities made up of local collection and distribution stations, each providing two-way transmission links to multiple outlying stations located at user premises.

2/ FCC 79-464, released August 29, 1979, 44 Fed. Reg. 51257 (1979).

To: Al Adams

From: Ken Spry AR

Subj: CSHB165T

As you are aware CSHB165 is in the House Finance Committee & there is apparently a problem with the Finance Chair on the Bill.

I am supply you with Our Justification for the successful passage of this Bill.

REA funding is apparently going to be eliminated by the Reagan Admin & by doing so severely jeopardizes continued AP well as expanded phone service to the state particularly Bush communities.

A letter of intent was approved by the L&C Committee hopes that those companies expanding services to underserved areas would receive priority.

On April 2nd, 1981 we Teleconference this Bill to all stations & the Testing Firm companies as well as the public with support of the Bill. There was no testing that opposed the Legislation.

The Legislation allows for 5% loans of up to 5 million per loan, with terms of 20 years.

My perception of Rep Cotton's objections are as follows.

1. Revolving Loan Fund - (another specialized)
2. AEPA
3. ~~Not restrictive~~ Limit on loans is not restricted enough.

I would hope that we could work in a Bill that would eliminate these objections & hopefully that the Bill moved from Finance.

I not sure how to get around a 'Revolving Loan Fund, but there must be ways in which to do it.

The T.C.'s do not object to who administers the fund but it was believed that ATRIA could use, its ~~The Exempt Body~~ Body capabilities to the success of an established Long Term Program. ARDA Has An Advantage to leverage themselves.

I have ~~Attached~~ disclosed 2 copies of a letter from ATA which shows what companies were participating fully Pre-REA. The proposed legislation does not ~~Solve~~ completely resolve this funding but it is sufficient to at least keep these companies afloat.

I have also included the letter of intent.

Rep. Al Adams

RE: CS/HB 165

Dear Rep. Adams:

As you are aware CS/HB 165

of DTS facilities and the services provided thereby, since, even if DTS facilities may have some voice capacity, it will not be "telephone exchange service" within the meaning of that section. The purpose of Section 221(b) was to reserve to the states jurisdiction over local telephone exchanges which serve single multi-state areas. North Carolina Utilities Commission v. FCC, 552 F. 2d 1036,1045 (4th Cir.), cert. denied, 434 U.S. 874 (1977).

VI. MISCELLANEOUS ISSUES

81. A few commenters asserted that there has not been sufficient notice of the actions contemplated to develop a factual basis for the adoption of rules at this time. We believe, however, that our Notice of Proposed Rulemaking was sufficient to allow us to adopt rules without any further notice. Section 553(b) of the Administrative Procedure Act, 5 U.S.C. § 553(b), provides in pertinent part that a notice of rulemaking must include "the terms or substance of the proposed rule or a description of the subjects and issues involved." The D.C. Circuit has interpreted this to mean that the notice need only be "sufficiently descriptive of the 'subjects and issues involved' so that interested parties may offer informed criticism and comments." Ethyl Corp. v. EPA, 541 F.2d 1, 48 (D.C. Cir.), cert. denied, 426 U.S. 941 (1976). See also Buckeye Cablevision, Inc. v. FCC, 387 F.2d 220 (D.C. Cir. 1967). In this proceeding, notice was given of at least the subject matter of all the rules that we adopt today. Furthermore, evidence of the sufficiency of the notice is shown by the fact that so many parties commented at length on the issues.

82. Finally, with respect to Alascom's request that Alaska be excluded from this proceeding, we note that with the possible exception of MTS and WATS, for which the question is still open, see MTS and WATS Market Structure Inquiry, 81 F.C.C. 2d 177 (1980), we generally believe that Alaska should be treated no differently than the contiguous 48 states. See DHL Communications, Inc., File No. W-P-C 2000 (released Dec. 30, 1980); See also Integration of Rates and Services, 61 F.C.C. 2d 380 (1976), reconsideration, 65 F.C.C. 2d 324 (1977). We see no reason for establishing a different policy here.

lottery proceeding would hinder long-range planning, especially if applied to contested renewals.

G. Miscellaneous Issues

The comments generally agreed that DTS would create minimal environmental impact. Some commenters stated that no environmental impact statements should be required. Others commented that existing rules adequately covered the issue.

TDS worried in its comments about possible adverse affects of DEMS on rural areas. First, service might not be available in rural areas. Second, if it were available, it might result in loss of revenues to rural telephone companies.

Alascom commented that, in its view, the market for telecommunications services in Alaska was too thin to support yet another service. It requested that Alaska be excluded from this proceeding.

NASA commented on its concern that DTS be compatible with its remote sensing programs. Those remote sensing programs are located in the 10.6 GHz band where DTS is also proposed to be located.

III. LEGAL ISSUES

A. Necessity for a Further Notice of Proposed Rulemaking

A few of the comments were directed to the legality of adopting specific rules without a further Notice of Proposed Rulemaking proposing specific rules for comment. GTE Service stated that unless the comments were uniformly favorable, a two-step Notice of Inquiry-Notice of Proposed Rulemaking process would be necessary. AT&T was of the opinion that it would be improper to make rules on the basis of the record in this proceeding. There was, in AT&T's view, inadequate time and notice of specific actions contemplated to permit the development of the necessary facts addressing these issues.

Xerox, on the other hand, stated that the Commission should adopt final rules for DTS without a further Notice of Proposed Rulemaking. In support of this position, Xerox cited the Administrative Procedure Act, 5 U.S.C. §§ 511-599, 701-706. In particular, Section 553(b) of that Act states that it is not necessary to propose specific rules. Either the terms and substance of the proposed rules or a description of the subjects and issues involved would be sufficient. The Notice, in Xerox's opinion, meets this standard. Furthermore, the Commission's statement of intent to adopt rules without further comment gives notice to all parties, and the record in this proceeding is sufficient to support final action.

1. Orig – Interim financing 20 prime +3
2. Reagan cuts
3. must now replace –
4. 5% – 10% –

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5. AIDA – Leverage
TAx exempt municipalities

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1. original Bill – was to provide Interim financing – somehow most interim $ is prime + 3
2. Reagan cuts. (Pending 57 mill)
3. which changed the complexion of the bill – it is now going to Fold the void of REA funds Lesser
3. AIDA – TAx exempt Bonds municipals – and, Frank, Kit, the committee leverage the money –

4. Interest at 5% – is what the phone companies use to – however if REA Funds for phones was going to continue it would be at 10.5% –

26.40
3.45
3.14
2.20
16.00
.30
5.00
57.09

CS HB 165 (L&C) -

Letter of Intent.

The necessity for Telephone service for Alaska serves all of the public needs.

It is the intent that the loans granted under this legislation we prioritize.

Cook ✓

Original sponsors: Hurlbert, Vaska, Chuckwuk and Moss

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 165 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act creating the telecommunications revolving loan fund; and providing for an effective date."

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

* Section 1. DECLARATION OF POLICY AND PURPOSE. The legislature finds that

(1) the availability of adequate public telecommunications services and facilities at reasonable rates in the state is a proper matter of public concern;

(2) the ability of privately, municipally and cooperatively owned public telecommunications utilities in the state to finance service to the public and to finance capital improvements required to extend and improve service on terms that will enable service rates to remain at reasonable levels in the foreseeable future is seriously impaired by the unavailability of low-cost federal loans;

(3) as a matter of public policy, to ensure the sound development of the state and its resources and to provide an acceptable level of telecommunications services to its residents at reasonable rates, the state should assist telecommunications utilities in acquiring the money that is essential to operate, maintain and expand facilities and services.

* Sec. 2. AS 44.83 is amended by adding new sections to read:

ARTICLE 08. TELECOMMUNICATIONS REVOLVING LOAN FUND.

Sec. 44.83.400. REVOLVING LOAN FUND CREATED. The telecommunications revolving loan fund is created in the Alaska Power Authority.

Sec. 44.83.410. POWERS AND DUTIES OF THE AUTHORITY. (a) The

authority shall formulate procedures and adopt regulations to implement AS 44.83.400 - 44.83.490 in consultation with the Alaska Public Utilities Commission. ~~The procedures and regulations, including economic and financial requirements for loans, will conform, to the extent possible, to procedures and regulations adopted by or applicable to the federal Rural Electrification Agency in accordance with the Rural Electrification Act of 1936, as amended (7 U.S.C. sec. 921 et seq.).~~

(b) The authority may

(1) subject to approval by the Alaska Public Utilities Commission, make loans from the telecommunications revolving loan fund to a public telecommunications utility to finance or refinance capital improvements, plant and facilities, and to improve and expand services, if other credit is not readily available from private or federal lending institutions;

(2) make loans, subject to approval by the Alaska Public Utilities Commission, from the telecommunications revolving loan fund to a public telecommunications utility to meet short-term or interim capital needs before receipt by the utility of long-term loans;

(3) consult with appropriate federal agencies and other lending institutions which make loans to public utilities in the state concerning policies, regulations and procedures to carry out the provisions of AS 44.83.400 - 44.83.490;

(4) designate agents and delegate powers to them as is necessary;

(5) require bonds and undertakings from persons employed by the authority as necessary, and pay the premiums on the bonds and undertakings;

(6) establish amortization plans as provided in AS 44.83.-440(c).

Sec. 44.83.420. ELIGIBILITY FOR LOANS. A public telecommunications utility is eligible for a loan under AS 44.83.410 if

(1) it is a public utility for furnishing telecommunications service under AS 42.05.701(2)(B);

(2) at the time of application for a loan it is serving the public under a certificate of public convenience and necessity issued by the Alaska Public Utilities Commission;

(3) in the judgment of the authority

(A) the public telecommunications utility shows a definite potential for providing improved or expanded service in the community or service area it serves, or otherwise requires the financing to maintain adequate, efficient and safe service;

(B) the utility will be able to repay the loan;

(C) the utility has satisfied requirements imposed by regulation of the authority.

Sec. 44.83.430. APPROVAL OF LOANS. (a) A loan may not be made by the authority under AS 44.83.410 until the loan has been approved by the Alaska Public Utilities Commission upon findings that

(1) the applicant is willing and able to provide the services for which the facility to be financed by the loan is needed;

(2) the facility to be financed by the loan and the services to be provided are required for the convenience and necessity of the public and will result in an improvement of service; and

(3) granting the loan will not result in an unreasonably adverse impact on a rate or rate structure regulated by the Alaska Public Utilities Commission.

(b) Findings under this section shall be made in accordance with regulations adopted under AS 42.05.151. The Alaska Public Utilities Commission shall approve or deny a loan application within 90 days

after it is submitted.

Sec. 44.83.440. CONDITIONS AND LIMITATIONS ON LOANS. (a) A loan to a public telecommunications utility under AS 44.83.410 may not exceed $5,000,000.

(b) A loan made under AS 44.83.410 shall be on terms and conditions established by regulation of the authority and ~~shall~~ be secured by collateral equal in ~~fair~~ market value to at least ~~75 percent~~ of the loan.

(c) Amortization plans for the repayment of a loan made under AS 44.83.410 may not exceed 30 years. The rate of interest charged on the unpaid balance may not exceed the rate of interest which the state agreed to pay on the most recent general obligation bonds issued before the application for the loan.

(d) A loan may not be made until an investigation and an economic feasibility study are conducted and, as a result of the investigation and study, the authority determines that the loan is economically sound, that the utility will be financially self-sustaining, and the loan will be fully amortized in accordance with the terms and conditions of the loan. The economic feasibility study shall be conducted by the authority staff or by consultants, engineers or other technical experts approved by the authority.

(e) To facilitate its determination under (d) of this section the authority may by regulation require an applicant for a loan to furnish systems studies, long-range economic forecasts, financial data, and technical information, and, if a loan is participated in by a financial institution in an amount not less than ~~20 percent~~ of the total amount of the loan, the authority may consider the investigation and economic feasibility study made or accepted by the financial institution as a basis for its participation.

(f) If a financial institution participates in a loan made under AS 44.83.410, it may elect to administer and service the loan for a reasonable fee not exceeding one-half of one percent of the total loan amount.

(g) The state and the participating financial institution shall each have a 1st lien on the collateral or share the collateral to the extent of their respective parts of the total loan. The authority may subordinate a 1st lien on collateral securing a loan under this chapter to a lien of the federal Rural Electrification Administration.

(h) Notwithstanding (d) of this section, if an application for a loan to a public telecommunications utility has been approved by the federal Rural Electrification Administration and, due to lack of money, the loan will not be made as approved, the authority may accept approval of the loan by the federal Rural Electrification Administration as evidence of economic feasibility and as a basis for awarding a loan under AS 44.83.410. A loan awarded under this section may not be for an amount greater than the amount of the loan which was approved by the Rural Electrification Administration.

Sec. 44.83.450. ADMINISTRATION. Money loaned under AS 44.83.410 shall be delivered to the borrower in the form of a warrant drawn on the treasury, and charged against the telecommunications revolving loan fund. Upon repayment of a loan in accordance with the prescribed terms, or upon liquidation by foreclosure or other process, or upon receipt of interest or other revenue, the money received shall be turned over to the authority for deposit in the telecommunications revolving loan fund.

Sec. 44.83.460. SALE OR TRANSFER OF NOTES, MORTGAGES AND OTHER COLLATERAL. (a) The authority may sell or transfer at par value or at a premium or discount to a bank or private purchaser for cash or other consideration the notes, mortgages and collateral held by the authority

as security for loans made under AS 44.83.400 - 44.83.490.

(b) The authority may sell or transfer at par value to the Department of Revenue the notes, mortgages and other collateral held by the authority as security for loans made under AS 44.83.400 - 44.83.490. The Department of Revenue may purchase the notes, mortgages and other collateral so offered, allowing the authority a one-half of one percent service fee.

(c) The authority shall proceed to recover its interests in a loan which is in default in accordance with regulations adopted by the authority. The authority shall sell or transfer all physical collateral obtained through default to a nongovernmental entity within 45 days after receiving title. During the pendency of a default proceeding, the authority, another public corporation, a state agency, or a political subdivision of the state may not operate facilities which are held as collateral, but a private entity may be designated by the authority upon approval of the Alaska Public Utilities Commission to operate facilities held as collateral during the pendency of a default proceeding.

Sec. 44.83.470. GUARANTEES OF LOANS. (a) The authority may enter into agreements with state departments and agencies, private banks, other lending institutions, and individuals for the purpose of guaranteeing loans made to qualified public telecommunications utilities. The guarantees may not exceed 90 percent of the amount loaned and the loans shall be secured in the same manner as provided for direct loans under AS 44.83.400 - 44.83.490.

(b) A loan made under AS 44.83.410 and guaranteed by the state shall bear an interest rate on the unpaid balance not exceeding the rate of interest which the state agreed to pay on the most recent general obligation bonds issued before the application for the loan.

Sec. 44.83.480. PROCEEDINGS AND REGULATIONS. The Administrative Procedure Act (AS 44.62) governs all proceedings, and the adoption of regulations, under AS 44.83.400 - 44.83.490.

Sec. 44.83.490. DEFINITION. In AS 44.83.400 - 44.83.490 "authority" means the Alaska Power Authority.

* Sec. 3. This Act takes effect July 1, 1981.

ECONOMIC AND SOCIAL BENEFITS OF THE REA TELEPHONE LOAN PROGRAM

By

EDWIN B. PARKER, Ph.D.

(Former Professor of Communication,
Stanford University)

March 24, 1981

ECONOMIC AND SOCIAL BENEFITS OF THE REA TELEPHONE LOAN PROGRAMS

By

EDWIN B. PARKER, Ph.D.
FORMER PROFESSOR OF COMMUNICATION, STANFORD UNIVERSITY

March 24, 1981

I. QUALIFICATIONS OF THE AUTHOR

Since receiving my Ph.D. in 1960, I have been on the faculty at the University of Illinois and at Stanford University, where I was Professor of Communication until 1979. I am now vice-president of Equatorial Communications Company, a company committed to the development and implementation of satellite and computer technologies in ways that should lower the cost of rural and other "thin route" data communications.

During the last ten years of my academic career I specialized in measuring the social and economic benefits of rural telecommunications, including a major program in the 1970s that led to 100 rural Alaska communities receiving telephone service for the first time. I authored or edited

three books, including Handbook of Communication, and over fifty articles and am on the editorial board of Telecommunications Policy. I have served as a consultant on communications policy to national and state governments, including the U.S. delegation to the World Administrative Radio Conference, and international bodies, including the International Telecommunication Union.

II. INTRODUCTION

My research and the research of my colleagues on the role of telecommunications services in economic and social development have provided certain findings which may assist you in your analysis of the Rural Electrification Administration's Telephone Loan Programs. I will briefly summarize these findings under three points. First, there are demonstrable benefits for regional and national economies from investments in rural telecommunications facilities in terms of increased efficiency in the organization of economic activity leading to increased productivity. I have estimated that the benefits of these programs to the United States economy are between six and seven times their costs. Next, there are demonstrable benefits for the quality of life in regions and nations from investments in rural telecommunications facilities in terms of increased availability and cost-effectiveness in the delivery of social services such as health and education. Finally, because these benefits are, to a considerable extent, what economists call external

(as opposed to internal or private) benefits, government intervention, such as in the form of the REA Telephone Loan Programs, is required for the optimal amount of investment in rural telecommunications facilities to be made.

III. CONTRIBUTIONS OF RURAL TELECOMMUNICATIONS TO ECONOMIC EFFICIENCY AND PRODUCTIVITY

Rural telecommunications systems increase economic efficiency and productivity. Telephones improve the organization of economic activity.[1/] Efficient production and marketing requires the coordination of economic units, which depends on the availability of effective, fast, and reliable communications systems at low prices. A subscriber increases his efficiency and productivity through telephone services; these gains are his private benefits from subscribing. Also, subscribers throughout a nation increase their productivity from their ability to communicate with one subscriber through telephone services; these gains are the external benefits from that subscriber's decision to

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1/ See, e.g., E. Parker, An Information-Based Hypothesis, 28 J. Communication 81 (1978); A. Hardy, The Role of the Telephone in Economic Development, 4 Telecommunications Policy 278 (1980); B. Wellenius, Telecommunications in Developing Countries, 1 Telecommunications Policy 289 (1977); H. Hudson, D. Goldschmidt, E. Parker, and A. Hardy, The Role of Telecommunications in Socio-Economic Development: A Review of the Literature with Guidelines for Further Investigation (1979).

join the network. Numerous case studies have shown that telephones contribute to regional and national economic development. Both developing and developed countries have realized economic benefits from investments in telephone facilities.

I recently supervised the Ph.D. dissertation of Andrew Hardy. Hardy's analysis of the economic benefits of telephone services focused on their impacts on gross domestic product, which captures both private and external benefits. His work went beyond the previously established correlation between the number of telephones per capita and the size of the gross domestic product. He was able to demonstrate the causal sequence of that relationship, establishing that an increase in the amount of telephone service at one point in time leads to an increase in the size of the economy at a later time. He found that a one percent increase in the number of telephones per capita in the United States and Western Europe in the period 1950-1955 accounted for a three percent increase in per capita income in the period 1955-1962.[2/]

Improvements in telecommunications services are likely to yield greater economic benefits in rural than in urban areas. Transportation and other communications media are better substitutes for telecommunications in higher density

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2/ A. Hardy, The Role of the Telephone in Economic Development Appendix C (Ph.D Dissertation, Stanford University, 1979).

areas. Increases in the cost of energy have heightened the economic benefits of substituting telecommunications for costly travel and thereby conserving energy resources.[3/] Furthermore, the information flows facilitated by telecommunications services can make other uses of energy more efficient.

Hardy showed that the impact of telephone service on gross domestic product increases as density declines.[4/] Using World Bank and other statistical data from sixty countries over the period from 1960 through 1973, Hardy established that an increase of one telephone per hundred people in locations already having eighty telephones per one hundred people led to a .01% increase in gross domestic product (GDP) the following year. The same increase of one telephone per hundred people in areas with twenty telephones per hundred led to a much larger .09% increase in gross domestic product in the following year.

A somewhat rough, but suggestive application of Hardy's analysis to the U.S. suggests that the benefits of the REA program are substantial. REA Telephone Loan Programs have advanced about $3.9 billion in funds at reduced interest

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3/ See, e.g., National Transportation Policy Study Commission, The Impact of Telecommunications on Transportation Through The Year 2000 45 (1978); Hudson, supra, 25.

4/ Hardy, supra, Appendix C. Note that the statistical analysis reported here was on data for a different set of countries and years than the analysis reported on page 4, supra.

rates toward initial telephone service for 2,882,568 subscribers and improved service for 1,657,622 subscribers.[5/] REA borrowers served 6,335,312 telephones; 3.6 percent of the telephones in the United States in 1979.[6/] If one assumes that, but for the REA Telephone Loan Programs, the initial subscribers served by REA borrowers would not now be receiving service and if one assumes, quite conservatively, that each of these subscribers accounts for only one telephone, the stock of telephones in the U.S. would be reduced by 1.1 per one hundred people.[7/]

Hardy's analysis shows that a penetration level of 80%--close to the U.S. national ratio of telephones to population--implies that such a reduction in the stock of telephones would reduce the GDP growth by approximately 0.011 percentage points. That is, if the 1979 stock of telephones in the U.S. had been lower by 1.1 per one hundred people, 1980 GDP would have been about $283 million less than the actual

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5/ REA, 1979 Annual Statistical Report: Rural Telephone Borrowers xxiv, xxiii, xxiv. The number of subscribers who actually received initial telephone service as a result of the REA Telephone Loan Programs at the end of 1979 is estimated for purposes of the following analysis at 2.4 million, due to the time required to complete construction.

6/ Ibid, xv; Federal Communications Commission, Statistics of Communications Common Carriers: 1979 7.

7/ The U.S. population in 1979 was 221 million and the national ratio of telephones to population was 79%. FCC, supra, 7. The estiamte of 1.1 telephones per 100 people in 1979 was based on the assumption of 2.4 million initial subscribers. See note 5, supra.

level of $2,576.5 billion.[8] This loss of GDP would increase each year. The increments in GDP attributable to the REA Telephone Loan Programs mean more jobs and higher productivity for Americans.

Since the penetration of telephones is lower in rural areas than in the nation as a whole,[9] the 80% penetration estimate may be inappropriate for evaluating the value of telephone service provided by REA borrowers. I have not found data on the population of areas served by telephone companies borrowing from the REA; but, available data show that the ratio of telephones to main stations in the REA areas is 23% lower than the national average.[10] Suppose that the ratio of telephones

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8/ U.S. Department of Commerce, Fourth Quarter 1980 Gross National Product (Revised)(March 18, 1981). The calculation of GDP gain in 1980 attributable to the REA Telephone Loan Programs may understate their economic benefits in three ways. First, in contrast to the one telephone per new subscriber assumed by this calculation, the average number of telephones per subscriber served by telephone companies borrowing from REA in 1979 was 1.56. REA, supra, xv. Second, in contrast to the assumption that the REA programs have only had an impact on the number of telephones for subscribers receiving initial service, clearly the loans for improved telephone service have also affected the number of telephones in rural areas. Third, Hardy's analysis shows that the increment in telephones attributable to the REA programs prior to 1979 would affect 1980 GDP directly as well as through their effects on 1979 GDP and on GDP in earlier years; only the former effect was accounted for in this calculation.

9/ L. Perl, Economic and Demographic Determinants of Residential Demand for Basic Telephone Service Table 4 (1978).

10/ REA, supra, xv; FCC, supra, 32.

to population in areas served by REA borrowers is 60% rather than the national average of 79%. Then, using Hardy's results, the GDP gain attributable to the REA Telephone Loan Programs would be about $850 million in 1980 and growing each year.

Moreover, the benefits of the Telephone Loan Programs are substantial even if attention is restricted to recently approved REA telephone financing. In 1978, the REA approved financing of $311 million toward initial service for 180,518 subscribers and improved service for 71,199 subscribers.[11/] Supposing that 180,518 new telephones in 1979 are attributable to these loans, the resulting 1980 GDP gains are estimated by $20 million at 80% penetration and $60 million at 60% penetration.

Analyses such as Hardy's have led me to write that telecommunications may be the most important component of regional economic infrastructure, possibly more so than transportation or electrification, for rural economic growth.[12/] The benefits to rural economic growth are of two forms. First, new activities and enterprises are made possible in rural areas by investments in telecommunications facilities. Second, improved telecommunications services increase the efficiency of existing agricultural and non-farm rural enterprises.

11/ REA, supra, vii.

12/ Parker, supra, 83.

The economic benefits from telephone services require, as a necessary condition, connection to the telephone network. However, access alone does not exhaust the economic benefits that can be derived from telephone services. Increased economic efficiency can be gained by: (1) improving the reliability of telephone services, such as by installing buried cable; (2) improving the availability and confidentiality of telephone services, such as by providing single-party services; and (3) improving the capabilities of telephone services, such as by providing broadband (cable) and digital services.

Clearly, the ability of rural telephone companies to borrow from the REA at reduced interest rates for financing investments to provide service to new subscribers and to improve the quality and range of services to others has had important benefits to the nation's economy. As noted above, the REA Telephone Loan Programs may have raised 1980 GDP by as much as $850 million. This sum far exceeds any estimate of the cost of the program. Suppose that the cost to the Federal Government in interest support for the REA Telephone Insured Loans was 5.6% and for the Rural Telephone Bank Loans

was 1.2% for outstanding loans at the end of 1979.[13/] The outstanding principal balances at the end of 1979 of REA Telephone Insured Loans and RTB Loans were $2.16 billion and $0.77 billion, respectively.[14/] From these data, the cost to the federal government in interest support for the Telephone Loan Programs can be estimated at $130 million in 1979. The possible benefits in expanded gross domestic product from the Telephone Loan Programs are between six and seven times as large as the cost to the federal government in interest support.

13/ The 5.6% interest support for the REA Telephone Insured Loans was estimated by the difference between the 2.5% weighted average for total funds advanced through this program at the end of 1979 and the 8.1% interest charged on total interest bearing public debt in 1979. REA, supra, vii; U.S. Treasury Department, Treasury Bulletin Table F D-2 (Feb. 1981). The 1.2% interest support for the Rural Telephone Bank Loans was estimated by the difference between the 7.3% average interest rate for RTB funds advanced from January 1, 1975 to January 1, 1980 and the 8.5% average interest charge paid by the RTB for funds obtained from January 1, 1975 to January 1, 1980. (Data supplied by REA.) Funds advanced through the REA Telephone Guaranteed Loan Program are charged a rate of interest slightly greater than the Federal Financing Bank's cost of capital and there have been no defaults, resulting in no costs to the federal government for this program.

14/ REA, supra, xxv, xxvi.

As impressive as this result is, the costs of the programs to the federal government were overstated in this calculation. The REA Telephone borrowers paid $196 million in taxes in 1979 to local, state and federal governments.[15/] The REA Telephone Loan Programs have increased the taxable income of rural telephone companies by expanding the number of subscribers served, raising the quality and utilization of their services, and lowering their capital costs. Consequently, a substantial portion of the annual interest cost to the federal government is returned through higher income tax payments by the borrowers. Furthermore, the stimulus of the loans to economic activity results in additional tax revenues to the federal government, possibly making the REA Telephone Loan Programs net contributors to the federal treasury.

As the United States attempts to increase its economic efficiency and productivity or "re-industrialize," full advantage should be taken of the ability of improved rural telephone services to contribute to economic development and energy conservation.

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15 REA, supra, xxiv.

IV. CONTRIBUTIONS OF RURAL TELECOMMUNICATIONS TO EFFICIENT DELIVERY OF SOCIAL SERVICES

Telecommunications services can increase the social benefits from resources devoted to such activities as health care and education.[16/] Social service delivery can be increased and made more cost-effective with telephone and cable services by extending the geographic range of institutions such as hospitals and colleges, providing training and consultative support for field personnel, and enhancing the coordination of community and regional activities. With telecommunications services, scarce resources can be utilized more efficiently and by more people with reduced travel expenses and time requirements.

My studies in Alaska found a significant increase in the quality of health care resulted from the addition of reliable voice communications linking village paraprofessional health aides with distant supervising physicians of the U.S. Public Health Service.[17/] These considerations favor investments in rural telecommunications facilities especially because rural areas are characterized by a

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16/ See, e.g., Hudson, supra, 8-10; The Cabinet Committee on Cable Communications, Cable: Report to the President 46-47 (1974).

17/ H. Hudson and E. Parker, Medical Communication in Alaska by Satellite, 289 New England J. Medicine 1351 (1973).

deficiency in the supply of social services and great distances for people to obtain the services that are supplied.

The Reagan Administration has proposed substantial cutbacks in the federal government's social expenditures. Improvements in telecommunications facilities increase the benefits from social service expenditures and should be considered in the search for ways to derive the maximum social benefit from resources devoted to social services. Improved telecommunications services can lead to productivity gains in public sector services as well as private sector enterprises.

V. REQUIREMENT OF GOVERNMENT INTERVENTION TO OBTAIN THE OPTIMAL INVESTMENT IN RURAL TELECOMMUNICATIONS FACILITIES

The economic and social benefits of investment in telecommunications facilities are not confined to individual subscribers or users of telecommunications services. Entire regions and nations derive benefits from the investments.[18/] The contributions of these investments to improved productivity for geographically widespread existing and future enterprises, health, and education result in what economists refer to as external benefits.

18/ See, e.g., Hudson, supra, 39-42; Hardy, supra.

The commercial marketplace responds to private, rather than public (private plus external), benefits. In the absence of government intervention, the telecommunications industry makes investment decisions by considering only what potential subscribers or users would be willing to pay for a service. The commercial marketplace will make investments when the private benefits exceed the facilities' costs, but not when the public benefits exceed the costs and the private benefits are less than the costs. This calculation can lead to underinvestment in terms of social welfare since the public benefits from additional investments in telecommunications facilities far exceed the private benefits.

Despite the efforts of the REA Telephone Loan Programs, underinvestment in telecommunications facilities is suggested by the state of telecommunications facilities and services in rural areas in the United States. Some rural areas have no telephone service or provide services at rates not affordable to rural citizens.[19/] Some subscribers are limited to multiparty service provided by unreliable, inefficient facilities. The quality of telephone services in

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19/ A recent study by REA showed that monthly single-party residence telephone rates in areas served by telephone companies borrowing from REA are 23% higher on average than rates for comparable service in rural areas served by the Bell System and various independent telephone companies not borrowing from REA. See Background Paper of National REA Telephone Association (March 13, 1981).

rural areas generally lags behind the services received by urban residents and businesses. Technological innovations often are adopted by urban telephone systems long before they spread to rural areas.[20/]

While the per subscriber cost of providing telephone service is usually higher in rural areas, the public benefits of rural services are also higher. Certain economic and social benefits to the nation could not be realized if the nation relied solely on the commercial marketplace to supply capital for investments in rural telecommunications facilities.

The conclusion that economists reach in this situation is that government intervention is required to obtain the optimal amount of investment. It is widely recognized that, because of the economic and social external benefits of telecommunications, there is a strong case for public investment in rural telecommunications facilities.[21/] The REA Telephone Loan Programs have been designed to correct a failure of the commercial marketplace to serve the public interest. Low-

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20/ See, e.g., W. Baer, Telecommunications Technology in the 1980s, in G. Robinson (ed.), Communications for Tomorrow: Policy Perspectives for the 1980s 61, 105 (1978).

21/ See, e.g., G. Robinson, Communications for the Future: An Overview of the Policy Agenda, in Robinson, supra, 467, 482-83; Hudson, supra, 40.

interest REA loans decrease the cost of investments and increase the likelihood that investments which are desirable from the perspective of the nation will be made. REA loans enable rural telephone companies to make economically and socially desirable investments.

Capital is needed to expand and improve rural telecommunications services currently and in the future. The existing knowledge on the role of telecommunications services in economic and social development indicates that curtailment of low-interest loans from the REA Telephone Loan Programs would be against the public interest.

HB 165

Bethel - need A Phone service very very Bad!

Nick Tom Jr. (Nukodc) Most phones for convience - Business to R and is shown & always Rehind - 1 phone - yes we need individual phones. We could pay 17 pr mth For phone service.

Anch

Bob Bridgett - Medicaid R&C - service - we recently received funds from IHA - 4 yrs to get. However new Admin rural Areas (eg Tuba low income loans - provides 30% funds - 5% - Fairbanks District - Step in the right direction - not working for us - (Alascom) Suggestion - Power Authority - don't like Alaska Power Authority - Admin of program - Dept of Commerce - not by APA maybe Swept under rug - AIDA -

Dillingham David Boarder - Musiac - in Dillingham Rep financed. A long way to solving Alaska T&C needs - Areas - 1. Elig - At this is Semi public - APUC permission to serve - preserve Territorial areas -

X presently unserved communities IST - Application - AIDA - Expand APUC. Area mixed Ownership of all areas with Expertise in T&C.

Mgmt Bennett
Anchg

Rural Affs - commissn on utilities Valuable Input
A letter of intent on priorities -

Fubalcs

Ralph Hoover Tananachiefs -
Fubalcs - Municipality - Supports Bill -

T-Chiefs Supports Bill - 1 phone in Village
Small Village not getting attention - APA not the Agency —
Large comp - will get great share - Cost can
possibly be lower because of new switches - People would
Pay for Services

Haines - Leo LAND - I am all for it -
1. Pg 3 - line 17 thru 17 - may not be
abl to -
2. Pg 4 Line 7 thru 11.

Anch Alice Dantico - Calista Corp - Monthly more
message - HB 165 is needed since Fed program
cut back - Commercial fish not avail for
Commercial - only 4 villages will avail for
Rural Utilities - More good Job -
We strongly support CS HB 165 - will help some
to 30 other villages -

Bethel myron Naneej - supports HB 165 - would
enable United to be able to plan House to House.
poor system as it is now - with One phone.
would enable to us to communicate - 1 phone system
only ops 8 hrs a day.

~~Ketchikan Glenn~~
Buck Engel Local intervic - Tele - Support
Substitute Feel its necessary to growth
in Some Ft Yukon - Outer Bush -
Having problems with RSA Funds - because of
cuts - APA is very good method,
Admin: - AIDA -

Ketch Gleen Wood - Tele System - Keep
Clear we are in favor of R.I. - APA is
not the Agency - Separate Commission:
Funding Alaska - 1st Source of Funds.

Buck Nicklas United Utilities -
Alascom no good -

Dillingham - Good Bill - Reasons - non Techs
1981 - One need residential phones - System will
improve - Free access to information.

Steve Hamlin United Utilities -

MAX Clients

90 day is to short
to approve loans or disapprove loans -

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 15, 1981

PUBLIC SERVICE ANNOUNCEMENT
FOR IMMEDIATE RELEASE

The House Labor and Commerce Committee will be holding a public hearing, that will be teleconferenced statewaide as well, on Friday, April 24, 1981. It will begin at 1:00 p.m.; ending at 3 p.m. Pacific Standard Time.

Testimony will be received on HB 165, "An act creating the telecommunications revolving loan fund." This bill provides telephone companies a source of funding in anticipation of the possibility that federal REA funding will either be eliminated or severely reduced; it also provides for long-term, low interest loans.

Persons wishing to provide public testimony on the subject matter are invited to attend in Juneau, Behrends Bldg. conference room, or at the local Legislative Information Office or Teleconference Center in their community.

For more information, contact the House Labor and Commerce Committee, 465-3873, Representive Vern Hurlbert, Chairman.

U-77-28

APR 13 1981

STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners: Carolyn S. Guess, Chairman
Gordon J. Zerbetz
Marvin R. Weatherly
Susan M. Knowles
Stuart C. Hall

In the Matter of the Application of UNITED UTILITIES, INC., for a Certificate of Public Convenience and Necessity To Furnish Telecommunications Services in the Calista Region	U-77-28 ORDER NO. 9
In the Matter of the Investigation into the Financial Viability of Phase III Village Construction in the Calista Region by UNITED UTILITIES, INC.	U-81-22 ORDER NO. 1

ORDER DENYING WITHOUT PREJUDICE PERMANENT CERTIFICATION AND INSTITUTING INVESTIGATION INTO THE FINANCIAL VIABILITY OF PHASE III VILLAGE CONSTRUCTION

On January 2, 1981, the Commission received a filing from UNITED UTILITIES, INC. (United), requesting that the temporary conditional certificate for Phase III granted in Order No. 7 of this proceeding be changed to permanent certification. The United filing set forth seven points which it believes justifies permanent certification. It requested that the Commission grant permanent certification by January 31, 1981. On January 30, 1981, United filed additional documentation in support of its request.

On February 4, 1981, the Commission received a memorandum, a copy of which is attached hereto as Appendix A, from the Commission Staff (Staff) setting forth a review and analysis of the United request.

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ANCHORAGE, ALASKA 99501
PHONE 276-0222

DISCUSSION

In support of its request, United alleges that its uncollectibles are reasonable; that its financial condition is sound; that most of its current financing needs are met through low-interest Rural Electrification Administration (REA) loans; and that inadequate toll connect facilities resulted in service not being extended to four villages. On its face, these appear to be assertions of management rather than documented facts.

In addition, United avers that Phase III certification is a requirement in order to allow United to secure REA financing for these communities. This has not been the Commission's experience. The REA has proceeded with requests of Alaskan telephone utilities that have received temporary or conditional certification. Only toward the end of the processing time of a loan application is the requirement for permanent certification a necessity. The Commission acknowledges the long leadtime required for construction in rural Alaska as documented in United's January 2, 1981, request. However, the utility is aware that the Commission has articulated its concern regarding the viability of Phase II and Phase III construction in Order Nos. 7 and 8 in this Docket. The Commission in Order No. 8 in this matter denied permanent certification of Phase III villages and stated:

> The financial sensitivity of United's operation requires a longer and more stable track record before the Commission can determine when the Phase III construction program should commence.

To date, the utility has been and is involved in an ambitious construction operation in twenty-four villages.

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Six village exchanges have been operational for less than two years; six village exchanges have been in service for approximately six months; construction in four villages is partially complete; and eight villages are scheduled for construction in 1981. This does not provide evidence that a "more stable track record" has been established.

On the contrary, the United filings of January 2 and 30, 1981, provide information that reinforces the Commission's concern expressed in Order No. 8, supra, that the financial sensitivity of the utility's Phase II operation is dependent on a number of factors that are not in evidence: (1) the availability of long-term financing for Phase II at a 5 percent or lower interest rate; and (2) the use of interim financing for Phase II villages at a higher rate only if there is assurance that low-interest financing can be secured within a year.

The Commission is concerned about the financial viability of United's Phase II operation as it affects the utility's entire undertaking. A loan characteristic letter was submitted by United in its January 30, 1981, filing. The letter indicates that REA has made a determination of the loan required to finance United's Phase II village construction. It does not grant approval of the loan. In addition, the letter states that a composite interest rate of 5.4 percent will be required for the "B" loan. The Commission is aware that United is currently financing its Phase II construction with interim debt in excess of the prime rate of interest. If its interim financing is in

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PHONE 276-6222

effect for more than a year, another concern, noted in the Staff analysis of the financial feasibility of Phase II, has surfaced.

The very real question before the Commission at this time is whether United can survive the impact of interim financing levels currently in effect for its Phase II villages and what effect the proposed REA budget reductions by the current Federal administration will have on proposed interest rates and the approval of its Phase II loan and whether or not the utility intends to finance its Phase III village construction with REA financing and at what interest rate. The Commission has received confirmation from REA of those loans approved and signed for Alaska telephone utilities. Only United's "A" loan appears on the list that is appended to this Order as Appendix B.

The events to date reemphasize the responsibilities of the utility and the Commission to determine that the Phase III villages are a financially feasible part of United's operation before permanent certification is awarded. There is no evidence on the record at this time to support such a finding.

In its February 4, 1981, memorandum, the Staff set forth its recommendation regarding United's request for permanent certification for Phase III villages. A copy of this report was sent to the utility's counsel by letter dated February 11, 1981. The suggested course of action recommended by Staff on page 2 of its report appears to be a reasonable approach to determine whether the utility has the resources necessary for the Commission to make a finding

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that permanent certification should be granted for the Phase III villages. The Staff review should not be limited to Phase III but should include a review of the total company including Phases I and II. United will be required to provide to the Commission the documentation required in recommendation Nos. 1, 3 and 4 of Staff's memorandum. In addition, the Commission will require United to provide proof of its debt financing for all three construction phases; the anticipated interim and long-term interest rates and source of debt for each phase along with documentation that its interest estimates, where applicable, are valid. Therefore, an order instituting an investigation into the request of United for permanent certification of its Phase III villages should be established. Because of the reconstitution of the Commission, Docket U-77-28 will be closed; all outstanding issues in that Docket will be subsumed in U-81-22, and official notice will be taken of the applicable record in U-77-28, under 3 AAC 48.150(g):

The Commission concurs with Staff that a financial and operational audit of the utility should be made and that Staff should review the quality of service presently being provided to United's consumers. The Commission assumes that the financial and operational audit of the utility will provide a composite proforma revenue requirement for Phase I (including Gambell and Savoonga) and Phase II as well as a stand-alone proforma revenue requirement.

The Commission agrees with United regarding the urgency to develop telecommunications to meet the needs in

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the rural areas of Alaska. To this end, the Commission believes it has extended every effort to United to assure its successful operation.

In Order No. 8 in this proceeding, the Commission offered the assistance of Staff to address the severe communication problems that exist in the Phase III communities and encouraged United and ALASCOM, INC. (Alascom), to begin discussions and creatively explore more immediate viable alternatives that could be provided on an interim basis to partially alleviate the telecommunications difficulties in those villages. Order No. 8, pp. 5 and 6. The Commission is not aware that United has requested Staff's assistance in this regard nor has it, either together with or separate from Alascom, explored the possibility of interim telecommunications alternatives in the Phase III area.

The Commission is aware of the successful efforts of Alascom in developing the toll concentrator in St. Paul and believes that this is an alternative that should be explored by United in the Phase III villages. The Commission agrees with United that there is an urgent need for expanded communications in these villages and, therefore, will require United to identify those villages in Phase III which have an urgent telecommunications need that could be satisfied possibly on an interim basis by the installation of toll concentrators under the Alascom tariff. United should send this list of villages to the Commission and Alascom.

The Commission observes that the foundation of the proper development of telecommunications within the State of Alaska is based on a spirit of trust and cooperation. This

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ensures that the public interest, the responsibility of the Commission, will be served. To this end the Commission will once again urge United and Alascom to work together to find solutions to the demanding telecommunication needs in rural Alaska.

THE COMMISSION FURTHER FINDS AND CONCLUDES:

1. United is a public utility as defined by AS 42.05.701 and is subject to the Commission's regulatory jurisdiction.

2. The United request for permanent certification for Phase III is lacking in necessary detail or documentation to meet concerns previously expressed by the Commission. Therefore, the request of United to receive permanent certification for the Phase III villages is denied without prejudice to refiling in Docket U-81-22.

3. An order instituting an investigation into the request of United for permanent certification of its Phase III villages should be established. Because of the reconstitution of the Commission, Docket U-77-28 will be closed; all outstanding issues in that Docket will be subsumed in U-81-22 and official notice will be taken of the applicable record in U-77-28.

The Staff should pursue the elements of its recommendation in the Staff memorandum of February 4, 1981, entitled "Staff views regarding United Utilities' request for permanent certification for Phase III villages. (U-77-28)." The Staff monitoring or review should not be limited to Phase III but should include a review of the total company including Phases I and II as outlined in the body of this Order.

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4. United should identify those villages in Phase III that have an urgent telecommunications need. The Commission should request Alascom to survey those villages to determine the financial viability of the installation of toll-concentrators under the Alascom tariff.

ORDER

THE COMMISSION FURTHER ORDERS:

1. The request of United Utilities, Inc., for permanent certification of Phase III villages is denied without prejudice to its refiling in Docket U-81-22.

2. The Commission Staff shall be a party in U-81-22 and shall conduct an investigation into the request of United Utilities, Inc., to expand its operation into Phase III villages, including the current financial obligations of serving Phase II villages.

3. Commission Staff shall include in its investigation, in addition to the course of action recommended in its February 4, 1981, memorandum, proforma revenue requirements on a composite and stand-alone basis for United's Phase I (included Gambell and Savoonga) and Phase II operations.

4. Commission Staff shall inform the Commission within 60 days from the date of this Order when its analysis of the Phase III villages will be completed.

5. United Utilities, Inc., shall identify the villages in Phase III which have urgent telecommuncations needs and present that listing to the Commission and Alascom, Inc., within 30 days from the date of this Order.

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6. Alascom, Inc., shall be granted intervenor status in U-81-22 limited to the quality and level of service in Phase III villages. Upon receipt of the above list, Alascom shall conduct a survey of those villages to determine the economic feasibility of providing expanded telecommunications to those villages, on an interim basis pending final determination of Phase III certification, through the use of a toll-concentrator and notify the Commission of its results at the earliest possible date.

7. Docket U-77-28 is closed. Any outstanding issues in this Docket shall be subsumed in the investigation proceeding.

DATED AND EFFECTIVE at Anchorage, Alaska, this 9th day of April, 1981.

BY DIRECTION OF THE COMMISSION
(Commissioner Gordon J. Zerbetz nunc pro tunc.
Commissioners Susan M. Knowles and
Stuart C. Hall, not participating.)

(S E A L)

ALASKA PUBLIC UTILITIES COMMISSION
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ANCHORAGE, ALASKA 99501
PHONE 276-6222

STATE of ALASKA

MEMORANDUM

Doug
Mac

TO: Gordon J. Zerbetz
Marvin R. Weatherly
Carolyn S. Guess
Susan M. Knowles
Stuart C. Hall

thru: Jack Farleigh
Executive Director

from: Pete Sokolov
Chief Engineer

DATE: February 4, 1981

TELEPHONE NO.:

FILE NO.:

SUBJECT: Staff views regarding United Utilities' request for permanent certification for Phase III villages. (U-77-28)

United Utilities letter of December 26, 1980 requested that the Commission change the temporary certification to provide local exchange telecommunication service for Phase III villages to permanent certification before January 31, 1981. It concluded: "United feels certain that with the Commission's blessing, it can perform the goal it set for itself in having adequate telephone service for all communities in United's certificated area before 1984."

The Staff has reviewed the 13 reasons United cites in support of its request and believes that considerable additional substantiation is needed before staff can make a responsible recommendation. Staff's concerns are as follows:

1. In its February 22, 1980 recommendation to grant permanent certification for Phase II villages, Staff concluded that United continued to be in a sensitive financial condition and that construction in Phase II villages should only proceed if long term debt at an interest rate below 5% could be obtained within a year. United proceeded to obtain high interest (above 20%) interim financing to construct facilities in Kipnuk, Kotlik, Mountain Village, Pilot Station, Tooksook Bay, and Tununak. According to its 1/12/81 report, United also partially constructed outside plant in Chevak, Goodnews Bay, and Qunihagak (The 12/26/80 letter adds Kwethluk to the list of locations with partially constructed facilities). United is still paying exorbitant interest rates for the funds used to construct Phase II and only at the end of January has obtained tentative approval of a 5.4% REA loan. The REA interest rate and the duration of the interim loan are both at the very limit where staff's studies have shown Phase II to be feasible.

2. United states in its letter that its financial condition is sound, yet Staff questions the basis for this conclusion. The utility is in a construction mode and operational costs have not yet stabilized. The utilities' financial soundness depends largely on toll settlements which have not yet been "trued up" for any year since the company's inception. Based on United's over-estimation of toll trunking it could have over-estimated its toll revenues. [Attached is toll usage data for 1980 which contradicts United's estimates of inadequate trunking].

3. United states that it found an alternate central office to the Stromberg ECDO 400 costing half the price and occupying one third the space. This new central office is to be field trialed this spring. If the switch indeed meets these expectations, it should be the one used for Phase III. New switches, even when well engineered, require a prolonged "shake down" period. A thorough field trial is therefore absolutely essential since United cannot afford to debug a plurality of such switches in remote villages.

Recommendation

United seems to misunderstand the basis of the Commission's statutory requirement for granting permanent certification. It is not a question of "blessing" United, rather it is a mandate to determine that the applicant is fit, willing and able to provide service of a reasonable level of quality. Before making this determination Commission Staff should determine to the best of its ability whether the utility has the necessary resources to expand to Phase III villages. Staff, therefore, should:

1) Obtain from the utility and analyze 1980 financial statements and the 1980 annual report to the Commission.

2) Conduct a financial and operational audit of United.

3) Review a completed cost study done for toll settlement purposes. To date no such study has been submitted to Alascom.

4) Obtain and analyze the ACD to be submitted to REA for Phase III financing.

5) Review the quality of service that United and Alascom provide to United's customers.

6) Monitor the field trial of the new switch as well as the progress made in constructing Phase II facilities including on-site visits to some villages.

Staff realizes that the public in the Phase III villages urgently requires telephone service. To provide such service,

the utility could now apply for an REA loan and aim at 1982 construction if the loan is approved. In the past, REA has reviewed, and is currently reviewing loan applications where utilities have been temporarily or conditionally certificated by this Commission (United Phase II, Bush Tell). A delay in permanent certification to the second half of 1981, should therefore cause no delay in obtaining the necessary financing. Meanwhile, in 1981, United should establish reliable service in the remaining Phase II villages (Akiachak, Chevak, Goodnews Bay, Kasigluk, Kwethluk, Napakiak, Nunapitchuk, Quinhagak) and staff should determine whether United is "fit, willing and able" to provide Phase III villages with reliable service.

TRIBUTARY TRUNK GROUP: ALAKANUK 1980

MONTH	NO. OF TRUNKS	CCS CARRIED	CCS PER CALL	GRADE OF SERVICE	FOR P.01 SVCE TRUNKS TO BE ADDED	FOR P.01 SVCE TRUNKS TO BE REMOVED	SURVEILLANCE LEVELS NOT MET
JUNE	6	30	26.67	P.0260	1	0	
JULY	6	27	4.50	.0001	0	1	
AUGUST	6	28	4.00	P.0002	0	1	
SEPTEMBER	6	33	2.54	P.0004	0	1	
OCTOBER	6	45	7.50	P.0018	0	0	
NOVEMBER	6	37	6.17	P.0007	0	1	
DECEMBER	6	37	7.40	P.0007	0	1	

Note: * - exceeds P.05
** - exceeds P.10
*** - exceeds P.20
H - exceeds 12 ccs per trunk in
trunk group of less than 4 trunks

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TRIBUTARY TRUNK GROUP: EMMONAK 1980

MONTH	NO. OF TRUNKS	CCS CARRIED	CCS PER CALL	GRADE OF SERVICE	FOR P.01 SVCE TRUNKS TO BE ADDED	FOR P.01 SVCE TRUNKS TO BE REMOVED	SURVEILLANCE LEVELS NOT MET
JANUARY	3	81	6.75	P.3907	4	0	#
FEBRUARY	5	28	5.60	P.0012	0	0	
MARCH	6	70	10.00	P.0146	0	0	
APRIL	6	48	8.00	P.0025	0	0	
MAY	6	59	6.56	P.0068	0	0	
JUNE	6	61	5.55	P.0079	0	0	
JULY	6	84	5.25	P.0318	2	0	
AUGUST	6	84	4.94	P.0313	2	0	
SEPTEMBER	6	67	6.70	P.0121	0	0	
OCTOBER	6	24	.00	P.0001	0	2	
NOVEMBER	6	36	3.60	P.0006	0	1	
DECEMBER	6	54	3.00	P.0045	0	0	

Note: * - exceeds P.05
** - exceeds P.10
*** - exceeds P.20
# - exceeds 12 ccs per trunk in trunk group of less than 4 trunks

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TRIBUTARY TRUNK GROUP: GAMBELL 1980

MONTH	NO. OF TRUNKS	CCS CARRIED	CCS PER CALL	GRADE OF SERVICE	FOR P.01 SVCE TRUNKS TO BE ADDED	FOR P.01 SVCE TRUNKS TO BE REMOVED	SURVEILLANCE LEVELS NOT MET
MARCH	3	34	.00	P.0704	2	0	
APRIL	3	55	6.68	P.1982	3	0	#
MAY	3	63	5.25	P.2560	3	0	#
JUNE	6	61	10.17	P.0079	0	0	
JULY	6	79	5.27	P.0246	1	0	
AUGUST	6	42	6.00	P.0013	0	0	
SEPTEMBER	6	59	5.36	P.0068	0	0	
OCTOBER	6	31	2.82	P.0003	0	1	
NOVEMBER	6	47	11.75	P.0023	0	0	
DECEMBER	6	60	7.50	P.0073	0	0	

Note: * - exceeds P.05
** - exceeds P.10
*** - exceeds P.20
# - exceeds 12 ccs per trunk in trunk group of less than 4 trunks

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TRIBUTARY TRUNK GROUP: HOOPER BAY 1980

MONTH	NO. OF TRUNKS	CCS CARRIED	CCS PER CALL	GRADE OF SERVICE	FOR P.01 SVCE TRUNKS TO BE ADDED	REMOVED	SURVEILLANCE LEVELS NOT MET
JANUARY	6	32	2.91	P.0003	0	1	
FEBRUARY	6	55	1.31	P.0049	0	0	
MARCH	6	47	.85	P.0023	0	0	
APRIL	6	75	10.71	P.0198	0	0	
MAY	6	88	6.29	P.0384	2	0	
JUNE	6	69	8.63	P.0137	0	0	
JULY	6	126	3.50	P.1424	3	0	**
AUGUST	6	88	3.67	P.0384	2	0	
SEPTEMBER	6	32	3.56	P.0003	0	1	
OCTOBER	6	63	7.00	P.0091	0	0	
NOVEMBER	6	37	4.11	P.0007	0	1	
DECEMBER	6	45	9.00	P.0018	0	0	

Note: * - exceeds P.05
** - exceeds P.10
*** - exceeds P.20
H - exceeds 12 ccs per trunk in trunk group of less than 4 trunks

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TRIBUTARY TRUNK GROUP: MOUNTAIN VILLAGE 1980

MONTH	NO. OF TRUNKS	CCS CARRIED	CCS PER CALL	GRADE OF SERVICE	FOR P.01 SVCE TRUNKS TO BE ADDED	FOR P.01 SVCE TRUNKS TO BE REMOVED	SURVEILLANCE LEVELS NOT MET
SEPTEMBER	7	98	6.13	P.0214	1	0	
OCTOBER	7	91	10.11	P.0150	0	0	
NOVEMBER	7	83	7.55	P.0095	0	0	
DECEMBER	7	57	7.13	P.0013	0	0	

Note: * - exceeds P.05
** - exceeds P.10
*** - exceeds P.20
# - exceeds 12 ccs per trunk in trunk group of less than 4 trunks

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TRIBUTARY TRUNK GROUP: PILOT STATION 1980

MONTH	NO. OF TRUNKS	CCS CARRIED	CCS PER CALL	GRADE OF SERVICE	FOR P.01 SVCE TRUNKS TO BE ADDED	FOR P.01 SVCE TRUNKS TO BE REMOVED	SURVEILLANCE LEVELS NOT MET
SEPTEMBER	4	69	7.67	P.1282	3	0	H
OCTOBER	4	24	3.71	P.0064	0	0	
NOVEMBER	4	31	10.33	P.0116	0	0	
DECEMBER	4	26	2.60	P.0064	0	0	

Note: * - exceeds P.05
** - exceeds P.10
*** - exceeds P.20
H - exceeds 12 ccs per trunk in trunk group of less than 4 trunks

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TRIBU ARY TRUNK GROUP: SAVOONGA 1980

MONTH	NO. OF TRUNKS	CCS CARRIED	CCS PER CALL	GRADE OF SERVICE	FOR P.01 SVCE TRUNKS TO BE ADDED	FOR P.01 SVCE TRUNKS TO BE REMOVED	SURVEILLANCE LEVELS NOT MET
MAY	3	48	5.33	P.1506	3	0	#
JUNE	5	68	6.18	P.0432	2	0	
JGUST	5	35	8.75	P.0033	0	0	
SEPTEMBER	6	25	4.17	P.0001	0	2	
OCTOBER	6	47	5.22	P.0023	0	0	
NOVEMBER	6	60	10.00	P.0073	0	0	
DECEMBER	10	45	6.43	P.0000	0	4	

Note: * - exceeds P.05
** - exceeds P.10
*** - exceeds P.20
# - exceeds 12 ccs per trunk in trunk group of less than 4 trunks

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TRIBUTARY TRUNK GROUP: ST. MARY'S 1980

MONTH	NO. OF TRUNKS	CCS CARRIED	CCS PER CALL	GRADE OF SERVICE	FOR P.01 SVCE TRUNKS TO BE ADDED	FOR P.01 SVCE TRUNKS TO BE REMOVED	SURVEILLANCE LEVELS NOT MET
JANUARY	8	28	2.33	P.0000	0	3	
FEBRUARY	10	72	3.13	P.0000	0	2	
MARCH	10	82	3.57	P.0001	0	2	
APRIL	10	46	5.11	P.0000	0	4	
MAY	10	76	3.80	P.0001	0	2	
JUNE	10	80	3.20	P.0001	0	2	
JULY	10	91	4.14	P.0003	0	1	
AUGUST	10	106	3.66	P.0010	0	1	
SEPTEMBER	10	112	3.73	P.0014	0	0	
OCTOBER	10	113	4.91	P.0015	0	0	
NOVEMBER	10	106	4.42	P.0010	0	1	
DECEMBER	10	92	4.18	P.0003	0	1	

Note: * - exceeds P.05
** - exceeds P.10
*** - exceeds P.20
# - exceeds 12 ccs per trunk in trunk group of less than 4 trunks

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TRIBUTARY TRUNK GROUP: SAVOONGA 1980

MONTH	NO. OF TRUNKS	CCS CARRIED	CCS PER CALL	GRADE OF SERVICE	FOR P.01 SVCE TRUNKS TO BE ADDED	TRUNKS TO BE REMOVED	SURVEILLANCE LEVELS NOT MET
MAY	3	48	5.33	P.1506	3	0	#
JUNE	5	68	6.18	P.0432	2	0	
AUGUST	5	35	8.75	P.0033	0	0	
SEPTEMBER	6	25	4.17	P.0001	0	2	
OCTOBER	6	47	5.22	P.0023	0	0	
NOVEMBER	6	60	10.00	P.0073	0	0	
DECEMBER	10	45	6.43	P.0000	0	4	

Note: * - exceeds P.05
** - exceeds P.10
*** - exceeds P.20
# - exceeds 12 ccs per trunk in trunk group of less tha 4 trunks

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LOANS APPROVED - ALASKA

PROJECT	SIGNED		AMOUNT
Alaska 512-B5			
Glacier State Telephone Company Bakersfield, California	1-26-78 (FY 1978)	(6.5%)	$ 4,630,500
Alaska 514-B & C5			
Interior Telephone Company, Inc. Anchorage, Alaska	10-25-77 (FY 1978)	(6.5%)	4,439,400
Alaska 521-A			
United Utilities, Inc. Anchorage, Alaska	6-21-79 (FY 1979)	(2.0%)	3,000,000
Alaska 513-C5			
Nushagak Telephone Cooperative, Inc. Dillingham, Alaska	7-2-79 (FY 1979)	(8.0%)	1,233,750
Alaska 504-M4 & M7			
Matanuska Telephone Association, Inc. Palmer, Alaska	9-24-79 (FY 1979)	(5.0% & 8.0%)	25,597,500
Alaska 520-A			
Arctic Slope Telephone Association Cooperative, Inc. Anchorage, Alaska	3-17-80 (FY 1980)	(2.0%)	5,000,000
Alaska 512-C			
Glacier State Telephone Company Bakersfield, California	9-26-80 (FY 1980)	(Guaranteed)	27,353,000

LOANS APPROVED - ALASKA

PROJECT	SIGNED		AMOUNT
Alaska 518-A			
Mukluk Telephone Company Teller, Alaska	12-17-80 (FY 1981)	(5.0%)	$ 3,065,000
Alaska 523-A			
Bristol Bay Telephone Cooperative, Inc. Naknek, Alaska	12-24-80 (FY 1981)	(5.0% & 10.25%)	3,235,850
Alaska 522-A			
Cordova Telephone Cooperative, Incorporated Cordova, Alaska	2-2-81 (FY 1981)	(5.0%)	3,040,000
TOTAL			$80,595,000

STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners: Carolyn S. Guess, Chairman
Marvin R. Weatherly
Susan M. Knowles
Stuart C. Hall

In the Matter of the Application of UNITED UTILITIES, INC. for a Certificate of Public Convenience and Necessity to Furnish Telecommunications services in the Calista Region	U-77-28
In the Matter of the Investigation into the Financial Viability of Phase III Village Construction in the Calista Region by UNITED UTILITIES, INC.	U-81-22

CERTIFICATION OF MAILING

Roselie K. Bynum certifies as follows:

That I am a Clerk Typist III in the offices of the Alaska Public Utilities Commission, 1100 MacKay Building, 338 Denali Street, Anchorage, Alaska 99501.

That on the 8th day of April, 1981, I mailed true and accurate copies with postage thereon to the parties indicated on the attached service list of

ORDER NO. 9

ORDER NO. 1

ORDER DENYING WITHOUT PREJUDICE PERMANENT CERTIFICATION AND INSTITUTING INVESTIGATION INTO THE FINANCIAL VIABILITY OF PHASE III VILLAGE CONSTRUCTION

in the above entitled cause.

DATED at Anchorage, Alaska, this 8th day of April, 1981.

Roselie K. Bynum

SERVICE LIST

U-77-28
U-81-22

Vice President & General Counsel
Alascom
949 E. 36th Avenue
Anchorage, Aalska 99502

B. Richard Edwards, Esquire
310 "K" Street, Suite 511
Anchorage, Alaska 99501

Elisabeth H. Ross, Esq.
Assistant Attorney General
1100 MacKay Building
338 Denali Street
Anchorage, Alaska 99501

COURTESY LIST

Richard R. Rhyner, President
Interior Telephone Company
5106 E. 26th Avenue
Anchorage, Alaska 99504

Mr. Vinod K. Batra
United Utilities, Inc.
P.O. Box 4-2730
Anchorage, Alaska 99509

President
Sea Lion Corporation
General Delivery
Hooper Bay, Alaska 99604

Don Harris, General Manager
Coastal Management Corporation
Nelson Island
Toksook Bay, Alaska 99637

The Alaska Native Foundation
515 "D" Street
Anchorage, Alaska 99501

Sec. 42.08.020. Subsection (a) is amended to read as follows:

"Sec. 42.08.020. POWERS AND DUTIES OF THE DEPARTMENT.

(a) The Daprtment shall formulate procedures and adopt regulations to implement this chapter.

(b) No loan shall be made under this chapter until the Alaska Public Utilities Commission finds that the applicant is fit, willing and able to provide the utility services applicable to the facility for which the loan is applied for and that the facilities for which the loan is applied for shall result in improvement of service and shall be in the financial interests of the ratepayer of the state of Alaska. The application for loan shall be forwarded to the Alaska Public Utilities Commission for such finding and shall be in the form and contain the information required by the Alaska Public Utilities Commission by regulation sufficient to make its finding. For purposes of the finding of the Commission procedures and regulations adopted under A.S. 42.05.151 shall be applicable.

(c) The Department may

(1) make a loan from the public utility revolving loan fund to a public utility to finance or refinance capital improvements, plant and facilities, and to improve and expand services, if other credit is not readily available from private lending institutions at a rate of interest less than the rate of interest which the state agreed to pay on the most recent general obligation bonds issued before the application for the loan under this chapter;

United Utilities, Inc.

NATIVE OWNED CORPORATION

5400 A STREET ANCHORAGE, AK 99503 PHONE: (907) 276-1959

March 5, 1981

The Honorable Vernon Hurlbert
Chairman
House Labor and Commerce Committee
Pouch V
Juneau, AK 99811

Reference: Proposed Amendment to House Bill 165, Utility Revolving Loan Fund, for a $20 Million 1981 Appropriation for Utilities Affected by Federal Budget Cuts.

Dear Mr. Hurlbert:

In reference to the subject amendment United Utilities (U.U.I.) is furnishing herein additional information on the impact of the recent 1981 Reagan Administration's budget cuts. These budget cuts have prevented the release of a $10.4 million Rural Electrification Administration (REA) loan to U.U.I. which the REA had tentatively approved at a composite interest rate of 5.4% for a period of 35 years. The items funded in this REA loan application include local telephone exchange and toll interconnect facilities at Akiachak, Chevak, Gambell, Goodnews Bay, Kasigluk, Kipnuk, Kotlik, Kwethluk, Mountain Village, Napakaik, Nunapitchuk, Pilot Station, Quinhagak, Savoonga, Toksook Bay, and Tununak. A copy of the REA's Tentative Budget and Telephone Loan Feasibility Study is attached.

For the facilities included in the $10.4 million loan request we have borrowed on an interim basis $1.5 million, at an interest rate of prime plus 3½%, and we also have an outstanding order for $560,000 of electronic switching equipment which will take approximately $440,000 to place into operation in eight locations. If U.U.I. were able to secure a low cost long term loan for $2.5 million we would be able to retire the outstanding interim debt and install these new exchanges. Should the $2.5 million not be available we will need to cancel these equipment orders and incur costly penalties from the manufacturer. In addition we will continue to incur exorbitant interest expenses that could place the cost of telephone service out of the reach of most of our subscribers.

The remaining balance of the REA loan application of $7.9 million ($10.4 million less $2.5 million) is for telephone system improvements including toll interconnect facilities. Our analysis of the $7.9 million indicates that the most critical of these requirements is $2.1 million for toll interconnect facilities at Akiachak, Napakiak, Chevak, Goodnews Bay, Kwethluk, Nunapitchuk and Quinhagak. These locations now have only a single toll circuit to interface with the telephone exchanges installed with the $2.5 million mentioned previously.

In summary, the proposed federal budget cuts have resulted in the withholding of United Utilities $10.4 million REA loan which was tentatively approved and scheduled for 1981. Within this loan request there's an immediate need for $2.5 million to retire the interim debt and to purchase and install equipment that is now on order. In addition, to provide toll interconnect facilities required for the new locations receiving the switching equipment another $2.5 million will be required. A total of $4.6 million is the amount United Utilities would propose to fund from the $20 million appropriation included in the amendment to HB 165. The remaining $5.8 million could potentially be deferred until 1982 and be funded from the permanent Utility Revolving Loan Fund.

Regarding the interest rate, collateral and term of the loans I believe that all loans made from the $20 million appropriation should be made under the same terms and conditions as those previously provided for by REA. All loans made from the Revolving Loan Fund's $40 million appropriation should be made under the provisions of HB 165, including those amendments submitted in our February 18, 1981 correspondence (copy attached).

Respectfully submitted,

Steve Hamlen
Controller

SH/rs

U. S. DEPARTMENT OF AGRICULTURE
RURAL ELECTRIFICATION ADMINISTRATION

TELEPHONE LOAN BUDGET

NAME OF BORROWER: United Utilities, Inc.

BORROWER AND LOAN DESIGNATION: Alaska 521-B4 & B7 United

BUDGET ITEM	PRIOR LOAN RESERVES AS OF 6/10/80		NEW PROJECT BUDGET C.
	RESERVE BALANCES A.	AVAILABLE FOR NEW PROJECTS B.	
1. CONSTRUCTION			
a. CENTRAL OFFICE	140,002		6,694,000
b. OUTSIDE PLANT AND STATION EQUIPMENT	134,205		1,205,000
c. R/W PROCUREMENT			
d. LAND	9,611		48,000
e. BUILDINGS	185,998		480,000
f. REMOVAL COSTS			
g. SPECIAL PROJECTS			
2. ENGINEERING	338,000		700,000
3. OPERATING EQUIPMENT			
a. OFFICE EQUIPMENT			77,000
b. VEHICLES AND WORK EQUIPMENT	45,462		280,000
4. a. OVERHEAD EXPENDITURES			
b. CLASS B STOCK - TELEPHONE BANK			36,500
5. OPERATING FUNDS			
6. REFINANCING AND DEBT RETIREMENT			
a. REFINANCING WITH LOAN FUNDS			
b. DEBT RETIREMENT WITH NON-LOAN FUNDS			
7. ACQUISITIONS			640,000
8. CONTINGENCIES	43,337		284,000
9. TOTALS	896,615		10,444,500
10. LESS AVAILABLE FORM PRIOR LOANS (Col. B, Item 9)			
11. LESS NON-LOAN FUNDS			
12. TOTAL NEW LOAN FUNDS			10,444,500
13. REA LOAN			9,678,000
14. TELEPHONE BANK LOAN			766,500

ADDITIONAL BUDGET DATA

PRIOR LOAN TOTALS $ 3,000,000
REA LOANS $ 3,000,000
TEL. BANK LOANS $

NON-LOAN FUNDS, PRIOR LOANS, AS ADJUSTED: $ 80,000

TOTAL CUMULATIVE ADVANCES: FRS #5 5/22/80 $ 1,308,000

PRELOAN ENGINEERING, THIS LOAN: $ 124,000

ESTIMATED ORIGINAL COST OF EXISTING PLANT RETAINED (this loan): $ (includes $ land)

ESTIMATED ORIGINAL COST OF RETIRED PLANT (this loan): $

ESTIMATED SALVAGE VALUE RETIRED PLANT (this loan): $

COST OF HEADQUARTERS FACILITIES, GARAGE AND WAREHOUSE (this loan): $

COST OF MOBILE RADIO TELEPHONE (this loan): $

REMARKS

The "total reserves" do not include $400,000 for acquisition and $839,000 (COE) for earth station improvements. These funds have not been released yet.

TENTATIVE

REA FORM 493 REV 2-72

Exhibit 2

U. S. DEPARTMENT OF AGRICULTURE
RURAL ELECTRIFICATION ADMINISTRATION

TELEPHONE LOAN FEASIBILITY STUDY

CORPORATE NAME: United Utilities, Inc.

LOAN DESIGNATION: Alaska 521-B4 and B7 United

PART F. SCHEDULED DEBT SERVICE PAYMENTS

	AMOUNT OF LOAN	RATE (%)	DEBT SERVICE	TOTAL
1. MAXIMUM ANNUAL DEBT SERVICE	$ 2,600,000	4.240	$ 110,240	
	400,000	4.020	16,080	
	766,500	11.124	85,265	
	640,000	6.100	39,040	
	9,038,000	6.280	567,586	
				$ 818,211
2. TOTAL LOANS	$ 13,444,500			
3. LESS PRINCIPAL REPAID	-0-			
4. UNPAID PRINCIPAL	13,444,500			
5. MAXIMUM ANNUAL INTERESTS PAYMENTS				$ 626,299

PART G. ESTIMATED ANNUAL REVENUE

CLASS OF SERVICE	~~AUTHORIZED~~ MONTHLY RATES	SUGGESTED MONTHLY RATES	NUMBER OF STATIONS	MONTHLY RECEIPTS
1. EXCHANGE REVENUE Alakanuk, Emmonak, St. Mary's and Hooper Bay				
a. BUSINESS				
1 - PARTY	$ 27.50	$ 27.50	128	$ 3,520.00
2 - PARTY				
4 - PARTY				
5 - PARTY				
8 - PARTY				
___ PARTY				
PAYSTATIONS	35.00	35.00	32	1,120.00
PBX OR PABX SYSTEMS				
PBX OR PABX TRUNKS				
KEY SYSTEMS			10)Lot	8,472.25*
_____			27)	
b. RESIDENCE				
1 - PARTY	16.00	16.00	521	8,336.00
2 - PARTY				
4 - PARTY				
5 - PARTY				
8 - PARTY				
___ PARTY				
c. SUBSCRIBER RADIO TELEPHONE				
d. EXTENSIONS:				
BUSINESS	5.00	5.00	91	455.00
RESIDENCE	2.50	2.50	97	242.50
PBX OR PABX				
KEY			50	*
e. MILEAGE AND ZONE CHARGES:				
f. SERVICE STATIONS				
g. TOTALS				$22,145.75
h. ANNUAL EXCHANGE REVENUE (Line g x 12)				$ 265,749

CLASS	NO. SUBS.	AVG. MI.	SUBS. ZONES
1-PARTY			
2-PARTY			
4-PARTY			

2. NET TOLL REVENUE SUBS. X $	$
3. OTHER REVENUE (Explain)	$

REA FORM 606 REV 2-72

*Effective 6/8/79 - Tariff

Exhibit 1,

TENTATIVE

U. S. DEPARTMENT OF AGRICULTURE
RURAL ELECTRIFICATION ADMINISTRATION

TELEPHONE LOAN FEASIBILITY STUDY

CORPORATE NAME: United Utilities, Inc.

LOAN DESIGNATION: Alaska 521-B4 and B7 United

PART F. SCHEDULED DEBT SERVICE PAYMENTS

	AMOUNT OF LOAN	RATE (%)	DEBT SERVICE	TOTAL
1. MAXIMUM ANNUAL DEBT SERVICE	$		$	$
2. TOTAL LOANS	$			
3. LESS PRINCIPAL REPAID				
4. UNPAID PRINCIPAL				
5. MAXIMUM ANNUAL INTERESTS PAYMENTS				$

PART G. ESTIMATED ANNUAL REVENUE

CLASS OF SERVICE	PRESENT MONTHLY RATES	SUGGESTED MONTHLY RATES	NUMBER OF STATIONS	MONTHLY RECEIPTS
1. EXCHANGE REVENUE All Other Exchanges				
a. BUSINESS				
1 - PARTY	$	$ 27.50	137	$ 3,767.50
2 - PARTY				
4 - PARTY				
8 - PARTY				
___PARTY				
PAY STATIONS	N/A	35.00	51	1,785.00
PBX OR PABX SYSTEMS				
PBX OR PABX TRUNKS				
KEY SYSTEMS			35)Lot see pg. 1	*
_____			64)	
b. RESIDENCE				
1 - PARTY		16.00	1,469	23,504.00
2 - PARTY				
4 - PARTY				
8 - PARTY				
___PARTY				
c. SUBSCRIBER RADIO TELEPHONE				
d. EXTENSIONS:				
BUSINESS		5.00	197	985.00
RESIDENCE		2.50	196	490.00
PBX OR PABX				
KEY			160	*
e. MILEAGE AND ZONE CHARGES:				
CLASS / NO. SUBS. / AVE. ___ MI. ZONES / SUBS. ZONES				
1-PARTY				
2-PARTY				
4-PARTY				
f. SERVICE STATIONS				
g. TOTALS				$ 30,531.50
h. ANNUAL EXCHANGE REVENUE (Line g x 12)				$ 366,378
2. NET TOLL REVENUE SUBS. R & E				$
3. OTHER REVENUE (Explain)				$

RUS FORM 6 REV 2-72

TENTATIVE

Ex. 1,

FORECAST OF REVENUES AND EXPENSES	CORPORATE NAME AND ADDRESS United Utilities, Inc. Anchorage, Alaska	
	LOAN DESIGNATION Alaska 521-B4 & B7	FORECAST FOR(No. of subs.) 2,383

ITEM	TOTAL
1. LOCAL SERVICE REVENUES*	$ 632,127
2. TOLL SERVICE REVENUES	2,505,827
3. MISC. OPERATING REVENUE	29,263
4.	
5. LESS UNCOLLECTIBLE OPERATING REVENUE	$ 8,865
6. TOTAL OPERATING REVENUES	$ 3,158,352
7. MAINTENANCE	$ 602,492
8. TRAFFIC	6,625
9. COMMERCIAL, GENERAL & OTHER	657,874
10. TAXES EXCLUDING FEDERAL INCOME TAX	32,524
11. DEPRECIATION	676,225
12. AMORTIZATION	19,356
13. FIXED CHARGES *(interest)*	626,299
14.	
15. OTHER INCOME AND DEDUCTIONS NET	(7,407)
16. TOTAL EXPENSES EXCLUSIVE FEDERAL INCOME TAX	$ 2,613,988
17. NET INCOME *(margin)* BEFORE FEDERAL INCOME TAX	$ 544,364
18. FEDERAL INCOME TAX	231,157
19. NET INCOME *(margin)* AFTER FEDERAL INCOME TAX	$ 313,207
20. ADD: INTEREST	626,299
21. NET OPERATING INCOME OR MARGIN	$ 939,506
22. ADD: DEPRECIATION AND AMORTIZATION	695,581
23. AVAILABLE FOR INTEREST AND PRINCIPAL PAYMENTS	$ 1,635,087
24. SCHEDULED INTEREST AND PRINCIPAL PAYMENTS	818,211
25. AVAILABLE FOR PLANT ADDITIONS, REPLACEMENTS, ETC.	$ 816,876
26. TIMES INTEREST EARNED RATIO *(Item 21 ÷ Item 20)* 150.0 %	

ITEM 13 *(interest)*

OUTSTANDING LOAN BALANCE(S)	$ 3,000,000	@ 2%	=	$ 60,000
CURRENT LOAN ~~XXXX

BERNARD KOTEEN
WILLIAM C BURT
ALAN Y NAFTALIN
JOHN W S VERSON
RAINER K KRAUS
ARTHUR B GOODKIND
GEORGE Y WHEELER
HERBERT C MILLER, JR
MARGOT SMILEY HUMPHREY
DAVID L VAUGHAN
LISA J STEVENSON
WILLIAM D MITCHELL
GREGORY C STAPLE

LAW OFFICES
KOTEEN & BURT
THE CONNECTICUT BUILDING
1150 CONNECTICUT AVENUE
WASHINGTON, D.C. 20036

TELEPHONE
(202) 467-5700
TELECOPY
(202) 467-5915
CABLE ADDRESS
"KOBURT"

March 6, 1981

MEMORANDUM

TO: James C. Miller, Administrator for the Office of Information and Regulatory Affairs

Jim Tozzi, Deputy Administrator for the Office of Information and Regulatory Affairs

FROM: Alan Y. Naftalin *

RE: Proposed Uses of Low Interest REA Telephone Loan Funding to Replace Available Commercial Financing of Toll Telephone Facilities

This memorandum is intended to outline an existing area of REA policy promoting use of low interest REA loan funding in a manner contrary to the initiatives of the President's "Program for Economic Recovery" promoting reliance upon commercial financing of telephone construction projects (pp. 4-5 through 4-7).

As described hereafter in detail existing REA policy is to promote the use of low interest REA loan funding for its borrowers in Alaska to acquire earth station facilities which are already funded from commercial financing sources and, in some instances, to construct new or replacement earth station facilities for which commercial financing is either already in place or otherwise committed which would make use of REA loan funding unnecessary. On a fully developed basis, this REA policy could involve as much as $80 million of low interest REA loan financing being committed in Alaska in circumstances where commercial financing sources can be reasonably relied upon.

We request that steps be taken promptly to prevent the REA from making further unnecessary loan commitments and that the REA announce as a matter of policy before the Federal Communications Commission in CC Docket No. 80-584 that it

*Counsel for Alascom, Inc.

does not intend to make loan funding available to borrowers in circumstances where it is clear that commercial financing sources can reasonably be relied upon.

The REA policy addressed here developed as an REA staff initiative during the Carter Administration to address a special situation existing in Alaska. Alascom, Inc., the long lines carrier in the state, had constructed and was operating in excess of 100 domestic satellite earth stations to furnish message telephone communications in the Alaskan bush. Although it had been operating these earth station facilities in some cases for many years (relying upon commercial financing), Alascom had not obtained permanent operating authority from the FCC. When approached by an REA borrower interested in contesting Alascom's continued right to own and operate those earth station facilities, REA decided as a matter of policy that it would commit low interest loan funding to support the financial qualifications of REA borrowers in competitive proceedings before the FCC contesting Alascom's continuing authority to construct and operate such facilities.

In recent years the REA has actively supported a number of borrowers in Alaska who have proposed to use low interest REA loan funding to acquire Alascom's earth station facilities in specific areas and to finance construction of new facilities which would bypass or replace Alascom's existing toll network facilities.

Because this is a relatively new REA policy few loan commitments for REA loan funding of earth station facilities in Alaska have been made. United Utilities, Inc. obtained conditional approval of $1.2 million of 2% loan funding for earth station facilities on June 21, 1979. Recently the Mukluk Telephone Company obtained a similar REA commitment for 5% loan funding covering approximately $650,000 on December 22, 1980. Other loan requests remain pending including an additional request for loan funding by United Utilities, Inc. covering approximately $4.8 million for earth station facilities which are in the final stages of review by the Acting Administrator of the REA.

We raise these matters regarding REA existing commitments and pending loan requests because they have direct impact in the fiscal 1981 REA telephone budget. We understand that as much as $108 million of the $125 million revised REA low interest telephone budget has been committed. Clearly the public interest would not be served by permitting the REA to continue making commitments of the loan funds remaining in its revised

1981 budget for earth station facilities which Alascom is providing with the use of commercial financing. Unnecessary commitments of this kind obviously preclude availability of REA loan funding in areas where commercial financing is not readily available, a clearly unjustifiable result.

The second part of our request arises because of formal comments dated January 28, 1981 filed by the Administrator of the REA supporting adoption of a Notice of Proposed Rulemaking in CC Docket No. 80-584 which would limit the eligibility for the licensing of earth station facilities to certificated local exchange carriers in the Alaskan bush, effectively disenfranchising Alascom. The effect of the REA position in CC Docket No. 80-584, if adopted, would be to restrict the ownership of these facilities to the REA borrower group operating telephone exchanges in these bush areas so that Alascom which relies upon commercial financing would be barred even from competing for the right to own and operate these facilities. This position is firmly opposed in the formal comments of the Alaska Public Utilities Commission and the Federal Aviation Administration in CC Docket No. 80-584.

The REA policy which is at the heart of the position taken in its formal comments before the FCC is clearly contrary to the President's Economic Recovery Program. This is particularly true when it is considered that the REA is proposing to finance the acquisition of earth station facilities which are already in place, operational and financed from commercial financing sources.

Finally we should add that the period for formal comments before the Federal Communications Commission in CC Docket No. 80-584 will remain open until April 2, 1981. The filing of comments by the REA in that proceeding reversing its previous position regarding the availability of low interest loan funding would be a timely and effective demonstration of the President's budget initiatives and the underlying policies supporting those initiatives.

Attachments: FCC Notice of Proposed Rulemaking in CC Docket No. 80-584

Comments of REA in CC Docket No. 80-584

cc(w/att): Chuck Ellett

MAR 1 . 1981

Mr. Charles Ellett, Desk Officer
Regulatory Analysis Program
Office of Management and Budget
New Executive Office Building
Washington, D. C. 20503

Dear Mr. Ellett:

This is in response to your request for information regarding the memorandum of March 6, 1981, submitted by Alan Y. Naftalin, Counsel for Alascom, Inc., concerning Rural Electrification Administration (REA) financing of telephone systems in Alaska. The memorandum incorrectly alleges that REA policy promotes the use of REA loan funding in place of available commercial financing contrary to the initiatives of the President's "Program for Economic Recovery."

The second paragraph on page one of the memorandum contains several inaccuracies. First, it states that ". . . existing REA policy is to promote the use of low interest REA loan funding for its borrowers in Alaska to acquire earth station facilities . . ." The Federal Communications Commission (FCC) in CC Docket No. 80-584, Notice of Proposed Rulemaking (released October 29, 1981) is the Federal agency which has the sole responsibility for deciding policies governing ownership and operation of Alaskan earth stations. The FCC expects eligible applicants for licenses to own and operate earth stations to demonstrate their technical and financial qualifications. If a rural telephone system has regulatory authority to own and operate toll facilities, REA has the authority to provide funding for such facilities.

The second inaccuracy in the second paragraph is the statement that REA would commit loan funds "to construct new or replacement earth station facilities for which commercial financing is either already in place or otherwise committed..." The Rural Electrification Act (RE Act) of 1936, as amended, states that "When it is determined by the Administrator to be necessary in order to furnish or improve telephone service in rural areas, such loans may be made for the improvement, expansion, construction, acquisition and operation of telephone lines, facilities, or systems without regard to their geographical location." The RE Act also states that "Loans under this section shall not be made unless the Administrator finds and certifies that in his judgment the security therefor is reasonably adequate nor shall such loans be made in any state which now has or may hereafter have a state regulatory body having authority to regulate telephone service and to require certificates of convenience and necessity to the applicant unless such certificate from such agency is first obtained."

Paragraph six of the aforementioned FCC Notice states that of the 160 Bush communities served by Alascom, approximately 100 receive only "lifeline service." This service consists of two channels, one of which provides interstate and intrastate long distance telephone service and the other which is a private line connected to the Alaska Native Health Service, a provider of emergency and health assistance to the villages. In many cases, there is only one telephone which accesses message toll service and it is semi-public and may be inaccessible outside of business hours. As the FCC Notice states, "Thus, the residents sometimes do not have ready access to the phone, must be summoned by a messenger for an incoming call, and due to the public location of the phone, enjoy minimal privacy during their conversations."

Finally, the second paragraph of the memorandum states that "this REA policy could involve as much as $80 million of low interest REA loan financing being committed in Alaska in circumstances where commercial financing sources can be reasonably relied upon." The $80 million figure is highly questionable. Alascom never breaks it down into its component parts - the price per earth station multiplied by the total number of earth stations. In 1975, an earth station cost $105,000. Currently, 100 stations are in operation. Even assuming a doubling in price per station and a doubling in the number of earth stations to 200, the total cost would be $42 million, about half of Alascom's projection. Earth station technology is much improved since 1975, however, and we have no reason to believe costs would have escalated so tremendously.

The other questions about the $80 million figure involves Alascom's assurance that it has commercial financing available in that amount. That is an exceptionally large amount of capital to invest and thus far Alascom has not backed up its assertion that such financing is available with hard figures and proposed sources of funds.

The third paragraph on page one requests that REA be prevented from making "further unnecessary loan commitments . . ." No unnecessary loan commitments have been made and none will be made. REA routinely funds toll terminating facilities in borrowers' exchanges, whether they be carrier, microwave, cable or earth stations. Such a policy provides better security for REA loans, improves feasibility and in many instances allows provision of better service. Loan commitments are not "unnecessary" when they fulfill REA's goal of providing quality telephone service to rural areas at reasonable rates.

The first full paragraph on page two alleges, again incorrectly, that "The REA policy addressed here developed as an REA staff initiative during the Carter administration to address a special situation existing in Alaska." REA's policy of financing all of the telephone facilities within a borrower's service area has been

in existence for almost 30 years. As such, it cannot be considered a new or recent policy and was not developed to specifically address the situation existing in Alaska. To the contrary, long standing REA policy has been applied to Alaska just as it has been applied to the lower 48 states. The first REA loan which included funds for toll facilities was made during the Eisenhower administration in 1952.

The first paragraph on page two of the memorandum contains contradictory statements as to Alascom's "right" to own and operate the earth station facilities in question. The memorandum itself states, "Although it had been operating these earth station facilities in some cases for many years . . . Alascom had not obtained permanent operating authority from the FCC." That statement is absolutely correct. The purpose of FCC Common Carrier Docket No. 80-584 is to decide the question of ownership and to possibly allow small independent telephone companies in Alaska to own and operate all of the facilities within their franchised service areas, just as is done in the rest of the United States. Further, in the same paragraph of the memorandum, Alascom alleges a "continued right to own and operate those earth station facilities." As Alascom itself admits, no such "continued right" exists. Alascom was permitted to operate the earth stations on an interim basis until the FCC decided the issue of ownership. The only earth stations which Alascom has a "continued right" to operate are those located in the 32 largest cities where Alascom now operates "mid-route" stations. The FCC has excluded these from its rulemaking procedure and REA has not committed nor does it intend to commit financing for earth stations in these cities.

Again in the same paragraph the issue is further confused by the statement ". . . REA decided as a matter of policy that it would commit low interest loan funding to support the financial qualifications of REA borrowers in competitive proceedings before the FCC . . ." The proceedings before the FCC are of a rulemaking, not "competitive" nature. Local telephone companies in Alaska and Alascom are not competitors but instead are providers of a joint service. The question is not competition at all but rather which entities will be involved in the ownership of facilities.

The second full paragraph on page two of the memorandum states that REA funding is being proposed "to finance construction of new facilities which would bypass or replace Alascom's existing toll network facilities." The nonduplication provision of the RE Act, referred to earlier, prevents loan funds from being used to "bypass" the existing network. One of REA's concerns has always been preserving the integrity of the network. REA may commit loan funds to replace facilities but only when those facilities are inadequate and are an obstacle to the provision of quality telephone service.

The third paragraph on page two again states that funding entire systems is a "new REA policy." It must be reiterated that this is a policy which has been in existence for almost three decades. REA loans are made to borrowers to provide telephone service in the rural areas of America. The loans are made only after extensive studies have been completed. The existing need for quality telephone service in the rural areas of Alaska, as stated by the Governor of Alaska, the Alaska Public Service Commission and residents of Alaska shows that these loans have been necessary.

The final paragraph on page two shows Alascom's concern about REA's budget and alleges that "unnecessary commitments of this kind obviously preclude availability of REA loan funding in areas where commercial financing is not readily available, a clearly unjustifiable result." REA is well aware of the overall budget constraints imposed by the President's "Program for Economic Recovery," and is even more familiar with the limitations placed on the availability of REA loan funds. REA is capable of establishing priorities for the use of its own limited resources to make quality telephone service available to rural Americans. It should be understood that the small independent telephone operating companies in Alaska may be capable of obtaining financing for these facilities from commercial lenders.

The first full paragraph on page three alleges that the Administrator of REA filed formal comments ". . . supporting adoption of a Notice of Proposed Rulemaking in CC Docket No. 80-584 which would limit the eligibility for the licensing of earth station facilities to certificated local exchange carriers in the Alaska Bush, effectively disfranchising Alascom." The Assistant Administrator - Telephone actually filed comments concurring in the FCC's stated aim of allowing telephone companies in Alaska the same treatment that those in the lower 48 states receive - the opportunity to own and operate all the facilities within their franchised area. Secondly, there is no way that Alascom could be "effectively disfranchised" since they were never franchised in the first place. The "continued right" which Alascom repeatedly refers to, never existed.

Further in the same paragraph, the Alascom memorandum stated "Alascom . . . would be barred even from competing for the right to own and operate these facilities." As previously stated, Alascom is being awarded ownership of others via a waiver procedure if local telephone companies are unable or unwilling to provide the facilities.

Finally, REA stands by its concurrence in CC Docket No. 80-584. We agree with the following excerpt from the FCC's Notice:

". . . the public interest will be best served by adopting rules which require local exchange certification as a qualification to own and operate earth station facilities in rural Alaska communities

to provide MTS service. As a practical matter, this means that native Alaskans will play a larger role in network planning in Bush areas and will exercise more effective control over the operation and maintenance of satellite earth stations serving their communities. We expect this will increase the availability of satellite services to those areas, and therefore promote safety of life, efficient service, more adequate facilities and other objectives of Section I of the Communications Act. Apart from these substantive benefits, we believe that this rulemaking proceeding provides the most effective procedural tool for deciding the ownership policy question which has plagued the Bush applications for more than 5 years. We expect its resolution will permit expeditious action on the applications currently pending as well as those that will be filed in the future."

The FCC goes on to say:

"By virtue of their actual presence in the Bush communities, the local exchange carriers would appear to be better equipped to remedy the problems. This on-site availability would likely reduce or eliminate the service outages due to the recurring minor repair problems which now require Alascom to dispatch a maintenance staff from a centralized metropolitan location."

Finally, and most importantly, the FCC states:

"Moreover, local ownership is likely to produce a more effective means of predicting and satisfying growing communications requirements. It would appear that local ownership represents the more efficient and economic alternative for meeting the unusual service needs of the Bush earth stations."

The attitude expressed in Mr. Naftalin's letter is somewhat strange because it contradicts the views of management officials of an affiliated corporation of Alascom. Alascom is owned by a corporation which in turn is owned by Pacific Power and Light Company. This latter corporation owns through another intermediate subsidiary, an operating independent telephone company named Eastern Oregon Telephone Company (EOTC). EOTC applied for and received a low interest (2 percent) REA loan last year in the amount of $9,500,000 which included funding of $876,000 for the ownership of toll facilities which perform the same function as the earth stations in Alaska cited by Mr. Naftalin. Feasibility studies prepared by REA indicated that the company could afford financing from the Rural Telephone Bank which, at the time, had an interest rate of 9.0 percent. Management officials for EOTC were asked to "volunteer" for a loan from the Bank but they refused and insisted on financing from the Rural Electrification and Telephone Revolving Fund, at 2 percent, because the company had an existing and proposed density of less than three subscribers —

per mile of line. Under the RE Act, telephone systems with three subscribers per mile of line or fewer are eligible for financing from REA at the special interest rate of 2 percent. In the past, some other companies in this situation have volunteered to take a loan from the Rural Telephone Bank.

EOTC presently has on file with REA a loan application in the amount of $7,000,000, which includes a request for funding of toll facilities in the approximate amount of $1.2 million. While officials of one subsidiary of Pacific Power and Light Company are criticizing REA funding for toll facilities in Alaska, officials of another subsidiary of Pacific Power and Light Company are repeatedly asking REA to expedite the processing of an REA loan for toll facilities in Oregon at an interest rate of 2 percent.

It should be noted that the Administration has already submitted proposed legislation to the Congress which would eliminate the availability of 2 percent financing under the RE Act.

Sincerely,

John H. Arnesen

JOHN H. ARNESEN
Assistant Administrator - Telephone

cc:
Frank Warner, OMB
WAT
WATO
AAT
TMD
Official File-TMD
Reading File

TMD:DBCohen:cdc 3/18/81
Rewritten:DBCohen:vll 3/19/81

Introduced: 2/17/81
Referred: Labor & Commerce
and Finance

IN THE HOUSE BY HURLBERT, VASKA, AND CHUCKWUK

HOUSE BILL NO. 165

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act creating the ~~public utility~~ public communications revolving loan fund; and providing for an effective date."

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

* Section 1. DECLARATION OF POLICY AND PURPOSE. The legislature finds that

(1) the availability of adequate public utility services and facilities at reasonable rates in the state is a proper matter of public concern;

(2) the ability of privately, municipally and cooperatively owned public utilities in the state to finance service to the public and to finance capital improvements required to extend and improve those services on terms that will enable utility service rates to remain at reasonable levels in the foreseeable future is seriously impaired by the unavailability of low-cost private financing and by the delays experienced in obtaining low-cost federal loans;

(3) as a matter of public policy, to ensure the sound development of the state and its resources and to provide an acceptable level of utility services to its residents at reasonable rates, the state should assist these public utilities in acquiring the money that is essential to operate, maintain and expand utility facilities and services.

* Sec. 2. AS 42 is amended by adding a new chapter to read:

CHAPTER 08. PUBLIC UTILITY REVOLVING LOAN FUND.

Sec. 42.08.010. REVOLVING LOAN FUND CREATED. The public utility revolving loan fund is created in the Department of Commerce and Eco- APA

nomic Development.

Sec. 42.08.020. POWERS AND DUTIES OF THE DEPARTMENT. (a) The department shall formulate procedures and adopt regulations to implement this chapter in consultation with the Alaska Public Utilities Commission.

(b) The department may

(1) make a loan from the public utility revolving loan fund to a public utility to finance or refinance capital improvements, plant and facilities, and to improve and expand services, if other credit is not readily available from private lending institutions at a rate of interest less than the rate of interest which the state agreed to pay on the most recent general obligation bonds issued before the application for the loan under this chapter;

(2) make loans from the public utility revolving loan fund to a public utility to meet short-term or interim capital needs before receipt by the public utility of long-term loans;

(3) consult with appropriate federal agencies and other lending institutions which make loans to public utilities in the state concerning policies, regulations and procedures to carry out the provisions of this chapter;

(4) designate agents and delegate powers to them as is necessary;

(5) require bonds and undertakings from persons employed by the department as in the commissioner's judgment are necessary, and pay the premiums on the bonds and undertakings;

(6) establish amortization plans as provided in AS 42.08.-040(c).

Sec. 42.08.030. ELIGIBILITY FOR LOANS. A public utility is eligible for a loan under this chapter if

(1) it is a public utility as defined in AS 42.05.701(2)-(A) - (E);

(2) at the time of application for a loan it is serving the public under a certificate of public convenience and necessity issued by the Alaska Public Utilities Commission;

(3) in the judgment of the department

(A) the public utility shows a definite potential for providing improved or expanded service in the community or service area it serves, or otherwise requires the financing to maintain adequate, efficient and safe service; and

(B) the utility will be able to repay the loan.

Sec. 42.08.040. CONDITIONS AND LIMITATIONS ON LOANS. (a) A loan to a public utility under this chapter may not exceed $1,000,000.

(b) A loan made under this chapter shall be on terms and conditions the department determines appropriate and, if secured by collateral, may not exceed 75 percent of the value of the collateral offered.

(c) Amortization plans for the repayment of a loan made under this chapter may not exceed 30 years. The rate of interest charged on the unpaid balance may not exceed the rate of interest which the state agreed to pay on the most recent general obligation bonds issued before the application for the loan under this chapter.

(d) Unless a loan made under this chapter is participated in by a financial institution as provided in (e) of this section, the loan may not be made until an investigation and an economic feasibility study is conducted and, as a result of the investigation and study, the department determines that the loan is economically sound, that the utility will be financially self-sustaining, and the loan will be fully amortized in accordance with the terms and conditions of the loan. The economic feasibility study shall be conducted by the department staff

under accepted Standards of RQA

Handle APA Similar Program must expertise

or by consultants, engineers or other technical experts approved by the department. To facilitate its determination of economic feasibility, and its determination of the ability of the utility to be fully self-sustaining and to amortize the loan, the department shall require the applicant for a loan under this chapter to furnish the systems studies, long-range economic forecasts, financial data, and technical information that the department considers necessary.

(e) If a loan under this chapter is participated in by a financial institution in an amount not less than 20 percent of the total amount of the loan, the department may accept the investigation and economic feasibility study made or accepted by the financial institution as a basis for its participation.

(f) If a financial institution participates in a loan made under this chapter, it may elect to administer and service the loan for a reasonable fee not exceeding one-half of one percent

(g) The state and the participating financial institution shall each have a lien on the collateral or share the collateral to the extent of their respective parts of the total loan to a public utility.

Sec. 42.08.050. ADMINISTRATION. Money loaned under this chapter shall be delivered to the borrower in the form of a warrant drawn on the treasury, and charged against the public utility revolving loan fund. Upon repayment of loans in accordance with the prescribed terms, or upon liquidation by foreclosure or other process, or upon receipt of interest or other revenue, the money received shall be turned over to the commissioner of revenue for deposit in the public utility revolving loan fund.

Sec. 42.08.060. SALE OR TRANSFER OF NOTES, MORTGAGES AND OTHER COLLATERAL. (a) The commissioner may sell or transfer at par value or at a premium or discount to a bank or private purchaser for cash or

other consideration the notes, mortgages and collateral held by the department as security for loans made under this chapter.

(b) The commissioner may sell or transfer at par value to the Department of Revenue the notes, mortgages and other collateral held by the Department of Commerce and Economic Development as security for loans made under this chapter. The Department of Revenue may purchase the notes, mortgages and other collateral so offered, allowing the Department of Commerce and Economic Development a one-half of one percent service fee.

Sec. 42.08.070. GUARANTEES OF LOANS. (a) The commissioner may enter into agreements with other state departments and agencies, private banks, other lending institutions, and individuals for the purpose of guaranteeing loans made to qualified public utilities. The guarantees may not exceed 90 percent of the amount loaned and the loans shall be secured in the same manner as provided for direct loans under this chapter.

(b) A loan made under this chapter and guaranteed by the state shall bear an interest rate on the unpaid balance not exceeding the rate of interest which the state agreed to pay on the most recent general obligation bonds issued before the application for the loan.

Sec. 42.08.080. PROCEEDINGS AND REGULATIONS. The Administrative Procedure Act (AS 44.62) governs all proceedings, and the adoption of regulations, under this chapter.

Sec. 42.08.090. DEFINITIONS. In this chapter

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

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

* Sec. 3. This Act takes effect July 1, 1981.

MBK to get primary source Long Term!

RGA for 25 yrs

2 to 5% loans 35

Telephone Board

8- 10.75 - 20

yr age — 35

Guaranteed loan Pkg - 35 mon.

Capital 32 million a year

RGA holds 1st mortgage on

an Tel's - plus a 1 mort - on

equity those owned -

needs - long Term nature -

plan 3 y-1 ahead of time

5 to 6 Phone for each new

Subscriber.

8% to Longer

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
ALASKA PUBLIC UTILITIES COMMISSION

March 3, 1981

The Honorable Vernon Hurlbert
Chairman
House Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Hurlbert:

Re: HB 165

HB 165 addresses the short term, interim financing needs of certificated public utilities. Currently the cost of interim debt is above the prime rate of interest. Since that expense is passed through to the rate payers, a decrease in interim interest expense should benefit the utility's customers.

This legislation does not address the realistic long-term capital needs of larger public utilities because of the ceiling on the loan amount. The public interest would be served if long-term capital, not available from private lending institutions, were available to public utilities. Based on the experience of the APUC, one of the most graphic examples is the unavailability of long-term debt to private water and sewer utilities. Assets, whose life exceed 20 years, must be purchased with debt that must be repaid in a maximum of eight years. The benefits of both short and long-term interest rates should inure to the consumers of public utilities. The magnitude of those benefits depends on the capital intensiveness of the utility.

Sincerely,

for Carolyn Guess
Commissioner

CG/shB/31

08-H19LH

United Utilities, Inc.
NATIVE OWNED CORPORATION
5400 A STREET ANCHORAGE, AK 99503
PHONE: (907) 276-1559

February 18, 1981

Senator Frank R. Ferguson
Pouch V
Juneau, Alaska 99811

Dear Senator Ferguson:

We're most appreciative of your efforts to establish a Public Utility Revolving Loan Fund. Your Senate Bill No. 107 provides a very viable framework within which to create and administer this fund. While we're generally very pleased with this bill we have two items that we feel are very important to small utilities serving bush communities. These items are shown below:

Sec. 42.08.040. CONDITIONS AND LIMITATIONS ON LOANS

(d) Add the following:

Should the utility desire to obtain short term financing pending the receipt of a long term loan from the Rural Electrification Administration (REA) the Department may accept the REA's approval of the interim loan as evidence sufficient enough to establish the economic feasibility of the short term loan.

(g) Add the following:

A lien or collateral for short term loans to REA borrowers may be subordinated to any existing REA mortgage agreements that the utility may have that requires REA to have a first mortgage on all of the utilities existing and future properties.

A major problem that United Utilities, as well as other bush utilities has faced, is the lengthy period of time it takes REA to approve and release long term financing. We believe that by adding the above to

MAILING ADDRESS: P. O. BOX 4-2730 ANCHORAGE, ALASKA 99509

Senate Bill No. 107 that it will strengthen the ability of bush utilities to secure interim financing from the revolving loan fund on a timely basis.

Please let me know if we can assist you any further and, again, thank you for your support.

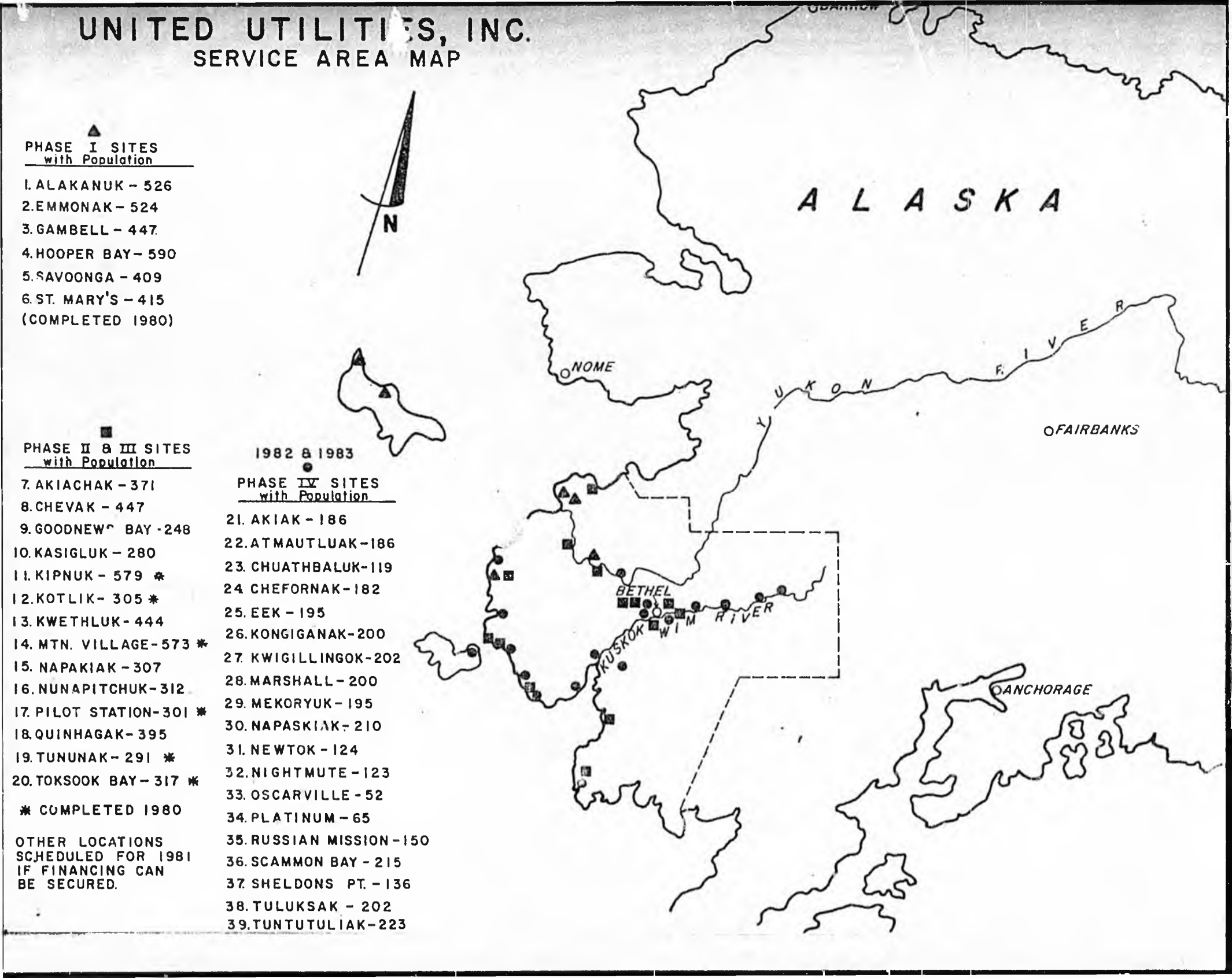
Regards,

Vinod Batra
President

VB:pa

cc: Representative Vernon L. Hurlbert

UNITED UTILITIES, INC.
SERVICE AREA MAP



▲ PHASE I SITES with Population

1. ALAKANUK – 526
2. EMMONAK – 524
3. GAMBELL – 447
4. HOOPER BAY – 590
5. SAVOONGA – 409
6. ST. MARY'S – 415

(COMPLETED 1980)

■ PHASE II & III SITES with Population

7. AKIACHAK – 371
8. CHEVAK – 447
9. GOODNEWS BAY – 248
10. KASIGLUK – 280
11. KIPNUK – 579 *
12. KOTLIK – 305 *
13. KWETHLUK – 444
14. MTN. VILLAGE – 573 *
15. NAPAKIAK – 307
16. NUNAPITCHUK – 312
17. PILOT STATION – 301 *
18. QUINHAGAK – 395
19. TUNUNAK – 291 *
20. TOKSOOK BAY – 317 *

* COMPLETED 1980

OTHER LOCATIONS SCHEDULED FOR 1981 IF FINANCING CAN BE SECURED.

1982 & 1983

● PHASE IV SITES with Population

21. AKIAK – 186
22. ATMAUTLUAK – 186
23. CHUATHBALUK – 119
24. CHEFORNAK – 182
25. EEK – 195
26. KONGIGANAK – 200
27. KWIGILLINGOK – 202
28. MARSHALL – 200
29. MEKORYUK – 195
30. NAPASKIAK – 210
31. NEWTOK – 124
32. NIGHTMUTE – 123
33. OSCARVILLE – 52
34. PLATINUM – 65
35. RUSSIAN MISSION – 150
36. SCAMMON BAY – 215
37. SHELDONS PT. – 136
38. TULUKSAK – 202
39. TUNTUTULIAK – 223

United States Department of Agriculture
Rural Electrification Administration
Washington D.C. 20250

February 17, 1981

SUBJECT: Inquiries about the President's Budget

TO: REA Staff

Recent news stories about possible changes in the REA programs for 1981 and 1982 have prompted a number of requests for information about REA.

All inquiries from the press, Congress, borrowers and others concerning the President's budget should be referred to the Office of Information and Public Affairs or the Assistant Administrators.

OIPA may, from time to time, refer some calls or written requests from the press or members of Congress for basic data or general information about the REA programs to other staff personnel. In these instances, a brief memo summarizing the telephone call or a copy of any written material shall be provided both my office and OIPA.

JOE S. ZOLLER
Acting Administrator

REDUCTION IN FEDERAL FINANCIAL ASSISTANCE TO COOPERATIVES AND PRIVATE COMPANIES ASSISTED BY THE RURAL ELECTRIFICATION ADMINISTRATION (REA)

As part of a general effort to reduce the share of Federal lending in U.S. credit markets, and to reduce Federal costs, the President proposes the following changes in the REA program:

-- Beginning in 1982, discontinue Federal Financing Bank direct lending to electric generation and transmission cooperatives and to telephone companies and cooperatives. Provide Federal guarantees of loans from private sources instead. This action will reduce Treasury borrowing by $5,145 million in 1982.

-- Reduce REA direct lending $187 million in 1981 and $350 million in 1982 by eliminating loans to telephone companies and cooperatives and reducing loans to electric cooperatives.

-- Discontinue 2% direct loans; substitute an equivalent amount of 5% loans.

-- Discontinue 5% direct loans for generation and transmission facilities; substitute an equivalent amount of guaranteed private loans.

These changes will be achieved by:

-- directing the Secretary of the Treasury to discontinue Federal Financing Bank direct lending to REA borrowers; 1/

-- seeking legislation to permit charging higher interest rates for REA direct loans;

-- instructing the Secretary of Agriculture to target REA direct loans to those most in need (more remote areas) and encouraging other borrowers to seek credit from private lenders; and

-- proposing budget rescissions and amendments to bring REA direct lending into line with these proposed changes.

1/ The Administration is proposing a broad reform of Federal Financing Bank operations that will affect other agencies as well, including the Farmers Home Administration and the Tennessee Valley Authority.

These proposed actions are based on the fact that the REA has largely accomplished its purpose -- to provide the basic investment capital necessary to provide electric and telephone service in rural areas. More than 99% of all farms now have electric service. The bulk of borrowing is now for power generation and system improvements, costs that should be borne by system users.

In the absence of restraint, REA would continue to expand the reliance of rural utility companies on federally-provided and sponsored credit. It has been estimated that the REA would be underwriting nearly 15% of total U.S. investment in electrical generation by 1995, if left unchecked.

The major reason that these systems have not converted to using the private sector as a major capital source is the highly favorable term structure -- for both the direct and guaranteed lending -- offered by REA. As a consequence, the availability of these subsidies reduces the necessity for recipients to improve their financial positions in order to attract private capital. Customers of REA-financed utilities receive power and telephone services at rates that average 8-12% below customers of non-REA-financed utilities.

Taking these actions will result in a dramatic reduction in direct Federal lending -- $5.5 billion in 1982, and over $32 billion between 1982 and 1986. In addition, Federal interest subsidy costs would be reduced by about $27 million in 1982 and by about $400 million over 1982-86. At the same time, rural electric and telephone consumers served by these systems should continue to receive adequate service at rates comparable to those charged to customers of non-REA-financed utilities.

The changes are expected to result in the following changes in funding 1/:

	(in millions of dollars)					
	1981	1982	1983	1984	1985	1986
Current base:						
Loan guarantee commitments.....	6,245	6,245	6,745	7,280	7,870	8,500
Budget authority and outlays.....	4,774	5,752	7,387	7,571	7,520	7,800
Policy reduction:						
Loan guarantee commitments.....	-187	-5,495	-5,935	-6,405	-6,925	-7,480
Budget authority and outlays.....	-38	-1,142	-2,328	-3,603	-4,975	-6,450
Proposed budget:						
Loan guarantee commitments.....	6,058	750	810	875	945	1,020
Budget authority and outlays.....	4,736	4,610	5,059	3,968	2,545	1,350

1/ The loan guarantees of the REA are converted to direct loans when they are purchased by the Federal Financing Bank. These outlays are excluded from the budget totals by law. Although these reductions are not included in the budget totals, they represent significant savings in Federal borrowing costs.

PROPOSED AMMENDMENT TO HOUSE BILL #165

IMMEDIATE APPROPRIATIONS OF $20M FOR UTILITIES
AFFECTED BY 1981 FEDERAL BUDGET CUTS

Utilities who are REA borrowers and have pending loan applications to the REA that may be subject to Federal Budget cuts, will be able to apply to the state for refinancing their current debt obligations. Loans made under this section will be for an amount not to exceed the amount requested in the REA application.

United Utilities, Inc. ---------- NATIVE OWNED CORPORATION
5400 A STREET ANCHORAGE, AK 99503 PHONE: (907) 276-1559

February 18, 1981

Senator Frank R. Ferguson
Pouch V
Juneau, Alaska 99811

Dear Senator Ferguson:

We're most appreciative of your efforts to establish a Public Utility Revolving Loan Fund. Your Senate Bill No. 107 provides a very viable framework within which to create and administer this fund. While we're generally very pleased with this bill we have two items that we feel are very important to small utilities serving bush communities. These items are shown below:

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MAILING ADDRESS: P. O. BOX 4-2730 ANCHORAGE, ALASKA 99509

Senate Bill No. 107 that it will strengthen the ability of bush utilities to secure interim financing from the revolving loan fund on a timely basis.

Please let me know if we can assist you any further and, again, thank you for your support.

Regards,

Vinod Batra
President

VB:pa

cc: Representative Vernon L. Hurlbert

United Utilities, Inc.
NATIVE OWNED CORPORATION
5400 A STREET ANCHORAGE, AK 99503
PHONE: (907) 276-1859

February 18, 1981

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Pouch V
Juneau, Alaska 99811

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Regards,

Vinod Batra
President

VB:pa

cc: Representative Vernon L. Hurlbert

Gordon Porter
276-3293

- HB 165 -

- Industry - qualification for Loans - Certification By Pgc

40 mile - short term

20 mile - long Term

C/L

P.U.

Gordon Parker - 165 Home 23y.
REA's Lit 29y.
(*) United 2 Applicat. 10.4 m: 11 16. m: 11
Cordova — 3.45 Clear not necessary
OTZ Applicat 3.7
Intercon - 2.2 m: 11.0 -
Matsu 16 m. 11.0 Pending -
Bristol Bay 2 - 3 m: 11 -

MARK O. HATFIELD, OREG., CHAIRMAN

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LOWELL P. WEICKER, JR., CONN.
JAMES A. MC CLURE, IDAHO
PAUL LAXALT, NEV.
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DALE BUMPERS, ARK.

J. KEITH KENNEDY, STAFF DIRECTOR
THOMAS L. VAN DER VOORT, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

June 4, 1981

Honorable Vernon L. Hurlbert
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Vern:

I understand you called my Washington office and spoke with Mark Schneider and Joe Darnell. As they told you, the Conference Committee on the Supplemental-Rescission bill for the 1981 fiscal year budget adopted the Senate position on the Rural Electrification Administration (REA) insured loan program.

This means that the insured loan program for telephone and electric cooperatives is authorized at its full 1981 level as set by the Appropriations Act for agriculture, P.L. 96-528.

If we can be of further assistance, please let us know.

With best wishes,

Cordially,

TED STEVENS

Approx 200 m: 11.02

HB
169

COMMITTEE REPORT

HOUSE

2/17/81

(5)

FURTHER:

Date: 2-10-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 169

"An Act relating to motor carriers."

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

[X] referred to the Transportation Committee

MEMBERS SIGNING
DO PASS

Do Pass w/ amd. Terry Martin

H

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Brian Rogers Do Pass if amended

Terry Martin
CHAIRMAN

H 60 (Rev. 12/78)

HB 169 - RELATIVE TO MOTOR CARRIERS

H. Labor & Commerce 1981-1982

Introduced 2-17-81
Comm. hearing & action 2-10-82
Referred to Transportation Committee
Taken to Clerk's Office 3:45 P.M.

1 Letter from Comm of Public Safety

Notified Public Safety Pam Conger to get position people & F/N people who were to testify are up in Arch for hearings on budget - requested no action until after now & bring up at a later date.

Motor Carriers

HOUSE BILL NO. 169, by Reps. Randolph and Fanning. Amends definition of "common carrier" (AS 42.10.420(2)(B)) to read: "(2) 'common carrier' included (B) a person who leases, rents, or provides a motor vehicle for the use of another in transporting property, and who provides, procures, or arranges for, directly or indirectly, or by course of dealing, a person other than himself to operate [DRIVER OR OPERATOR FOR] the motor vehicle or the necessary authority for the use of it on a public highway, except when the motor vehicle is leased to an authorized common carrier or contract carrier or by a construction contractor as defined in (12) of this section to another construction contractor as so defined, under rules and regulations to be prescribed by the commission;". Amends definition of "private carrier" (AS 42.10.420(7) by addition of a new subparagraph which states "(7) 'private carrier' is (C) a person who rents, leases, or otherwise provides a motor vehicle for the use of others in transporting passengers or property upon the condition that he be employed to operate the vehicle;". Does not provide for an effective date.

Introduced February 17 and referred to Labor & Commerce.

Municipal Code Revision

HOUSE BILL NO. 170, by the Rules Committee by Request of the Legislative Council (for the Title 29 Revision Commission). (See SB 180, page 254, identical).

page 295

Introduced February 17 and referred to Community & Regional Affairs.

Lear ✓

Q - referred to Transportation Comm. + Dept. of Public Safety

Original sponsors: Randolph and Fanning

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 169 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to motor carriers."

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

* Section 1. AS 42.10.420(7) is amended by adding a new subparagraph to read:

(C) a person who rents, leases, or otherwise provides a motor vehicle for the use of his employer in transporting passengers or property and who operates the vehicle as an employee, if the employer compensates that person with separate disbursements for wages and for the use of the vehicle;

this establishes a special group

nullified 42.20:

Common carrier??

Suggested

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for House Bill 726 (L & C)

Title "An Act providing an exemption from the Alaska Employment Security Act . . . ."

Requested by House Labor and Commerce Committee Date 3/5/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Social Services

BRU, Program, or Subprogram(s) Affected Employment Security

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

The provisions of this bill would not have a measurable effect on the administrative costs for unemployment insurance nor employer rates for purposes of the Unemployment Insurance Trust Fund.

IV. DATE 3/5/82 PREPARED BY Nico Bus

AGENCY Department of Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

38-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for House Bill 726 (L & C)

Title "An Act providing an exemption from the Alaska Employment Security Act . . . ."

Requested by House Labor and Commerce Committee Date 3/5/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Social Services

BRU, Program, or Subprogram(s) Affected Employment Security

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

The provisions of this bill would not have a measurable effect on the administrative costs for unemployment insurance nor employer rates for purposes of the Unemployment Insurance Trust Fund.

IV. DATE 3/5/82 PREPARED BY Nico Bus

AGENCY Department of Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for House Bill 726 (L & C)

Title "An Act providing an exemption from the Alaska Employment Security Act . . . ."

Requested by House Labor and Commerce Committee Date 3/5/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Social Services

BRU, Program, or Subprogram(s) Affected Employment Security

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

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
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	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

The provisions of this bill would not have a measurable effect on the administrative costs for unemployment insurance nor employer rates for purposes of the Unemployment Insurance Trust Fund.

IV. DATE 3/5/82 PREPARED BY Nico Bus

AGENCY Department of Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

12-L2LH

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER POUCH N – JUNEAU 99811

February 10, 1982

POSITION PAPER - HB 169

Any program effects of this bill would be with the Alaska Transportation Commission, not Department of Public Safety.

The Department of Public Safety collects weight fees at time of vehicle registration. However, the determination of whether the vehicle is classed as a common carrier or private carrier is made by the Alaska Transportation Commission.

The reclassification which this bill requires would bring about a reduction of revenue to the state in reduced weight fees. An estimate of the amount of reduction would more appropriately be compiled by the Alaska Transportation Commission.

This bill as currently written would have no fiscal impact of the Department of Public Safety.

William R. Nix
Commissioner

MSG 82-00007144 PRTY 1 02/09/82 18:31:24 ORIG: LF01 IN= 0009 OUT= 015
FROM: ANNIE IN FAIRBANKS TO: JUNEAU INFO.
TARGET: LJH2 SUBJ: POM PAGE 000

TO: REPS. BETTISWORTH, BROWN, FANNING, RANDOLPH, ROGERS AND SMITH, MARTIN, BYLSMA, AND GARDINER

FROM: DALE CRAIG NIELSEN, SELF OWNER OPERATOR, 1041 PEDRO ST., FAIRBANKS 99701 456-4073

RE: HOUSE BILL 169

I SUPPORT THE PASSAGE OF HOUSE BILL 169. I ALSO REQUEST THAT FAIRBANKS BE INCLUDED ON THE TELECONFERENCE FOR DISCUSSION OF THIS BILL.

MSG 82-00007144 PRTY 1 02/09/82 18:31:24 ORIG: LF01 IN= 0009 OUT= 015
FROM: ANNIE IN FAIRBANKS TO: JUNEAU INFO.
TARGET: LJH2 SUBJ: POM PAGE 000

TO: REPS. BETTISWORTH, BROWN, FANNING, RANDOLPH, ROGERS, SMITH, AND MARTIN, BYLSMA, AND GARDINER

FROM: GOVERNEUR H. BAYLESS, 212 COWLES ST., FAIRBANKS 99701 456-4970

RE: HOUSE BILL 169

AS AN OWNER/OPERATOR, I WOULD LIKE TO SEE THIS BILL PASS. I THINK I, WOULD ALLOW ME TO SEEK MORE WORK.

MSG 82-00007144 PRTY 1 02/09/82 18:31:24 ORIG: LF01 IN= 0009 OUT= 0152
FROM: ANNIE IN FAIRBANKS TO: JUNEAU INFO.
TARGET: LJH2 SUBJ: POM PAGE 004

TO: REPS. BETTISWORTH, BROWN, FANNING, RANDOLPH, ROGERS, SMITH, MARTIN, BYLSMA, AND GARDINER

FROM: ALLEN L. KIRBY, MYSELF AS AN OWNER/OPERATOR, APT. #5 1617 LAURENE ST., FAIRBANKS 99701 452-1860

RE: HOUSE BILL 169

I SUPPORT THE PASSAGE OF HOUSE BILL 169. I THINK IT'S A STEP IN FREE ENTERPRISE SYSTEM.

TELEGRAM

ALASCOM, INC.
PHONE: 586-6442
JUNEAU, AK 99802

#

12057 NL FAIRBANKS ALASKA 118 02-01 510P AST

PMS REP TERRY MARTIN CHAIRMAN LABOR COMMERCE COMM

JUN 0223

RE HB169 WE ARE STRENUOUSLY OPPOSED TO THIS BILL WHICH IS BEING CONSIDERED BY YOUR COMMITTEE THE ULTIMATE CONSEQUENCES OF THIS BILL AND THEIR EFFECT ON THE TRANSPORTATION SYSTEM AVAILABLE FOR SHIPPERS OF THE STATE NEED TO BE EXAMINED CAREFULLY. LARGE VOLUME SHIPPERS WIN UNDOUBTEDLY BENEFIT AT THE EXPENSE OF SMALL BUSINESSMEN WHO WILL FIND SERVICES MORE EXPENSIVE AND PROBABLY LESS CONVENIENT. IT PLACES REGULATED CARRIERS AT THE DISADVANTAGE OF COMPETING WITH PRIVATE CARRIERS WHO WOULD NOW HAVE SIMILAR RIGHTS BUT WITHOUT THE OBLIGATIONS TO PROVIDE A VARIETY OF SERVICES OR WITHOUT HAVING TO BARE THE BURDEN OF REGULATED RATES, ROUTES AND REPORTS. WE URGE YOU TO TAKE A STRONG POSITION AGAINST THE PASSAGE OF HB169.

RICHARD GREGORY PRES SOURDOUGH EXPRESS INC

MSG 82-00007144 PRTY 1 02/09/82 18:31:24 ORIG: LF01 IN= 0009 OUT= 0152
FROM: ANNIE IN FAIRBANKS TO: JUNEAU INFO.
TARGET: LJH2 SUBJ: POM PAGE 0001

TO: REPS. BETTISWORTH, BROWN, FANNING, RANDOLPH, ROGERS, SMITH, AND MARTIN, BYLSMA, AND GARDINER

FROM: TIMOTHY GUNDERSON, 04 SALCHA, FAIRBANKS 99701 479-5210 / 452-5814

RE: HOUSE BILL 169

I HAVE CLOSELY EXAMINED HB169 AND BELIEVE THAT THIS WOULD GIVE ME AS AN OWNER/OPERATOR A MUCH BETTER POSITION IN THE OPERATION OF MY EQUIPMENT. TODAY, IN ALASKA, THE OWNER/OPERATOR WHO HAS A LARGE INVESTMENT IN HIS EQUIPMENT IS A CAPTIVE BUSINESSMAN OF THE PERMITTED CARRIERS. I URGE PASSAGE OF THIS BILL TO CORRECT THIS INEQUITY. I WOULD BE HAPPY TO DISCUSS THIS FURTHER AT EITHER PHONE NUMBER.

MSG 82-00007144 PRTY 1 02/09/82 18:31:24 ORIG: LF01 IN= 0009 OUT= 0152
FROM: ANNIE IN FAIRBANKS TO: JUNEAU INFO.
TARGET: LJH2 SUBJ: POM PAGE 0003

TO: REPS. BETTISWORTH, BROWN, FANNING, RANDOLPH, ROGERS, SMITH, MARTIN, BYLSMA, AND GARDINER

FROM: DON OLSON, SELF- OWNER/OPERATOR, 253 OLD RICHARDSON, FAIRBANKS 99701 452-7753

RE: HOUSE BILL 169

I URGE YOUR SUPPORT OF THE PASSAGE OF H.B. 169.

MSG 82-00007144 PRTY 1 02/09/82 18:31:24 ORIG: LF01 IN= 0009 OUT= 0152
FROM: ANNIE IN FAIRBANKS TO: JUNEAU INFO.
TARGET: LJH2 SUBJ: POM PAGE 0006

TO: REPS. BETTISWORTH, BROWN, FANNING, RANDOLPH, ROGERS, SMITH, MARTIN, BYLSMA, AND GARDINER

FROM: GWEN SUITER, S. R. BOX 70653, FAIRBANKS 99701 488-6818 452-5814

RE: HOUSE BILL 169

HOUSE BILL 169 HAS MY "WHOLE-HEARTED" SUPPORT! IT IS THE VERY TICKET FOR OWNER-OPERATORS MOVING IN A FREE ENTERPISE SYSTEM. IT IS A STEP FORWARD IN A POSITIVE DIRECTION. I ALSO URGE YOU TO INCLUDE FAIRBANKS ON THE TELECONFERENCE FOR DISCUSSION OF THIS BILL.

MSG 82-00005399 PRTY 1 02/02/82 15:31:07 ORIG: LA00 IN= 0009 OUT= 00
FROM: JEAN, ANCH INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: POM
PAGE 00

TO: REPRESENTATIVES CATO AND MARTIN

FROM: JOHN ORCHARD
4 STAR TERMINALS-COMMON CARRIER
P.O. BOX 4589
ANCHORAGE 99502 (W) 349-4473

RE: HB 169

4 STAR TERMINALS AND IT'S MANAGEMENT OPPOSES HB-169 AS WE FEEL THAT IT IS NOT IN THE BEST INTEREST OF THE PUBLIC AND THE TRANSPORTATION INDUSTRY.

talk to ATC

HB

173

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

2/18/81

(5) Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 173

"An Act making appropriations for housing loan programs and for residential energy programs; and providing for an effective date."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 173 [X] 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

Terry Gudwin Do Pass

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 12/78)

Alaska State Legislature

House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

The Honorable Jay S. Hammond
Governor State of Alaska
Pouch A
Juneau, Ak 99811

RE: HB 173

Dear Governor Hammond:

The House Labor and Commerce Committee met on February 18, 1981, to consider the above referenced bill.

The Committee is submitting a Committee Substitute deleting Sections 2 and 3, since there presently exist current funds to carry out those programs, even though we believe when and if the programs are actually made available to the public the demand will exceed the amounts budgeted.

We propose to increase Secion 1, from $140 million to $150 million, to cover the cash shortfall of the Alaska Housing Finance Corporation, for the Special Mortage Loan Purchase Program (AS 18.56.098).

During our deliberations it became evident that the programs for NON-conforming and Energy Conservation Housing Loans (AS 18.56.098) and (AS 44.47.380) needs your personal involvement and commitment to speed up delivery of the fruits of the programs to the Alaskan Citizen.

It is our belief that Administration could make these programs a higher priority, to make the programs more available to the citizens as soon as possible,. Additional Administrative support and direction is needed to help the responsible agencies implement the intent of these programs created last year.

The Committee would appreciate your offices attention to this matter.

Sincerly,

Vernon Hurlbert

Representative Hurlbert
Chm., House Labor and Commerce

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 9, 1981

The Honorable Vernon Hurlburt
Chairman, House Labor and
Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Chairman Hurlburt:

You wrote me indicating that there was a need for my involvement to speed up delivery of the Non-conforming and Energy Conservation Housing Loans program within the Department of Community and Regional Affairs. It is my understanding at this time that they are processing loans and appear to be underway. There was, perhaps, a delay in implementing the program, but much of the problem was due to statutory constraints under which the Department had to operate the program, such as bilingual staff and the setting up of four regional offices, as well as facilitating bank participation in this program.

I understand your concerns, but feel that the program is operating and on its way to satisfy its goals. Thank you for alerting me to your concerns.

Sincerely,

Jay S. Hammond
Governor

HB
258

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

3/4/81

(5)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 258

"An Act making a special appropriation to the Alaska State Housing Authority, family and handicapped housing development and construction fund for planning, developing, financing, and constructing housing for families and handicapped persons; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

CHAIRMAN

H 60 (Rev. 3/81)

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 30, 1981

Honorable Sam Cotton
Chairman House Finance

RE; HB 258

Dear Representative Cotton:

The Labor and Commerce committee passed out HB 258 an approppiation to ASHA.

During testimony Mr. James Crawford Deputy Director testified that ASHA needed the 15 million in order to operate the handicapped construction fund.

It was brought to our attention that the Director of ASHA in a communications with Rep. Cuddy stated that ASHA needed only 5 million.

The bill passed out with the 15 million figure, but it was the wishes of the committee to inform you of the difference of opion on the amount.

If you have any questions please feel free to call me.

Sincerly,

Rep. Vern Hurlbert
Chairman

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

JUNEAU, ALASKA 99811

March 31, 1981

Jim Crawford
Deputy Executive Director
Alaska State Housing Authority
P.O. Box 80
Anchorage, Alaska 99510

Dear Mr. Crawford:

We have reviewed your letter, dated March 9, 1980, commenting on our letter of February 23, 1980 to the Legislative Budget and Audit Committee. Your remarks are thought provoking indeed but, we think, not precisely pertinent to the subject addressed in our letter.

For example, with regard to the time period allowed ASHA to decide on dissemination of federal funds, you cite a letter from HUD calling for a decision in five days. The HUD allocations referred to are for existing housing units and rebuilding of low-income housing units. Neither of these require new construction of units, which is the main purpose of your request for the two $15 million funds.

The recommendation in our audit report, and subsequent letter, described a federal allocation for construction of 130 new units of family housing which was lost due to construction bids which exceeded available funds. We maintain ASHA could have sought additional funds through a budget request to the Legislature, since, according to HUD correspondence dated August 18, 1977, the federal allocation was reserved for ASHA from January 1973 through June 1977, at which time it was cancelled. We believe four years should have been sufficient for ASHA to obtain supplementary funding for this project and similar projects in the future.

Moreover, during that same time period, two elderly housing projects received HUD allocations but could not be started because of insufficient funds to cover high construction

bids. ASHA, however, was able to proceed with assistance from the Senior Citizens Housing Development Fund established by the Legislature in 1976.

Although not funded, the Housing Development Revolving Loan Fund, created at the same time as the Senior Citizens Fund, is a practical vehicle for ASHA to obtain funds to cover shortfalls in federal allocations. From the point of view of efficient cash management, these funds are preferred over creating new funds outside the State Treasury totalling $30 million. They are subject to Legislative appropriation as well as remaining in the State Treasury until disbursement by ASHA.

We therefore reaffirm our position that separate funds within ASHA are not necessary for new construction allocation shortfalls. Funding vehicles currently exist which can be utilized within the time period HUD allocations are available.

Sincerely,

Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

cc: Senator Arliss Sturgulewski

TESTIMONY TO THE HOUSE LABOR AND COMMERCE COMMITTEE
BY: JAMES CRAWFORD, ALASKA STATE HOUSING AUTHORITY
APRIL 29, 1981

My name is Jim Crawford, I am the Deputy Executive Director of the Alaska State Housing Authority (ASHA). The Alaska State Housing Authority is a nonprofit pubic corporate authority funded through rental project revenues and subsidies from the United States Department of Housing and Urban Development (HUD). ASHA presently manages or owns and manages over 3,000 apartment units throughout the State of Alaska. The corporate authority is governed by a five member Board of Directors appointed by the Governor. The Commissioner of the Department of Commerce and Economic Development is a member of our Board of Directors.

My responsibilities at ASHA include, but are not limited to, arranging for financing through the tax exempt bond market and other methods of funding for new construction activities. As background to the preparation of the legislation under hearing today, please let me explain the audits of ASHA's fiscal year ended March 31, 1980. Because ASHA showed no apparent financial problems, HUD approved ASHA's contract with an independent auditing firm for compliance testing and the normal financial audit of federal and non federal programs. ASHA last year contracted with Peat, Marwick, Mitchell & Co. for that audit. No material findings were reported in the audit of ASHA activities either in the federal programs or the non federally funded activities. Next, HUD auditors did a performance review, again with much the same result. Finally, Division of Legislative Audit completed a special review and a full performance review of ASHA.

Subsequent to the recommendations contained in the audit report and within our Chairman's response to those recommendations, House Bills 256 through 260 were presented in draft form to the Legislative Budget and Audit Committee. We found the recommendations of the legislative auditors to be encouraging and the bills as redrafted by Legislative Budget and Audit will, if passed by the Legislature, be a positive step toward the greater production of needed senior, family and handicapped housing within the State of Alaska.

Specifically, with regard to House Bill 257 and 258, these bills establish and fund the Family and Handicapped Housing Development and Construction Fund in compliance with recommendation number 2 of the Division of Legislative Audit which states "ASHA should seek additional sources of funding of housing projects to assure that federal allocations are not lost." As stated in the audit report "In 1977, ASHA had no choice but to return to the Federal Government two allocations totalling approximately $3,460,000 due

to the infeasibility of the projects. The allocations were for family housing in Juneau (80 units), and Ketchikan (50 units)."

ASHA has two main programs with which we deal with the construction of new federally subsidized housing within Alaska. The conventional low rent program which is a totally HUD financed program contains provisions for nationally applicable maximum prototype costs for each project. In a letter received from HUD on the cancellation of the Juneau and Ketchikan projects, HUD stated that they "were aware that these projects have not been able to be constructed because of the prototype costs in these areas have been too low and it is not reasonable for you to issue construction comments...". Therefore, when attempting to construct family and handicapped federally subsidized housing under the low rent conventional program, a construction shortfall occurs between available federal dollars and actual project cost. The passage of HB257 and 258 will allow for grants or loans to these projects in order to cover the construction shortfall.

Capital funds may also be used for the enhancement of the family and handicapped projects for the benefit of the program recipients. An example of the enhancement previously provided by ASHA in family projects is the barrier free handicapped units. Most of the changes made in ASHA projects which add amenities are at the request of local advocacy or advisory groups monitoring the construction of our projects. A central motivation of both the groups advocating senior housing and handicapped housing is the philosophy of age integration. The handicapped have continually stressed the need to lead as normal a life as possible and have facilities, though barrier free, integrated in a family atmosphere. The seniors have stated a definite desire to provide alternative housing for handicapped other than in senior projects as is presently the case.

The next program ASHA deals with is the Section 8 New Construction program which requires independent financing. The initial financial feasibility of an ASHA tax exempt bond financed project entails a determination from HUD of the per unit annual subsidy and fair market rent. When the fair market rent has been determined, ASHA subtracts its management and maintenance costs and therefore nets to a figure available for amortization. The figure available for amortization times the number of units in the structure equals the amount that may be financed through the tax exempt bond market. Again, due to the high cost of construction in Alaska, the figure available for amortization is insufficient to cover to total construction cost. Therefore, the need of a Housing Development and Construction Fund to cover, in the Section 8 instance, the financing gap and thereafter construction shortfall.

Flexibility and timeliness are primary reasons for the creation of capital funds. Our construction activities are tied directly to the availability of federal funding and the exigencies of the bond market. Our facilities must be completed within Alaska's short construction season. Our efforts, as illustrated by the proposed legislation, are to speed the construction of needed housing within the State. ASHA basically has two options when faced with a construction short fall as in the case of our present Juneau senior project:

1. Cut the project size as in the current Juneau instance from 24 to 20 units and cut amenities; or

2. Alternatively to admit the financial infeasibility of the project and defer construction.

Another reason for the creation of the funds is the actions of the Federal Government. According to an analysis of HUD budget cuts in the Wall Street Journal of March 14, 1981, conventional new construction subsidized housing will be cut 32.7% from 260,000 units previously proposed to 175,000; new construction authorization in the Section Eight program would be cut 39.4% from 130,000 to 78,750 for the entire country. Obviously then ASHA must stretch available federal dollars to their maximum and supplement those funds by leveraging in the bond market and also ask the legislature's consideration of the problem by proposing HB257 and 258.

Of additional concern to ASHA is the proposed elimination of the Indian Housing Program utilized by the regional housing authorities. A substantial portion of the need for family housing is centered in the rural areas of the State. In order for the regional housing authorities to meet the needs of their program recipients, capital funding must be available which will augment those funds still available through the U.S. Department of Housing and Urban Development and the Farmers Home Administration.

The particular needs of handicapped individuals and their incumbent greater cost in the development of housing could be accommodated by the passage of HB257 and 258.

ASHA is presently working with the State Department of Labor and the Census Division to isolate the need for housing then prepare a prioritized five year construction allocation recommendation for HUD concurrence. In the event the capital construction funds are established and funded, ASHA will be able to more aggressively perform marketing plans statewide for the benefit of ASHA's program recipients and those program recipients of the

regional housing authorities. Existing information concentrates on available housing stock and does not isolate the need for housing. It is our intention to work closely with the regional housing authorities to assist them in their fulfillment of the housing needs in the rural areas of the State as well as providing for the urban needs of Alaska's families and handicapped. Particularly in the face of a wildly fluctuating bond market a gap between available construction dollars and actual construction costs will force the delay or even cancellation of needed housing projects. Nationally established construction maximums do not reflect Alaska's costs. Consequently, otherwise worthy projects may not be built. We believe that HB257 and 258 are consistent with the recommendations of the Legislative Budget and Audit Committee auditors and that the legislation, if enacted, will be a positive step for the greater production of housing for families and handicapped within Alaska.

Pursuant to a request from Senator Fischer when corrolary bills were under hearing in Senate State Affairs I have attached to my testimony a listing of anticipated family and handicapped projects throughout the State. The listing details the location, cost and potential source of funding for the projects in total. Several assumptions are critical to the analysis of the attached list. Those assumptions are

1. Square footage cost is estimated at an average $95.00 per square foot. Naturally, cost differentials exist between urban and rural construction, however, economies of scale on a larger project should offset the greater costs of smaller projects and therefore meet the average.

2. Based on rates available in the current tax exempt bond market and present fair market rents as set by the U.S. Department of Housing and Urban Development (HUD), we anticipate that approximately one-third of the total cost would be required as a State subsidy at the time of construction and two-thirds could be covered by direct HUD/Farmers Home loans/bonds or tax exempt bonding by ASHA.

3. The list was determined based upon projects that have been proposed, anticipated demand as evidenced by ASHA's waiting lists in our existing project and the current activities and plans of regional housing authorities.

4. Projects listed have yet to be analyzed for actual financial feasibility and therefore represent estimated needs only.

5. The lists are alphabetized and <u>no priority</u> has been given to the projects.

6. Square footage estimated for family and handicapped housing is 1,067 square feet for mixed two, three and four bedroom units. Presently ASHA has 27 handicapped units in our senior projects.

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

LIST OF PROJECTS

ESTIMATED FAMILY AND HANDICAPPED DEMAND

NAME OF COMMUNITY	NUMBER OF UNITS
1. Anchorage	125
2. Bethel	50
3. Cordova	20
4. Fairbanks	75
5. Juneau	50
6. Kodiak	75
7. Kenai/Soldotna	50
8. Nome	50
9. Sitka	24
10. Valdez	25
11. Regional Housing Authority demand	594
TOTAL	1,138

Assuming the need for 1,138 units of family and handicapped housing, the estimated cost is as follows:

1,138 X 1,067 square feet (mixed two, three and four bedroom units) X 1.2 common area X $95.00 per square foot =	$144,505,944.00
Land cost at $3,000 per unit =	3,564,000.00
Fees for architects and engineers, etc. (8% construction) =	11,560,475.00
Contingency and cost of bond issuance, etc. =	11,500,000.00
Interim interest (assume have money ½ year before project completion) =	12,000,000.00
ASHA administration (may be more or less for Regional Housing Authority projects)	8,100,000.00
TOTAL	$191,230,419.00

Assuming total cost of $191,230,419.00

TOTAL ESTIMATED DEMAND	STATE CONSTRUCTION SUBSIDY	HUD/FARMER'S HOME OR ASHA FINANCING
$191,230,419.00	$63,679,729.53	$127,550,689.47

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

HB

292

COMMITTEE REPORT

HOUSE

3/9/81

FURTHER: FINANCE

(5)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 292

"An Act making a special appropriation to the Department of Law for investigation of automobile repair abuses; and providing for an effective date."

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 3/81)

STATE
of ALASKA

MEMORANDUM

Mass Mail Cover
465-3692
Cons. Prot.
JNO

TO: Representative Joe Hayes
Pouch V
Juneau, AK 99811

DATE: March 13, 1981

FILE NO:

TELEPHONE NO: 279-0429

SUBJECT: Automobile repair problems as perceived by the state Consumer Protection Office

FROM: WILSON L. CONDON
ATTORNEY GENERAL

By: Connie J. Sipe
Assistant Attorney General
Chief, Consumer Protection
Section AGO/Anchorage

Putting it simply to start with, automobile repair complaints filed by consumers with our office are, and have been for at least six years, the most numerous, the most persistent, among the most costly, and the least solveable consumer problems that we see. A legislative audit in 1979 helped us identify the extent of this problem: automobile repair complaints were our most numerous complaints, numbering 281 out of 2,229 complaints filed by Alaskans in FY79, 13% of all of our complaints. In FY79, our office was able to obtain a satisfactory resolution for consumers in 39.2% of all the cases we handled, but only approximately 16.5% of automobile repair complaints we handled had any sort of consumer satisfaction as a result of our efforts. This low mediation rate prevails today, even though auto repair complaints are often ones on which our office spends the most time and effort in personal contact with both business and consumer in mediation attempts. 1/

Alaskans are not unique in their problems with auto repair. The Federal Trade Commission has found that auto repair complaints are the number 1 complaint in 49 out of 50 states. The U.S. Comptroller General's Report, January 11, 1980, 2/ cites a 1978 estimate that 20 billion consumer dollars a

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1/ FY 80/81 figures are not available, since the section has only a manual record-keeping system. The data is available, but we have not compiled it. We are certain auto repair problems have maintained their prominence in our case load.

2/ "Public and Private Coordination Needed If Auto Repair Problems Are To Be Reduced."

year are lost in the country on auto repair of 124 million vehicles. The Comptroller's report, based on a study of county, state, federal, and industry, auto repair enforcement and conciliation programs, found the following auto repair problems to the most common:

(1) faulty repairs, where a problem reoccurs or is not improved at all by repair efforts;

(2) unnecessary repairs, made either through mistaken or incompetent diagnosis, or because of fraud;

(3) unanticipated repair costs, or what's known as the "5 o'clock surprise" when a consumer comes to pick up the car and is asked to pay for unauthorized work or a price in excess of either the formal or informal estimate earlier given.

These are also the most common problems for Alaskans, as well as this fourth:

(4) deceptive repair charges--we are fairly certain that some Alaskans are charged for parts or services which have not been provided at all, or which differ from what was actually provided (e.g., charged for a "new" part when a "rebuilt" was installed).

Also, it should be remembered that the cost of auto repairs is extremely high, not only in terms of cash paid for the repair, but also in terms of lost time and convenience. Many of the repair complaints we see involve charges over $500.

Alaska does not license auto mechanics nor auto repair shops. A few states do this, but our office would not recommend this step at this time, since the state wishes to stay out of the regulation area. It is often suggested by community business groups that the Consumer Protection Office should seek out and prosecute the "bad apples" in an industry, and through prosecution of those shops or mechanics, create an effective deterrence for the rest of the industry. However, without mechanical expertise on the Consumer Protection staff, or the money to hire objective experts who can assess the repair work which has been done on an automobile, most automobile repair complaints degenerate into "swearing matches" between a consumer and a mechanic.

Many states have passed auto disclosure type laws, such as the one that became effective in Alaska January 1, 1977, AS 45.45.130-240. This law requires shops to post signs saying that the consumer has a right to a binding price estimate and the return of all replaced parts, if the consumer so requests before repairs are started. However, experience has shown that this statute appears to have made little difference in the volume or type of repair complaints we receive. The office has repeatedly checked repair shops and found that most of them do post the sign. However, shops and mechanics actively resist giving consumers written estimates. The Alaska law does not state that the estimate given must be "written," so unless the consumer takes one step beyond what the law dictates, and actually asks for a "written" estimate, the shop will usually give a verbal estimate. If the shop is willing to live by a verbal estimate, that is no problem, but in a dispute over what the verbal estimate was, the lack of a written estimate is crucial, and usually fatal to our attempts to mediate the complaint for the consumer.

We have filed, in the Anchorage office, two lawsuits regarding automobile repair complaints: one for not following the procedures set out in the statute and for the mechanic's self-help repossession of an automobile after a bill dispute, and the other for more serious practices verging on intentional fraud. Again, there are problems with these cases, since we must take them to the superior court, which means a long wait for a trial, and we have hired mechanics as independent expert witnesses. 3/

Our office finds that many auto repair complaints are legitimate and serious. We also know that these may only be the tip of the iceberg, since many consumers do not detect repair problems, do not complain at all, or only complain to the shop, without realizing that the services of our office are available. Also, the law may appear to be stacked against the consumer, since Alaska's lien statutes allow a mechanic to keep an automobile until the consumer pays in full for charges. Thus, when a consumer wants to challenge

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3/ Just finding an auto repair mechanic to testify is difficult, since other members of the industry are understandably very reluctant to testify against each other. Several times mechanics have told consumers or our office that a consumer has been a victim of unnecessary or fraudulent repair by another shop, but will immediately add that he is not willing to put that in writing or to testify to it.

charges made, he or she runs a great risk of losing either the use of the vehicle while s/he takes the matter to court, or the complete loss of the vehicle since the mechanic can sell it for payment after 90 days, without any type of hearing. 4/

Recommendations

Other states report that the most effective way to provide monitoring and deterrence of the auto repair industry is to have an undercover car operation. Some states have auto repair experts on staff, as in their motor vehicle division, their mechanic licensing division, or even in their state car fleet repair pools, and do not face the same financial and practical problems of locating experts that our section does.

Undercover or inspection car operations are usually aimed at "target" shops who have had a high number or ratio of serious and unresolved consumer complaints about auto repairs. An expert for the state repairs an automobile to nearly perfect condition, leaving one easily-detected, easily-diagnosed fault. Then the automobile is taken to the target shop or shops, and a written estimate is sought as to the nature of the problem and the cost for repair. The shop is then asked to do the repair, and the car is taken back to the state's experts to check whether the work was properly done, whether unnecessary work was done, or whether in some instances the shop may have charged for work that it did not do at all. Then a civil lawsuit may be brought and the result widely publicized, providing deterrence in the rest of the industry.

This ability, to take cars to shops, is probably the best system for Alaska, rather than licensing or certification. When a consumer believes that unnecessary work has been done on his car, it is usually already too late to prove a legal case, since the state did not see the car before it went into the shop, and hence cannot fully evaluate what was done in the shop. However, having someone on staff, as an investigator, perhaps a retired automobile repair mechanic, or just someone who can develop an expertise in this area, would give this office the ability to pursue repair problems quickly and with technical efficiency.

4/ In fact, the courts in California have declared a similar California lien statute to be unconstitutional, since the consumer can be deprived of his motor vehicle, partially through the cooperation of the State Motor Vehicle Department in transferring title pursuant to the lien law, without any type of hearing, and without adequate time to guarantee that the consumer can obtain a court hearing.

CJS/aw

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. _____
Title _____
Requested by Representative Hayes Date 2/17/81

II. FISCAL DETAIL
Agency Affected Department of Law
Program Category Affected Public Protection
BRU, Program, or Subprogram(s) Affected Consumer Protection
(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		43.2	46.7	50.4	54.4	58.8
200	TRAVEL		5.0	5.4	5.8	6.3	6.8
300	CONTRACTUAL		11.2	12.1	13.1	14.1	15.2
400	COMMODITIES		4.6	5.0	5.4	5.8	6.3
500	EQUIPMENT		1.0				
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		65.0	69.2	74.7	80.6	87.1

FUNDING (Thousands of Dollars)

GENERAL FUND		65.0	69.2	74.7	80.6	87.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1.0	1.0	1.0	1.0	1.0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
These costs reflect the resources to be used to employ an auto fraud investigator (Associate Attorney II, R-19) at Anchorage. The position will be responsible for designing a statewide auto repair fraud program. The position will also be responsible for investigating all major auto fraud complaints and oversee and organize investigative efforts of subordinate staff handling auto fraud complaints of lesser magnitude, $10,000 will be used to pay for testimony and trial preparation time of auto mechanical and engineering expert witnesses. $2,800 will be used for purchase of auto repair parts, supplies and services being investigated.

IV. DATE February 18, 1981 PREPARED BY Richard I. Pegues Richard I. Pegues, Dir., Div of Admin. Svcs.
AGENCY Department of Law
PHONE 465-3695

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

Fiscal Note Detail--Auto Repair Fraud Investigator

Personal Services

Associate Attorney II, Anchorage

R-19, $2837X12	=	$34,044
Benefits at 15.75%		5,362
HI, 150 pu		1,800
ASBS		2,004
		$43,210

Travel

Air travel to Juneau Auto travel to Fairbanks, Mat/Su & Kenai areas	$5,000

Contractual

Communications $100 pm	$1,200
200 hours of expert witness trial preparation and testimony at $50 per hr.	$10,000
	$11,200

Commodities

$25 per mo. expendables, position costs	$300
New positions costs for FY 82 only, thereafter these funds will be used to increase resources used to purchase repairs, services, supplies for test auto(s) used in investigative program.	$1,500
Auto repairs purchased and operating expenses for auto(s) used in connection with auto repair fraud investigations	$2,800
	$4,600

Equipment

New position equipment, single time expense	$1,000
TOTAL	$65,010

Russ McKeever
465-3692
Cons. Prot.
JNO

STATE
of ALASKA

MEMORANDUM

TO: Representative Joe Hayes
Pouch V
Juneau, AK 99811

DATE: March 13, 1981

FILE NO:

TELEPHONE NO:

279-0429

FROM: WILSON L. CONDON
ATTORNEY GENERAL

By: Connie J. Sipe
Assistant Attorney General
Chief, Consumer Protection
Section AGO/Anchorage

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CJS/aw

Fiscal Note Detail--Auto Repair Fraud Investigator

in relation to page 4 - Dowl

Personal Services

Associate Attorney II - Anchorage

R-19, $2837X12	=	$34,044
Benefits at 15.75%		5,362
HI, 150 pu		1,800
ASBS		2,004
		$43,210

Travel

Air travel to Juneau Auto travel to Fairbanks, Mat/Su & Kenai areas	$6,000

Contractual

Communications $100 pm	$1,200
200 hours of expert witness trial preparation and testimony at $50 per hr.	$10,000
	$11,200

Commodities

$25 per mo. expendables, position costs	$300
New positions costs for FY 82 only, thereafter these funds will be used to increase resources used to purchase repairs, services, supplies for test auto(s) used in investigative program.	$1,500
Auto repairs purchased and operating expenses for auto(s) used in connection with auto repair fraud investigations	$2,800
	$4,600

Equipment

New position equipment, single time expense	$1,000
TOTAL	$65,010

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. _____
Title _____
Requested by Representative Hayes Date 2/17/81

II. FISCAL DETAIL
Agency Affected Department of Law
Program Category Affected Public Protection
BRU, Program, or Subprogram(s) Affected Consumer Protection
(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		43.2	46.7	50.4	54.4	58.8
200	TRAVEL		5.0	5.4	5.8	6.3	6.8
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400	COMMODITIES		4.6	5.0	5.4	5.8	6.3
500	EQUIPMENT		1.0				
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		65.0	69.2	74.7	80.6	87.1

FUNDING (Thousands of Dollars)

GENERAL FUND		65.0	69.2	74.7	80.6	87.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1.0	1.0	1.0	1.0	1.0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
These costs reflect the resources to be used to employ an auto fraud investigator (Associate Attorney II, R-19) at Anchorage. The position will be responsible for designing a statewide auto repair fraud program. The position will also be responsible for investigating all major auto fraud complaints and oversee and organize investigative efforts of subordinate staff handling auto fraud complaints of lesser magnitude, $10,000 will be used to pay for testimony and trial preparation time of auto mechanical and engineering expert witnesses. $2,800 will be used for purchase of auto repair parts, supplies and services being investigated.

IV. DATE February 18, 1981 PREPARED BY Richard I. Pegues, Dir., Div of Admin. Svcs.
AGENCY Department of Law
PHONE 465-3695

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

HB
297

COMMITTEE REPORT

HOUSE

3/9/81

FURTHER: FINANCE

(5)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 297

"An Act making a supplemental appropriation to the Department of Labor and a transfer to the Department of Military Affairs; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[X] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Vernon Hurlbert

Jan Stelle

Dave Martin

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Vernon Hurlbert
CHAIRMAN

H 60 (Rev. 3/81)

AMENDMENT

OFFERED IN THE HOUSE: BY: LABOR&COMM

TO: _____ HOUSE BILL No. 297

SENATE BILL No. _____

PAGE: 2 2 LINE: 297 5

Change (1981) to 1982.

7 FY81
12 FY82
WCCA mon
Staff
Bill Z

HB 297

"An Act making a supplemental appropriation to the Department of Labor and a transfer to the Department of Military Affairs; and providing for an effective date."

Jackie McClintock

Sec. 1. Appropiates $64,500 to the Workers' Compensation program for the hiring of 1 and ½ positions for regulation review and at least 1 and ½ for contractual Hearing Officers to help remove the back logged Workers' Compensation hearings.

Appropiates $600,000 to the Second Injury Fund, this will make the fund solvent. The $600,000 is what is presently owed to Employers and will pay compensation to workers.

Sec. 2, 3, and 4 transfers $488,100 from the Department of Administration to the Department of Military Affairs, Alaska National Guard. In 1980 the legisature passed FCCS SB 26, increasing the benefit amount for National Guard retirees. The $488,100 increase was appropiated to the Department of Administration. This bill would place the money correctly in the account form which benefits for the National Guard Retirement System are paid.

Sec. 5. the unexpended and unobligated part of the appropiation made in sec. 1 of this Act lapses into the general fund June 30, 1981.

Sec. 6 Effective date of legislation.

77-78
78-93
78-90
79-83
FY 80
FY 81
FY 82

1959 - Reg
1976 - Last Leg

HB 297

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Sign In

Testimony By	Bill No	Representing
Judy Knight	HB 297	Dept. of Labor
Jackie McClintock	HB 297	—
Lou Richardson	HB 297	Military Affairs

HB

325

COMMITTEE REPORT

HOUSE

FURTHER:

3/12/81

(5)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 325

"An Act relating to orders under the Alaska Securities Act of 1959."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 325 [ ] same title [ ] new title

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

CHAIRMAN

H 60 (Rev. 3/81)

by State Laws. Under 14A-9 etc -
Allows for proxy votes needs
Adequate Enforcement; need proper
reform to lessen Hard Partisan
Partisan - are not Bipartisan - State
Laws void proxies is misleading
Prior Enforcement Agency some leeway -
Prompt Enforcement.

National Laws exempt of Sec. Fed -
State Applies - Trying to form a Forum
to correct situation protects shareholders
Sarbanes Fed Sec Laws 1992.
Shareholders do not get total picture
of candidates on issues - on proxy
Solicitations -

Larry Carroll. Div Banking & Securities Dept Com.
Div supports legislation - guided by some Rules -
Fall under existing Sec Acts 1933 enacted Chapt 135.
Proxy materials filed with State. United States
Mass not have authority to force corrections -
Laws will provide Task Force to adhere to
correct situations - if denied - proxy's can
be voided out. Administration steps -

HB 325

Al Adams Dist 21.

Prime HB 325. Public protection measure Bill - Applies to Corp's Alaska Village & Native Regional Corp - Doyon Native Brotherhood Bay Corp - L.P. Council C&E D.

1. Large Native Corp - Proxy solicitors spend improper time - - proxy is incomplete & misleading

2. Prohibits improper use of State Power on proxy's -

NAME	Bill No	Representing
Donald Nielsen LP Carroll	H.B 325 " "	Bristol Bay Native Corp. Banking & Securities

irectly or indirectly for the benefit

idual, a corporation, a partnership, mpany, a trust where the interests d by a security, an unincorporated a political subdivision of a govern-

every contract of sale of, contract urity or interest in a security for includes every attempt or offer to offer to buy, a security or interest ity given or delivered with, or as a se of securities or any other thing of the subject of the purchase and or value; a purported gift of assess- olve an offer and sale; every sale or purchase or subscription another se- issuer, as well as every sale or offer holder a present or future right or er security of the same or another an offer of the other security;

933," "Securities Exchange Act of g Company Act of 1935," and "In- 0" mean the federal statutes of those , 1959;

means a note; stock; treasury idence of indebtedness; certifi- ipation in any profit-sharing t certificates; preorganization n; transferable share; investment tificate; certificate of deposit ate of interest or participation title or lease or in payments out tle or lease or in any sale of or act for the conveyance of land or ption on a contract for the ture r mineral commodities or any other to the public and not regulated by hority of the United States De- owever, the contract or option is ons of sec. 70 of this chapter if the floor of a bona fide exchange red or sold to the public by a istered under this chapter; in- 's worth including goods furnished the risk capital of a venture with nefit to the investor where the trol over the investment or policy

decision of the venture; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing; "security" does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed sum of money either in a lump sum or periodically for life or for some other specified period;

(13) "state" means any state, territory, or possession of the United States, the District of Columbia, and Puerto Rico. (§ 301 ch 198 SLA 1959; am §§ 1 and 2 ch 105 SLA 1961; am § 9 ch 6 SLA 1966; am §§ 9, 10 ch 3 ch 86 SLA 1972; am § 1 ch 217 SLA 1975)

Sec. 45.55.138. Application to Alaska Native Claims Settlement Act corporations. The initial issue of stock of a corporation organized under Alaska law pursuant to the Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688; 43 U.S.C. 1601 et seq.) is not a sale of a security under §§ 70 and 130(10) of this chapter. (§ 6 ch 70 SLA 1972)

Sec. 45.55.139. REPORTS OF CORPORATIONS. A copy of all annual reports, proxies, consents or authorizations, proxy statements and other materials relating to proxy solicitations distributed, published or made available by any person to at least 30 Alaska resident shareholders of a corporation which has total assets exceeding $1,000,000 and a class of equity security held of record by 500 or more persons and which is exempted from the registration requirements of sec. 70 of this chapter by sec. 138 of this chapter, shall be filed with the administrator concurrently with its distribution to shareholders. (§ 1 ch 52 SLA 1977)

Sec. 45.55.140. Exemptions. (a) The following securities are exempted from § 70 of this chapter:

(1) a security, including a revenue obligation, issued or guaranteed by the United States, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more of the foregoing; or a certificate of deposit for any of the foregoing;

(2) a security issued or guaranteed by Canada, a Canadian province, a political subdivision of a Canadian province, an agency or corporate or other instrumentality of one or more of the foregoing, or a foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(3) a security issued by and representing an interest in or a debt of, or guaranteed by, a bank organized under the laws of the United States, or a bank, savings institution, savings and loan association, building and loan association, or trust company organized and supervised under the laws of a state or of the United States;

Bristol Bay Native Corporation
445 E. 5TH AVENUE / P. O. BOX 220 / ANCHORAGE / ALASKA 99510 / PH. (907) 278-3602

April 1, 1981

STATEMENT BY DONALD F. NIELSEN
IN SUPPORT OF HOUSE BILL NO. 325

My name is Donald F. Nielsen. I am the Vice President of Bristol Bay Native Corporation. Today, I am speaking on behalf of Bristol Bay Native Corporation and the Alaska Federation of Natives. Both organizations support House Bill No. 325 entitled "An Act relating to orders under the Alaska Securities Act of 1959." This bill would expand the remedies the State has in dealing with false and misleading statements made in proxy solicitations of Native corporation shareholders.

By way of background, let me state that Alaska Native Claims Settlement Act corporations are exempt from federal securities laws. Instead, their proxy solicitations are governed solely by the State of Alaska. Recently, the State took a major step to insure fairness in proxy solicitations of Native shareholders. The mechanism to insure fairness was regulations under Alaska Statute 45.55.139 and .160. These new regulations require that proxy solicitations give Natives shareholders the type of information that is necessary for them to make an informed judgment before voting on matters presented for their consideration, such as election of directors or approval

of proposals. These regulations are comprehensive and reasonable. However, without adequate enforcement, they are meaningless.

At present, the State is sure of only two enforcement alternatives: (1) a criminal proceeding under Alaska Statute 45.55.210 with a fine, jail term or both, or (2) a civil proceeding with injunctive relief. One is, in many cases, too harsh a remedy, and the other is time consuming.

A prompt enforcement alternative is needed with a range of lesser penalties. Such a solution is embodied in House Bill No. 325. First, it applies to administrative hearings which are less expensive and time consuming for all. Second, its penalties are not harsh fines or jail sentences, but pre-distribution review of solicitation materials and/or voiding of proxies where there is a finding of false or misleading statements.

Bristol Bay Native Corporation believes that the new proxy regulations need to be enforced promptly for the protection of Native shareholders. We believe that House Bill No. 325 creates the opportunity for such prompt enforcement. Therefore, we support the passage of House Bill No. 325.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Commerce and Economic Development	Adams	HB 325

Department Position

Approve with amendments as noted.

Division Director	Date	Commissioner	Date
Willis F Kirkpatrick	3/18/81		

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted — By: — Date:

SUMMARY

1. a) Related Bills (Similar or Conflicting)

None

1. b) Other Agencies Affected by Bill

None

2. a) Organizational Support for Bill

Alaska Federation of Natives
Various regional corporations

2. b) Organizational Opposition to Bill

None known

3. Program Effects of Bill

Prov.des Administrator of Securities with proper authority to enforce deceptive and fraudulent practices in proxy solicitations. This bill corrects the lack of administrative remedies in AS 45.55.139, enacted in 1977.

4. Fiscal Impact: ☐ None B XX Fiscal Note Attached

5. Amendments Proposed:

Addition of the words "in filings under Section 139" immediately after Section 45.55.200(a)(1)(B) and immediately after Section 45.55.200(a)(1)(C)

6. Comments:

See attached.

Title Analysis

HB 325

The intention of adding the two new sections, B and C, to AS 45.55.200(a) is to provide proper enforcement for violations of Section 160 by companies described in Section 139 only. The legislation, as introduced, does not limit the Administrator's authority to proxy solicitations by ANCSA corporations. In fact, it would permit the Administrator to take action against the GM's and IBM's even though the Alaska Securities Act does not otherwise provide such authority as their proxy solicitations are already fully regulated under the Federal Securities Act of 1934.

With the proposed language added, the Division of Banking and Securities would be in support of this legislation to clarify and provide adequate authority over misleading and fraudulent proxy solicitations by Native corporations.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 325
Title An Act Relating to Orders Under the Alaska Securities Act of 1959
Requested by Adams Date 3/21/81

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Consumer Protection
BRU, Program, or Subprogram(s) Affected Banking and Securities
(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		22.1	23.4	24.8	26.3	27.9
200	TRAVEL		10.0	10.5	11.0	11.5	12.0
300	CONTRACTUAL		2.7	2.7	2.7	2.7	2.7
400	COMMODITIES		1.0	1.0	0	0	0
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	0	35.8	37.6	38.5	40.5	42.6

FUNDING (Thousands of Dollars)

GENERAL FUND	0	35.8	37.6	38.5	40.5	42.6
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

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

See attached.

IV. DATE 3/16/81 PREPARED BY Anne J. Thompson Lt Governor's
AGENCY Dept of Commerce & Econ Dev.
PHONE 465 2521

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

33 001 (Rev. 12/80

FISCAL NOTE HB 325

When AS 45.55.139 was enacted in 1977, the Division of Banking and Securities had no prior history or other documentation to show the potential impact of administering proxy laws and regulations relative to the Alaska Native Claims Settlement Act. Based on investigative time and costs incurred in this area since 1977 and on the fact that 31 regional and village corporations currently come under the provisions of AS 45.55.139 and this proposed legislation, the projected costs are reasonable.

Travel costs include investigative travel of securities staff for hearings and witness travel costs. Contractual cost is for additional persons as required by the Department of Administration pursuant to the memorandum of February 5, 1981.

Any questions on this Fiscal Note please call L.P. Carroll 2521.

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION	GOV.	APPROV	DISAPP
1	Administrative Support Tech II			8A	G	Juneau			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		
2	PFT	12		1186					

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY $1,393/month	16.7	
5	BENEFITS	2.6	
6	FICA	1.0	
7	HEALTH INS.	1.8	
8	TOTAL PERSONAL SERVICES 01		
9	TRAVEL 02		22.1
10	CONTRACTUAL 03		0
11	COMMODITIES 04		1.0
12	EQUIPMENT 05		0
13	OTHER space costs		2.7
14	TOTAL COST		25.8

JUSTIFICATION:

See Bill Analysis and Fiscal Note to House Bill 325.

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	25.8
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

AGENCY Commerce and Economic Development PROGRAM Consumer Protection

BRU Banking and Securities

COMPONENT Financial Institutions

13 REQUEST FOR NEW POSITION.

Page ____ of ____

REVISED DATE _____

FY 82

FISCAL NOTE HB 325

When AS 45.55.139 was enacted in 1977, the Division of Banking and Securities had no prior history or other documentation to show the potential impact of administering proxy laws and regulations relative to the Alaska Native Claims Settlement Act. Based on investigative time and costs incurred in this area since 1977 and on the fact that 31 regional and village corporations currently come under the provisions of AS 45.55.139 and this proposed legislation, the projected costs are reasonable.

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	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION		APPROV.	DISAPP.
1	Administrative Support Tech II			8A	G	Juneau	GOV.		
2	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP No.	PCN No. 1186	PRIORITY	FORM 12 PAGE/LINE	LEG.		

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY $1,393/month	16.7	
5	BENEFITS	2.6	
6	FICA	1.0	
7	HEALTH INS.	1.8	
8	TOTAL PERSONAL SERVICES 01		
9	TRAVEL 02		22.1
10	CONTRACTUAL 03		0
11	COMMODITIES 04		1.0
12	EQUIPMENT 05		0
13	OTHER space costs		2.7
14	TOTAL COST		25.8

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		CF MATCH. 1003	
17		GEN. FUND 1004	25.8
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

See Bill Analysis and Fiscal Note to House Bill 325.

AGENCY Commerce and Economic Development PROGRAM Consumer Protection

BRU Banking and Securities

COMPONENT Financial Institutions

13 REQUEST FOR NEW POSITION

Page ____ of ____

REVISED DATE _____

FY 82

26(8/80)

report to its stockholders containing subsantially all the information contained in annual reports of corporations subject to the 1934 Act. Such reports by Native corporations would not be filed with or reviewed by the SEC, but the Committee believes that the Native leadership will comply fully with the intent of this provision and will submit annual reports to their stockholders which are as effective in disclosing corporate activities as those prepared by companies regulated under the 1934 Act by the SEC. Finally, the Committee understands that the general provisions of Alaska law provide protection for Native stockholders from any corporate mismanagement and misrepresentations or omissions to represent in connection with sales of securities, and that Alaska courts would look to precedents under federal securities laws for appropriate standards of conduct by management and other persons connected with securities transactions. Native corporations have assured the Committee that they do not intend to seek an exemption from state securities laws on the basis of this exemption from federal laws and intend to pursue the passage of State legislation to the extent necessary to provide any appropriate additional protection. Therefore, it is not necessary at this time to impose additional federal requirements.

It should be noted that these corporations are being exempted from the federal securities laws on the understanding that federal regulation of Settlement Act corporations is not necessary to protect Native stockholders or the public during the twenty-year period when Native-owned stock cannot be sold. However, if this assumption proves invalid in light of experience, the Committee is prepared to re-impose such provisions of the federal laws as may be necessary. In short, the twenty-year exemption should be viewed by the Natives as an experiment which will be stopped if it is abused.

SECTION 4

Subsection (a) merely makes clear the congressional intent that payments and grants under the Settlement Act are not to be deemed a substitute for any governmental program or benefit which is otherwise available to Alaska Natives as citizens of the United States and Alaska.

Subsection (b) makes clear that benefits under the Settlement Act shall not be considered as income or other resources for purposes of the Food Stamp program. The background to subsection (b) is provided in an August 6, 1974, memorandum prepared by the Congressional Research Service of the Library of Congress:

THE LIBRARY OF CONGRESS, WASHINGTON, D.C. 20540

THE COUNTING OF INCOME FROM PAYMENTS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT IN DETERMINING ELIGIBILITY FOR AND THE AMOUNT OF FOOD STAMP AND CASH WELFARE BENEFITS

Food Stamps

In March 1974, the State of Alaska notified the Federal offices of the Food Stamp Program (in the USDA's Food and Nutrition Service) that it was Alaska's interpretation that

HB

336

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

3/13/81

(5) Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 336

"An Act making supplemental appropriations to the Alaska Housing Finance Corporation and to the Alaska Power Authority; making an amendment to ch. 120 SLA 1980; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 336 (L1C) [ ] same title [X] new title

and recommends 4) NC

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martin " "

CHAIRMAN

H 60 (Rev. 3/81)

Richard

March 26, 1981

Honorable Sam Cotten
Chairman, House Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Amendment to HB 336
Department of Revenue
Amendment Requests: $4,534 GF
To Pay Shared Taxes Owed to City of Houston

Dear Representative Cotten:

Please revised HB 336 to appropriate $4,534 GF to the Department of Revenue to pay Shared Taxes owed to the City of Houston for the years 1975 - 1978.

At the time the Legislature created the Municipal Assistance Fund in 1978, the City of Houston had not been receiving shared taxes under the Gross Business Receipts Tax Law because businesses within the Houston City limits were reporting taxes to be shared to another municipality. The City of Houston requested an audit in FY 81 which disclosed that $4,534 should have been shared with Houston for the years 1975 - 1978. Under the previous law, Revenue would have simply adjusted future payments to the overpaid municipality. However, since that law was repealed and a substantial amount of time has elapsed, a supplemental appropriation is requested.

Please add a new section to HB 336 to read as follows:

> The sum of $4,534 is appropriated from the general fund to the Department of Revenue for the purpose of paying shared taxes owed to the City of Houston for the years 1975 - 1978.

Sincerely,

Dr. Ronald D. Lehr
Director

Attachments

cc: Senators Ed Dankworth and Don Bennett, Senate Finance Chairmen
Representative Hurlbert, House Labor and Commerce Chairman
Jay Hogan
Keith Specking

RDL/RA/kl

March 24, 1981

Honorable Sam Cotten
Chairman, House Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Amendment to HB 336
Department of Commerce and Economic Development
Alaska Power Authority
Supplemental Request for $50,000 GF for
Takatz Hydro Study

Dear Representative Cotten:

Please revise HB 336 to amend Chapter 120/SLA 1980 and appropriate $50,000 general funds to enable the Alaska Power Authority to conduct a reconnaissance study of the electrical power needs of Sitka beyond Green Lake and to review potential power supply options including the Takatz project.

Please add a new section to HB 336 to read as follows:

Section 53, Chapter 120, SLA 1980, page 81, line 12 is amended to read as follows:

	Appropriation Items	General Fund
Discretionary Study Funds	125,000(75,000)	125,000(75,000)

Sincerely,

Dr. Ronald D. Lehr
Director

CC: Senate Finance Chairman
House Labor & Commerce Chairman
The Honorable Richard Eliason
Jay Hogan
Keith Specking
Eric Yould

RDL/RA/kl

STATE
of ALASKA

Richard

March 17, 1981

The Honorable Sam Cotten
Chairman, House Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Amendment to H.B.336
Amendment Request: $21,547 GF
Department of Revenue, ARRC.
Purpose: To fund outstanding prior year obligation.

Dear Representative Cotten:

Please revise H.B.336 to appropriate $21,547 in general funds to fund a prior year obligation of the Alaska Renewable Resources Corporation.

During FY 80, ARRC contracted for technical assistance on a fisheries development project. In the middle of FY 80, the Legislature expressed a desire to reappropriate a portion of ARRC's funds to establish new development projects. When ARRC provided the Legislature with a listing of unobligated funds available for reappropriation, the amount estimated for the fisheries project did not include the technical assistance contract. The Legislature acted on the reappropriation in Chapter 93/ SLA 1980 and sufficient funds were not available to pay the bill. ARRC did not lapse sufficient funds at the end of FY 80 to allow payment of the obligation from FY 81 funds.

Please add a new section to H.B 336 to read as follows:

> The sum of $21,547 is appropriated from the general fund to the ~~Department of Revenue, Alaska~~ Renewable Resource. Corporation, to pay a prior year obligation in the Fisheries Project.

Sincerely,

Dr. Ronald D. Lehr
Director

RL/RA/tl
cc: The Honorable Don Bennett and M. E. Dankworth, Senate Finance Committee
The Honorable Vernon Hurlbert, House Labor and Commerce Committee
Keith Specking
Jay Hogan

HB 336

STATE OF ALASKA

OFFICE OF THE GOVERNOR

JAY S. HAMMOND, GOVERNOR

BUDGET & MANAGEMENT / POUCH AM — JUNEAU 99811
PHONE 465-2213

March 18, 1981

The Honorable Sam Cotten
Chairman, House Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Amendment to H.B. 336
Request for Net Zero Supplemental
Department of Commerce and Economic
Developmer
Delete/Add Supplemental for Lime Village
Wind Power Syste

Dear Representative Cotten:

Please amend H.B. 336 to add a new section that would change the intent language for $90,000 appropriated in Chapter 50/SLA 80, page 66, line 7 from "Lime Village Wind Power System" to "Lime Village Alternative Energy System." This adjustment is necessary because the Division of Energy and Power Development has expended $1,500 of the available funds and determined that wind power is not feasible at Lime Village. The Division proposes to use the remaining funds for an alternative energy system combining solar power and biomass.

Please add a new section to H.B. 336 to read as follows:

Section 286, Chapter 50, SLA 1980, page 66, line 7 is repealed and re-enacted to read:

	Appropriation Item	Other Funds
Lime Village Alternative Energy System	$90,000	90,000

Sincerely,

Ronleh

Dr. Ronald D. Lehr
Director

01-A21LH

CC: The Honorable Vern Hurlbert, Chairman
House Labor and Commerce Committee
The Honorable Don Bennet and Ed Dankworth, Co-Chairmen
Senate Finance Committee
Jay Hogan, Legislative Finance
Keith Specking, Governor's Office

MEMORANDUM

State of Alaska

RECEIVED
MAR 05 1981
BUDGET AND MANAGEMENT

TO: Ron Lehr
Budget Review Committee
Office of the Governor

DATE: March 2, 1981

FILE NO: 5080810

TELEPHONE NO:

Thru: Lois Cook
Director
Division of Administrative Service

SUBJECT: Lime Village Wind Appropriation

From: Clarissa Quinlan
Director
Division of Energy and Power Development

During the last legislative session the Division of Energy and Power Development received an appropriation of $90,000 to study wind potential at Lime Village, Alaska.

After installation of an anemometer and subsequent wind recording, the potential for wind electric use in this remote village appears minimal. (See attached)

The Division hereby requests that a Delete/Add supplemental appropriation be considered changing the mandate of the legislative intent for the Lime Village appropriation to include solar and biomass. Several options appear to be viable and will be explored once the mandate has been changed. The major emphasis will be focused on subsistence electrical needs and its use in refrigeration. These items were identified by Representative Hurlbert and the villagers themselves as being priorities.

The concensus that solar and/or biomass should be explored is the result of cursory exploration of alternatives by staff and consultants. Attached you will find some of the options explored to date.

The Division will need approximately 3 months for procurement and installation of materials after the Delete/Add action has taken place.

Attachments

Lewis Research Center
Cleveland, Ohio
44135

all of This

Reply to Attn of: 4212

January 27, 1981

Mr. Don Markle
Dept. of Commerce and
Economic Development
Division of Energy
7th Floor Markay Bldg.
338 Denali
Anchorage, AK 99501

RECEIVED
[illegible]
ALASKA ENERGY OFFICE

Dear Don:

Enclosed per our telecon of 26 January is information on terrestrial photovoltaic systems we have installed at remote sites for DOE and AID. I'll send you a copy of our procurement package in a few weeks. Please call if you have any further questions.

Sincerely,

Bill

William J. Bifano
Manager, Development and
Support Project Office

Enclosures

Golden, Colorado 80401
(303) 231-1000

SERI

RECEIVED
DEC 11 1980
ALASKA ENERGY OFFICE

December 8, 1980

Mr. Don Markle
Division of Energy
7th Floor, MacKay Bldg.
338 Denali
Anchorage, AK 99501

Dear Don:

I am enclosing a recent report which should give you some ideas as to the present state of the photovoltaics (PV) technology, as well as some ideas as to projects which have been done that might be of interest. This report also contains a list of PV manufacturers.

As I mentioned on the phone, I am very interested in this project and am looking into the possibility of formally establishing myself and a colleague, Ms. Kay Firor, as consultants to this potential project. Please let me know if this is acceptable to you and I will inform you of our managements' feelings.

Sincerely,

Steve Hogan

SH:ba

ALASKA ENERGY RESEARCH GROUP

P.O. BOX 1846, PALMER, ALASKA 99645
(907) 745-4586

Mat Su Community College
Refrigeration -

Don Markle

DOEPD

Here's a handful of info. on Solar refrigeration. Was fairly comprehensive last year when compiled, however I suspect there are newer systems available. Some of the best are made overseas.

still believe that thermal pile - eutectic salt storage is much simpler & cheaper despite initial failures statewide (would like to find reports on those attempts for analysis).

I Must have these back, so make copies and return to above address.

later
Ralph Hulbert

WSE

WSE contact

WIND SYSTEMS ENGINEERING, INC.
Renewable Energy Engineers

1551 EAST TUDOR ROAD
ANCHORAGE, AK 99507
(907) 274-2627

January 21, 1981

Don Markle
State of Alaska
Dept. of Commerce &
Economic Development
338 Denali Street
Anchorage, AK 99501

Re: Lime Village

Dear Don,

Attached please find some information on photovoltaic systems. The system I would recommend looking at strongly is the model H812 which will give you about 264 watts according to their rated power output or basically enough power in the summer time to operate a refrigerator and some other appliances. The type of refrigerator we should be looking at would be one similar to the Arco Solar, which is a very efficient model, and is designed to be operated with a photovoltaic system. This is in contrast to the Instamatic 1E-12 which is designed to be operated on an RV for occasional use. So with the photovoltaic system and a refrigerator, in the summer time you could have enough power for refrigerating foods. In the winter time you wouldn't have as much power for refrigeration because of lack of sunlight. But with a system of that size you certainly would have enough for at least a CB radio and since you can store food outside in the arctic entryway, you no longer need the cold storage. I've scribbled the prices for the systems which doesn't include some accessories that we might consider like the ground-mounting hardware ($160) and the meter panels ($165), and certainly battery enclosures ($11) and possibly extra batteries ($150 ea) would be worth while looking at.

The data logging sheets for the anemometer have been sent to Lime Village as per your request.

Sincerely,

Mark A. Newell
President

MN/js

Enclosures as stated

Golden, Colorado 80401
(303) 231-1000

352-1-C

SERI

RECEIVED
FEB 2 1981
ALASKA ENERGY OFFICE

January 28, 1981

Mr. Don Markle
State of Alaska
Dept. of Commerce and Economic Development
Division of Energy & Power
7th Floor MacKay Bldg.
338 Denali Street
Anchorage, AK 99501

Dear Don:

I'm enclosing the information we discussed on the telephone; I hope it is of use. I feel that unless weather conditions are drastically different at Lime Village (such as heavy cloud cover due to nearby mountains) than at Bethel, the insolation data for Bethel may be used, and the installation of monitoring equipment is not necessary.

The process of deciding on system sizing is highly dependent on the loads. Hence, it is very important that you define precisely what loads are anticipated, the energy required (a function of the instantaneous power and time), and the required storage which depends on the back-up supply time needed. When these figures are decided upon, the minimum necessary array size may be determined using the worst-case winter insolation data. You can then determine what excess would be available for summer usage.

As always, please feel free to get in touch should there by any way I can help.

Sincerely,

Steve Hogan

Steve Hogan

SH:ba

Enclosure

355-[illegible] WSEI Exhibit L-8

WSE

WIND SYSTEMS ENGINEERING, INC.
Renewable Energy Engineers

1551 EAST TUDOR ROAD
ANCHORAGE, AK 99507
(907) 274-2627

January 19, 1981

Don Markle
State of Alaska
Dept. of Commerce and
Economic Development
338 Denali Street
Anchorage, AK 99501

Re: Lime Village Wind Project

Dear Don,

After over three months of data collection from the anemometer located at Lime Village the average wind speed looks dismal. With a 4 mph average it looks doubtful a wind system is practical. The winter winds may prove to be substantially higher than the summer and fall recorded, however a battery storage system would not be practical for the expected period of calm. In brief my recommendation is that a wind system in Lime Village would be a disappointment and should not be attempted. If the legislative intent could be reinterpreted, a photovolaic system may hold some promise. It would be prudent to install a pyronometer as soon as possible to get some baseline data for design purposes. We would be happy to explore this possibility with you at your convenience.

Sincerely,

Mark A Newell

Mark A. Newell
President

January 28, 1981

Mr. Don Markle
State of Alaska
Dept. of Commerce and
Division of Energy &
7th Floor MacKay Bldg
338 Denali Street
Anchorage, AK 99501

Dear Don:

I'm enclosing the inf
I feel that unless we
(such as heavy cloud
data for Bethel may b
necessary.

The process of decidi
it is very important t
energy required (a fun
storage which depends
decided upon, the mini
winter insolation data
summer usage.

As always, please feel

Sincerely,

Steve Hogan

March 17, 1981

The Honorable Sam Cotten
Chairman, House Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Amendment to H.B.336
Amendment Request: $21,547 GF
Department of Revenue, ARRC.
Purpose: To fund outstanding prior year obligation.

Dear Representative Cotten:

Please revise H.B.336 to appropriate $21,547 in general funds to fund a prior year obligation of the Alaska Renewable Resources Corporation.

During FY 80, ARRC contracted for technical assistance on a fisheries development project. In the middle of FY 80, the Legislature expressed a desire to reappropriate a portion of ARRC's funds to establish new development projects. When ARRC provided the Legislature with a listing of unobligated funds available for reappropriation, the amount estimated for the fisheries project did not include the technical assistance contract. The Legislature acted on the reappropriation in Chapter 93/ SLA 1980 and sufficient funds were not available to pay the bill. ARRC did not lapse sufficient funds at the end of FY 80 to allow payment of the obligation from FY 81 funds.

Please add a new section to H.B 336 to read as follows:

> The sum of $21,547 is appropriated from the general fund to ~~the Department of Revenue, Alaska~~ Renewable Resource. Corporation, to pay a prior year obligation for the Fisheries Project.

Sincerely,

Dr. Ronald D. Lehr
Director

RL/RA/tl
cc: The Honorable Don Bennett and M. E. Dankworth, Senate Finance Committee
The Honorable Vernon Hurlbert, House Labor and Commerce Committee
Keith Specking
Jay Hogan

MEMORANDUM State of Alaska

TO Ron Lehr, Director
Division of Budget & Management
Office of the Governor

DATE: March 3, 1981

RECEIVED

FILE NO: SO80409 MAR 6 1981

TELEPHONE NO: 465-2336

BUDGET AND MANAGEMENT

FROM Norene Hirsh, Finance Officer
Administrative Service Division
Department of Revenue

SUBJECT: Supplemental Appropriation
for Alaska Renewable Resources
Fisheries Capital Account

The Alaska Renewable Resources Corporation requests a supplemental appropriation to fund a prior year obligation for $21,546.86 (copy of invoice attached).

Under Ch 80 SLA79 (copy attached) ARRC was authorized $11,149,800 appropriated from the Development Fund for specific projects. These projects and their appropriations were:

Fisheries Project	$4,817,900
Timber Project	$2,753,000
Agriculture Project	$2,753,000
Renewable Energy Project	$825,000

During the last legislative session, new legislation was introduced under Ch 93 SLA80 (copy attached) to reappropriate $5.6 million of the unobligated portions of these appropriations to establish funding for the Forest Products Producers Assistance Fund and the Commercial Fish Processors Assistance Fund.

When residuals from the appropriations authorized in Ch 80 SLA79 were ear-marked for the reappropriation, ARRC alloted too great a portion from the Fisheries Project account, not recognizing that there was still an outstanding obligation against that project. What should have occurred was $1,440.00 should have been transferred from the Fisheries Project account instead of $1,469.00, thus leaving an excess to pay the outstanding obligation.

As the appropriation lapsed June 30, 1980 and was not sufficient to pay this bill, advice was solicited from the Attorney General's Office.

By copy of their attached response the Alaska Renewable Resources Corporation hereby requests a supplemental appropriation to meet a fiscal year 1980 Capital obligation.

APPROVED: Thomas K. Williams

Thomas K. Williams, Commissioner

MEMORANDUM State of Alaska

TO: Hon. T.K. Williams, Commissioner
Department of Revenue

DATE: December 29, 1980

FILE NO: (Rev.) 4768/4767

ATTN: Norene Hirsh, Fiscal Officer
Division of Admin. Services

TELEPHONE NO: 465-3666

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Payment of Perkins, Coie bill to ARRC

By:
Rodger W. Pegues
Assistant Attorney General

This responds to your request for advice on this matter.

There is no question that the billing for technical assistance was payable out of the appropriation to ARRC for capital projects for fiscal year 1980. However, to the extent that it exceeds the amount which was lapsed from that appropriation (or if not lapsed, available to pay it), it can only be paid by a supplemental appropriation to ARRC.

The state law on the subject is quite explicit:

> An indebtedness arising from a prior year for which the appropriation has lapsed shall be paid from the current year's appropriations, if this expenditure does not exceed the balance lapsed . . . .

AS 37.25.010(b). This statute has consistently been applied to mean just what it says: A prior year's bill cannot be paid from a current appropriation unless an amount sufficient to have paid it was left over from the prior year's appropriation. The purpose of the statute, to prevent agencies from incurring obligations in any year in excess of their appropriations for that year, can only be achieved by applying the statute in precisely this way, and Director of Finance Mullin informs us that it has always been so applied.

Accordingly, if -- as it appears -- there was an over-expenditure and no way to reallocate money in the appropriation for fiscal year 1980 to cover it, the Perkins Coie billing cannot be paid from the appropriation for fiscal year 1981.

RWP/pjg

cc: Joseph K. Donohue
Deputy Commissioner
Department of Revenue

DIST. MADE 12/31
TO: Norene Hirsh

March 26, 1981

Honorable Sam Cotten
Chairman, House Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Amendment to HB 336
Department of Revenue
Amendment Requests: $4,534 GF
To Pay Shared Taxes Owed to City of Houston

Dear Representative Cotten:

Please revised HB 336 to appropriate $4,534 GF to the Department of Revenue to pay Shared Taxes owed to the City of Houston for the years 1975 - 1978.

At the time the Legislature created the Municipal Assistance Fund in 1978, the City of Houston had not been receiving shared taxes under the Gross Business Receipts Tax Law because businesses within the Houston City limits were reporting taxes to be shared to another municipality. The City of Houston requested an audit in FY 81 which disclosed that $4,534 should have been shared with Houston for the years 1975 - 1978. Under the previous law, Revenue would have simply adjusted future payments to the overpaid municipality. However, since that law was repealed and a substantial amount of time has elapsed, a supplemental appropriation is requested.

Please add a new section to HB 336 to read as follows:

> The sum of $4,534 is appropriated from the general fund to the Department of Revenue for the purpose of paying shared taxes owed to the City of Houston for the years 1975 - 1978.

Sincerely,

Dr. Ronald D. Lehr
Director

Attachments

cc: Senators Ed Dankworth and Don Bennett, Senate Finance Chairmen
Representative Hurlbert, House Labor and Commerce Chairman
Jay Hogan
Keith Specking

RDL/RA/kl

MEMORANDUM State of Alaska

TO: Ronald D. Lehr, Director
Division of Budget and Management
Office of the Governor

DATE: March 20, 1981

FILE NO: S080413

TELEPHONE NO: 465-2300

FROM: Thomas K. Williams Joseph Dondero for
Commissioner of Revenue

SUBJECT: Supplemental Appropriation Request

At the time the legislature created the Municipal Assistance Fund (AS 43.20.016), the City of Houston had not been receiving shared taxes under the previous gross receipts tax law (AS 43.70.080). This was due to the businesses within the Houston city limits reporting taxes to be shared to another Municipality. The City of Houston requested an audit in FY 81 which disclosed that $4,534 should have been shared with Houston for the years 1975-1978.

Under the sharing provisions of the previous law (AS 43.70.080), our practice was to adjust future payments to the overpaid municipality. However, since the law was repealed, we are requesting supplemental funds to reimburse Houston, and since there is no appropriation available we propose that no adjustment be made against the overpaid municipality.

RECE
MAR 20 1981
BUDGET AND MANAGEMENT

March 24, 1981

Honorable Sam Cotten
Chairman, House Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Amendment to HB 336
Department of Commerce and Economic Development
Alaska Power Authority
Supplemental Request for $50,000 GF for
Takatz Hydro Study

Dear Representative Cotten:

Please revise HB 336 to amend Chapter 120/SLA 1980 and appropriate $50,000 general funds to enable the Alaska Power Authority to conduct a reconnaissance study of the electrical power needs of Sitka beyond Green Lake and to review potential power supply options including the Takatz project.

Please add a new section to HB 336 to read as follows:

Section 53, Chapter 120, SLA 1980, page 81, line 12 is amended to read as follows:

	Appropriation Items	General Fund
Discretionary Study Funds	125,000(75,000)	125,000(75,000)

Sincerely,

Dr. Ronald D. Lehr
Director

CC: Senate Finance Chairman
House Labor & Commerce Chairman
The Honorable Richard Eliason
Jay Hogan
Keith Specking
Eric Yould

RDL/RA/kl

MEMORANDUM State of Alaska

RECEIVED
MAR 20 1981
BUDGET AND MANAGEMENT

TO: Ron Lehr
Director
Div. of Budget & Management

DATE: March 12, 1981

FILE NO: 50808 1

TELEPHONE NO: 277-7641

FROM: Eric P. Yould EPY
Executive Director
Alaska Power Authority

SUBJECT: Takatz Study

The Power Authority requests that $50,000 in funding for the Takatz Study be requested for supplemental FY 81 funding if it can be accomplished in this Legislative session. If not, please reinstate funding for the study in FY 82. The City of Sitka strongly desires to accomplish preliminary analysis of the future power needs beyond Green Lake, and to identify if Takatz is the best project to satisfy those needs. The project development process is very time consuming, and it would require at least 5 to 6 years from completion of this initial study before the project would be completed. Your timely consideration of this request would be appreciated.

Alaska
Renewable
Resources
Corporation

526 Main Street
Juneau, Alaska
99801
(907) 465-4616

P.O. Box 828
Anchorage, Alaska
99510
(907) 279-5602
or (907) 272-2508

May 22, 1981

Honorable Vernon L. Hurlbert
Chairman
House Labor and Commerce Committee
Alaska State House of Representatives
Pouch Y
Juneau, Alaska 99811

Dear Mr. Chairman:

Enclosed is documentation regarding the necessity for covering legal expenses on behalf of applicants and investees in FY 80. Although the attachments explain the predicament in detail, the essence may be summarized as follows:

The 1980 Legislature, through FCCSHB 1023 (CH 93 SLA80), transferred $5.6 million from the ARRC FY 80 Capital Appropriation (CH 80, SLA 1979) to the Forest Products Producers Assistance Fund ($5.2) and Commercial Fish Processors Assistance Fund ($.4).

RESULT: Legal expenses incurred on behalf of clients for TECHNICAL SERVICES (AS 37.12.115) could not be paid to provider because the Capital Account had been depleted by the above action.

REQUIREMENT: The sum of $21,547 be appropriated from the general fund to pay the prior year (FY 80) obligation.

Again, I want to thank you for your interest in this matter and appreciate your efforts to see that the our obligations are appropriately met.

Sincerely,

William E. Spear
Chairman

Enclosures

Richard

4938/3711

March 17, 1981

The Honorable Sam Cotten
Chairman, House Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Amendment to H.B.336
Amendment Request: $21,547 GF
Department of Revenue, ARRC.
Purpose: To fund outstanding prior year obligation.

Dear Representative Cotten:

Please revise H.B.336 to appropriate $21,547 in general funds to fund a prior year obligation of the Alaska Renewable Resources Corporation.

During FY 80, ARRC contracted for technical assistance on a fisheries development project. In the middle of FY 80, the Legislature expressed a desire to reappropriate a portion of ARRC's funds to establish new development projects. When ARRC provided the Legislature with a listing of unobligated funds available for reappropriation, the amount estimated for the fisheries project did not include the technical assistance contract. The Legislature acted on the reappropriation in Chapter 93/ SLA 1980 and sufficient funds were not available to pay the bill. ARRC did not lapse sufficient funds at the end of FY 80 to allow payment of the obligation from FY 81 funds.

Please add a new section to H.B 336 to read as follows:

> The sum of $21,547 is appropriated from the general fund to the ~~Department of Revenue, Alaska~~ Renewable Resource. Corporation, to pay a prior year obligation in the Fisheries Project.

Sincerely,

Dr. Ronald D. Lehr
Director

RL/RA/tl
cc: The Honorable Don Bennett and M. E. Dankworth, Senate Finance Committee
The Honorable Vernon Hurlbert, House Labor and Commerce Committee
Keith Specking
Jay Hogan

MEMORANDUM State of Alaska

TO: Ron Lehr, Director
Division of Budget & Management
Office of the Governor

DATE: March 3, 1981

FILE NO: S080409

TELEPHONE NO: 465-2336

RECEIVED
MAR 6 1981
BUDGET AND MANAGEMENT

FROM: Norene Hirsh, Finance Officer
Administrative Service Division
Department of Revenue

SUBJECT: Supplemental Appropriation for Alaska Renewable Resources Fisheries Capital Account

The Alaska Renewable Resources Corporation requests a supplemental appropriation to fund a prior year obligation for $21,546.86 (copy of invoice attached).

Under Ch 80 SLA79 (copy attached) ARRC was authorized $11,149,800 appropriated from the Development Fund for specific projects. These projects and their appropriations were:

Fisheries Project	$4,817,900
Timber Project	$2,753,000
Agriculture Project	$2,753,000
Renewable Energy Project	$825,000

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When residuals from the appropriations authorized in Ch 80 SLA79 were ear-marked for the reappropriation, ARRC alloted too great a portion from the Fisheries Project account, not recognizing that there was still an outstanding obligation against that project. What should have occurred was $1,440.00 should have been transferred from the Fisheries Project account instead of $1,469.00, thus leaving an excess to pay the outstanding obligation.

As the appropriation lapsed June 30, 1980 and was not sufficient to pay this bill, advice was solicited from the Attorney General's Office.

By copy of their attached response the Alaska Renewable Resources Corporation hereby requests a supplemental appropriation to meet a fiscal year 1980 Capital obligation.

APPROVED: Thomas K. Williams

Thomas K. Williams, Commissioner

MEMORANDUM State of Alaska

TO: Norene Hirsh
Administrative Services

DATE: August 18, 1980

FILE NO:

TELEPHONE NO:

FROM: Phil Hubbard

SUBJECT: General Warrant Voucher

Please originate general warrant voucher made payable as indicated and charged against the appropriate capital account as authorized by AS 37.12.115 - TECHNICAL ASSISTANCE:

Payee:	Perkins, Coie, Stone, Olsen & Williams 420 "L" Street, Suite 301 Anchorage, Alaska 99501
Amount:	$21,546.86
Collation Code:	04-71-7-401 (700) Fisheries
Investors:	Stoknavik - $ 4,706.60
	Trinity (Nick Delaney) - $11,229.05
	SeaFisher - $ 161.21
	Martin Seafood -$ 5,450.00

Please "alpha" for immediate processing and flag for no mailing. Call X-4616 when warrants are available for ARRC.

Thank you.

Attachment: Invoice

(Approve Invoice)
4/F+-80 Capital
Accts.)

02-001A(Rev.10/79)

0.00 *

4,700.00 +
6.60 +
11,125.00 +
134.06 +
161.21 +
16,006.86 *

0.00 *

225.00 +
375.00 +
775.00 +
775.00 +
775.00 +
775.00 +
775.00 +
775.00 +
4,475.00 *

0.00 *

0.00 *

0.00 *

225.00 +
375.00 +
775.00 +
185.00 +
410.00 +
850.00 +
425.00 +
134.60 +
12.00 +
120.40 +
3.00 +
12.00 +
3,497.00 *

0.00 *

[illegible] +
5,450.00 +
[illegible] +
[illegible] *

CA

4,708.60 +
11,229.65 +
161.21 +
5,450.00 +
21,546.86 *

IN ACCOUNT WITH
PERKINS, COLE, STONE, OLSEN & WILLIAMS
420 "L" STREET — SUITE 501
ANCHORAGE, ALASKA 99501

AREA CODE 907 - 276 - 6661

PLEASE REFER TO NO. 2654

(IDENTIFICATION NO. 91 - 0591206)

Alaska Renewable Resources Corporation
P.O. Box 1647
Juneau, Alaska 99802

June 16, 1980

WCB/jwg

Professional services for the month of April 1980 with respect to the following matters:

STOKNAVIK VESSEL FINANCING

Conferences with Messrs. Olson and Littleton to discuss status of matter; review of documents; correspondence and telephone conferences with Mr. Godfrey; telephone conference wtih Alaska Native Foundation; conferences regarding review of promissory notes for usury, issues on formation of corporation, loan agreement and agreement with Icicle; preparation of Fish Purchase Agreement and other loan documents; research regarding loans by corporation to directors and officers under Alaska law; filing of Articles of Incorporation; telephone conference and correspondence with Alaska Department of Commerce regarding correction of Articles of Incorporation; revision of organizational meeting documents; telephone conferences with Mr. Price; review of documents; conferences with Olson, Godfrey, McConnell and Koweluk regarding closing procedures.

T.A P

TOTAL----------$ 4,200

KEN JOHNSON FINANCING (PACIFIC BARGE)

Preparation of Note, Security Agreement, Corporate Resolution and Financing Statement.

CORP

TOTAL----------$ 225

TEPA STOCK PURCHASE

Telephone conference with Mr. Olson regarding investigation by Attorney General; conference regarding privilege; file review; telephone conferences and interview with Attorney General's office.

TOTAL----------$ 3[illegible] corp

SEAWARD SHIPYARD

Telephone conferences with Messrs. Hubbard, Littleton and Shrum regarding closing; preparation and review of closing documents; correspondence with Messrs. Brown and Littleton; telephone conferences and meeting with Mr. Olson regarding document execution; conferences with Mr. Courtnage regarding Macdonald deed of trust consent; telephone conferences with Messrs. Brown and Hubbard regarding funding; preparation of Financing Statements and Supplemental Security Agreement; filing of Financing Statements in Juneau and Ketchikan; telephone conferences with Messrs. Brown and Hubbard regarding final disbursement.

TOTAL----------$ 7[illegible] corp

SEA FISHER

Correspondence with UCC Division of Department of Commerce and Economic Development; review of closing documents.

TOTAL----------$ 185 corp

ANCHOR RENEWABLE FARMS

Conferences with Messrs. Olson and Littleton to discuss Construction Loan Agreement; revision of Construction Loan Agreement, Licensing Agreement and Promissory Note.

TOTAL----------$ 410 corp

IKE WHITECROW LOAN

Telephone conference with Mr. Spear; research regarding security interests in patents; preparation of License and Grant

Agreement; preparation of loan documents; conferences with Messrs. Olson and Littleton.

TOTAL----------$ 850 corp

NICK DELANEY

Review of proposal; meetings and telephone conferences with Mr. Price regarding documentation requirements, redocumentation of vessel and loan closing; research and telephone conferences with Alaska Department of Commerce regarding name availability; telephone conferences with Mr. Goldade regarding marine survey; telephone conferences, correspondence and meetings with client and Mr. and Mrs. Delaney regarding procedure and corporate requirements, name of company, registered agent, and documents; research regarding licensing agreements and warranty questions; telehone conference with Alaska Department of Commerce regarding filing of Articles of Incoproration; review of status of outstanding amounts with Alaska Pacific Seafoods; telephone conferences with Mr. Van Leuven; telephone conference with Mr. Parpenetti in Juneau regarding Certificate of Incorporation and certification of vessel; review of correspondence regarding insurance; telephone conference with insurance broker; telephone conference and correspondence with Ms. Traylor; review of ship construction contract; forwarding of documents to Mr. Price; preparation of Subscription Agreement, Articles of Incorporation, Bylaws, incorporation documents, Pre-Incorporation Agreement, Loan Agreement, Subordinated Note, Bill of Sale, Preferred Mortgage. stock certificates, Affidavits, directors' resolution for consent in lieu of organizational meeting, resolution regarding assumption of obligation, Consent to Mortgage, Closing Memorandum, officer's certificate, suppliers' certificates, and affidavits of suppliers; filing of documents; staff conferences regarding meeting with client, formation of corporation, Articles of Incorporation and Bylaws, legends on stock, filing of Articles of Incorporation, organizational meeting, preparation of documents, execution of documents, bank resolutions; execution of Pre-Incorporation Agreement and Articles of Incorporation.

TOTAL----------$11,125 T.B.

PINE'S SAWMILL FINANCING

Client conferences regarding loan terms; preparation of Note, Security Agreement and Financing Statements; telephone

conference with Mr. Littleton regarding title to vehicles; correspondence with client regarding Financing Statements.

TOTAL----------$ 425½ corp

MARTIN'S SEAFOOD FINANCING

Conference with Mr. Littleton to discuss terms; research regarding permissibility of prepayment penalties under Alaska law; review of documents; telephone conferences with Alaska Title Guaranty Company regarding title report; order preliminary commitment report; preparation of Loan Agreement, Deed of Trust, Convertible Note Agreement, and Security Agreement; telephone conference with client regarding loan documents; telephone conference with Mr. Holland's office; research regarding consequences to lender of exercising control over borrower's operations; conference regarding research; telephone conferences with Messrs. Littleton and Thurlow.

TOTAL----------$ 5,450½ T.B.

Approved: [illegible]
Contract: General Corporate matters 3,497.50
Deferred Assistance 21,546.56
#25,044.6

Total Services	$24,520.00
Disbursements (per attached statement)	524.66
TOTAL SERVICES AND DISBURSEMENTS	$25,044.66
Note balance due from previous statements	$11,714.75
TOTAL DUE	$36,759.41

Disbursements recorded in the month of April as follows:

GENERAL

Filing fee with Department of Commerce	$ 82.00	
Xerox	22.60	$104.60

STOKNAVIK

Xerox	$ 6.60

KEN JOHNSON FINANCING

Filing of financing statements - Juneau	$ 6.00	
Filing of financing statements - Anchorage	6.00	$ 12.00

SEAWARD SHIPYARD FINANCING

Air freight to Ketchikan	$ 46.00	
Filing of financing statements - Ketchikan	6.00	
Filing of financing statements - Juneau	6.00	
Xerox	62.40	$120.40

SEA FISHER LOAN

Phone	$ 4.05	
Landweer Co. mortgage exp.	156.16	
Xerox	1.00	$161.21

STEIK ENTERPRISES LOAN

Xerox	$ 3.80

NICK DELANEY

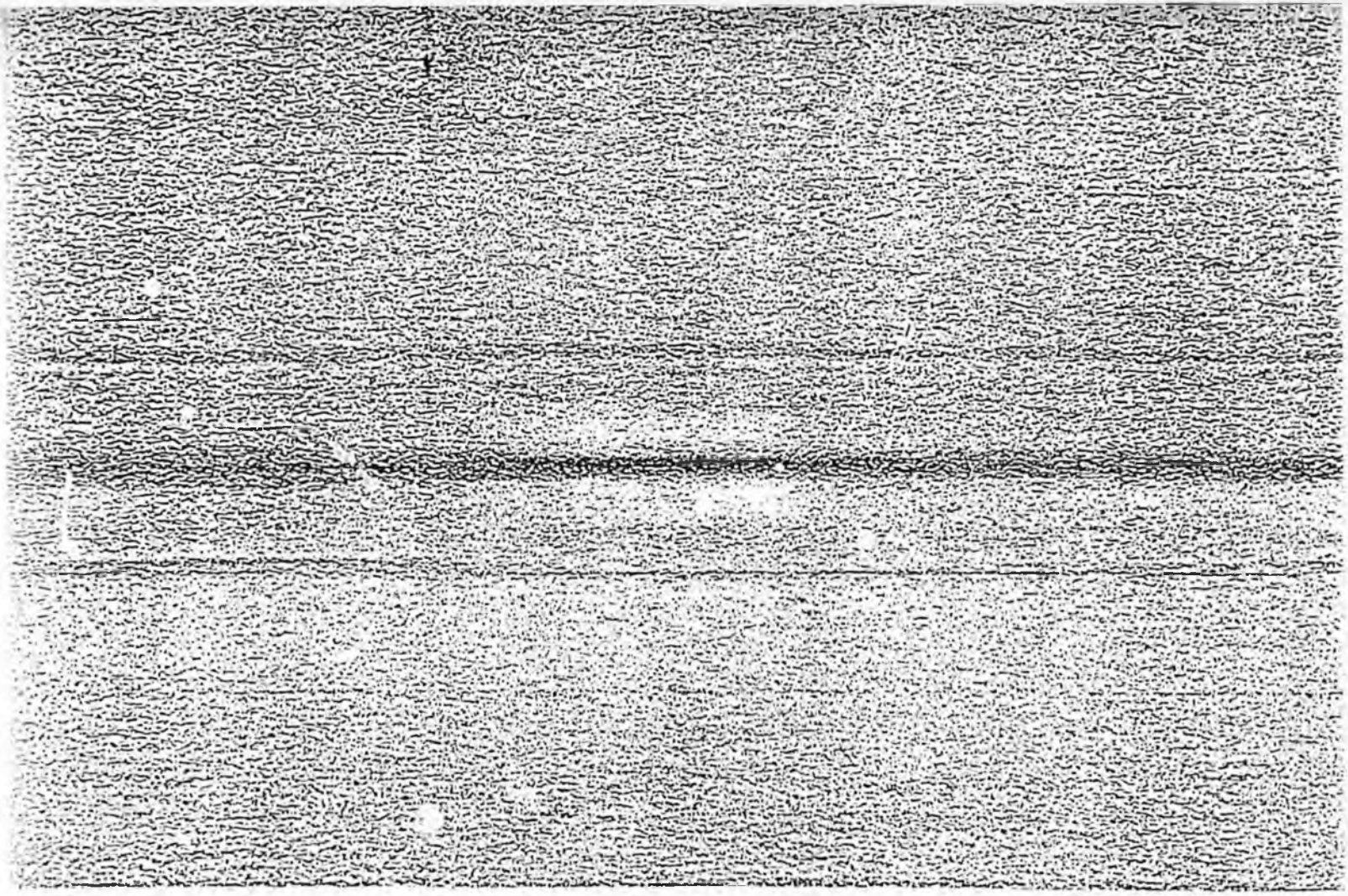
Application for reservation of name	$ 10.00	
Messenger service	7.00	
Filing of Articles of Incorporation, franchise tax	82.00	
Phone	5.05	$104.05

PINE'S SAWMILL FINANCING

Filing of Financing Statements-Fairbanks	$ 6.00	
Filing of Financing Statements-Juneau	6.00	$ 12.00

TOTAL DISBURSEMENTS $524.66

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



		APPROPRIATION	APPROPRIATION FUND SOURCES	
	ALLOCATIONS	ITEMS	GENERAL FUND	OTHER FUNDS
* * * * * * * * * * * * * * *		* * * * * *	* * * * * *	
* * * * * DEVELOPMENT * * * * *		* * * * * DEVELOPMENT * * * * *		
* * * * * * * * * * * * * * *		* * * * * *	* * * * * *	
DEPARTMENT OF REVENUE				
MUNICIPAL BOND BANK AUTHORITY RESERVE FUND		1,500,000	1,500,000	
COMMERCIAL FISH & AGRICULTURE BANK CAPITAL		2,000,000		2,000,000
THE AMOUNT APPROPRIATED FOR THE COMMERCIAL FISH AND				
AGRICULTURE BANK IS AN ESTIMATE AND THE ACTUAL				
APPROPRIATION MAY NOT EXCEED THE AMOUNT LAPSED FROM THE				
APPROPRIATION BY SECTION 13, CH 113, SLA 78.				
ALASKA RENEWABLE RESOURCES CORPORATION				
RENEWABLE RESOURCES INVESTMENT FUND		11,156,000		11,156,000
FISHERIES PROJECTS		4,817,900		4,817,900
TIMBER PROJECTS		2,753,000		2,753,000
AGRICULTURE PROJECTS		2,753,000		2,753,000
RENEWABLE ENERGY PROJECTS		825,900		825,900
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT				
ALASKA HOUSING FINANCE CORPORATION				
MORTGAGE INSURANCE FUND		6,000,000	4,000,000	2,000,000
IT IS THE INTENT OF THE LEGISLATURE THAT $1 MILLION OF				
THE APPROPRIATION TO THE STATE MORTGAGE INSURANCE FUND				
OF THE ALASKA HOUSING FINANCE CORPORATION BE PAID TO THE				
MORTGAGE INSURANCE FUND IN THE AMOUNTS REQUESTED BY THE				
CORPORATION AS NECESSARY IN CONNECTION WITH THE ISSUANCE				
OF INSURED MORTGAGE PROGRAM BONDS OF THE CORPORATION				
ONLY IF THE BONDS ARE ISSUED FOR THE MORTGAGE FINANCING				
OF MOBILE HOMES.				
ECONOMIC ENTERPRISE MATCHING GRANT FUNDS		123,500	123,500	
ENERGY & POWER DEVELOPMENT		1,135,000	885,000	250,000
SINGLE WIRE GROUND RETURN DEMO PROJECT (ED 27)	540,000			
THE APPROPRIATION OF $540,000 IS FOR A SINGLE WIRE				
TRANSMISSION PROJECT FOR ANIACHIK, NAPAKIAK, NAPASKIAK,				
& OSCARVILLE.				
SHUNGNAK TO KOBUK SINGLE WIRE TRANSMISSION (ED 27)	345,000			
ALTERNATIVE ENERGY DEMONSTRATION PROJECTS	250,000			
ALASKA POWER AUTHORITY		2,715,000	300,000	2,415,000

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

MEMORANDUM State of Alaska

TO: Hon. T.K. Williams, Commissioner
Department of Revenue

DATE: December 29, 1980

FILE NO: (Rev.) 4768/4767

ATTN: Norene Hirsh, Fiscal Officer
Division of Admin. Services

TELEPHONE NO: 465-3666

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Payment of Perkins, Coie bill to ARRC

By:
Rodger W. Pegues
Assistant Attorney General

This responds to your request for advice on this matter.

There is no question that the billing for technical assistance was payable out of the appropriation to ARRC for capital projects for fiscal year 1980. However, to the extent that it exceeds the amount which was lapsed from that appropriation (or if not lapsed, available to pay it), it can only be paid by a supplemental appropriation to ARRC.

The state law on the subject is quite explicit:

> An indebtedness arising from a prior year for which the appropriation has lapsed shall be paid from the current year's appropriations, if this expenditure does not exceed the balance lapsed . . . .

AS 37.25.010(b). This statute has consistently been applied to mean just what it says: A prior year's bill cannot be paid from a current appropriation unless an amount sufficient to have paid it was left over from the prior year's appropriation. The purpose of the statute, to prevent agencies from incurring obligations in any year in excess of their appropriations for that year, can only be achieved by applying the statute in precisely this way, and Director of Finance Mullin informs us that it has always been so applied.

Accordingly, if -- as it appears -- there was an over-expenditure and no way to reallocate money in the appropriation for fiscal year 1980 to cover it, the Perkins Coie billing cannot be paid from the appropriation for fiscal year 1981.

RWP/pjg

cc: Joseph K. Donohue
Deputy Commissioner
Department of Revenue

DIST. MADE 12/31
TO: Thru L. Nelson

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

OFFICE OF THE GOVERNOR

BUDGET & MANAGEMENT
POUCH AM — JUNEAU 99811
PHONE 465-2213

March 18, 1981

The Honorable Sam Cotten
Chairman, House Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Amendment to H.B.336
Department of Commerce
& Economic Development
Supplemental request for
$1,661,100 general funds
for the Energy Audits and
Refunds and Grants.

Dear Representative Cotten:

Please amend H.B.336 to appropriate $1,661,100 in general funds to the Department of Commerce & Economic Development for the Energy Audits and Energy Grants and Refunds programs. This appropriation adjustment is necessary because program funds have been depleted and demand for the program continues at an extremely high level.

This supplemental appropriation will fund about 3500 audits for the period from April 1 to June 30, 1981.

Please add a new section to H.B.336 to read as follows:

> The sum of $1,661,100 is appropriated from the general fund to the Department of Commerce & Economic Development for the energy audits program under AS.46.11.030 and energy refunds and grants under AS.45.89.020.

Sincerely,

Ron Lehr

Dr. Ronald D. Lehr
Director

cc: The Honorable Don Bennett and Ed Dankworth
The Honorable Vern Hurlbert
Keith Specking
Jay Hogan

01-A21LH

MEMORANDUM State of Alaska

RECEIVED
MAR 0 3 1981
BUDGET AND MANAGEMENT

MAR 2 '81

TO: Ron Lehr, Deputy Director
Division of Management and Budget
Office of the Governor

DATE: February 20, 1981

FILE NO: 2>080808

GOVERNORS OFFICE

Thru: Charles Webber
Commissioner
Department of Commerce and Economic Development

TELEPHONE NO:

SUBJECT: Request for $1,621.1 Supplemental Funds for the Residential Energy Conservation Program

From: Clarissa Quinlan, Director
Division of Energy and Power Development
Department of Commerce and Economic Development

BACKGROUND

The Residential Energy Audit Program was mandated by the 1980 Legislature in SB 438. The legislation was quite comprehensive and provided for a great many new and innovative programs in the energy field. A new program providing for the subsidized performance of residential energy audits by State trained and certified auditors was a part of Legislation. Additionally grants or refunds were to be made available to homeowners for up to $300 for single-family residences and $200 for each multi-family residence for those energy conservation measures having a seven year pay back or less as substantiated by a residential energy audit.

There were numerous problems in implementing the three interrelated phases of this program. The program was completely implemented by December 1, 1980. Prior to that in October the program was initiated with provisional procedures in those communities where commercial energy audits were already available. The Division, in the original fiscal note accompanying the Bill, had projected that approximately $1.28 million would be required to subsidize approximately 10,000 audits at a cost of $128 per audit.

It was found, when we began actual implementation of the program, that the costs of the audits have justifiably varied from community to community with $128 being the lowest cost. In order for the higher cost (rural) areas of Alaska to participate in this statewide program, less than 10,000 audits could be accomplished.

Demand for paricipation in the State sponsored energy auditor training has been overwhelming. Classes in the urban centers were filled within one day after open registration and waiting lists have been long. The Division was also recruiting and training instructors as well as establishing new curricula for Residential Energy Auditing course work. The public's response to this program has far exceeded the financial resource allocations in the original legislation.

Since the implementation of the program and with only four months remaining in FY 81, we will have expended $1.0 million in contracts (either completed or in process) and obligated the remaining balance by the end of March for the performance of approximately 7,700 audits.

A new occupation has been developed through this program and many individuals have been provided with employment since December, 1980. The Division has been inundated with calls demanding energy audit training and requesting information about residential energy audit contracting procedures. The existing contractors are approximately three to four weeks backlogged with requests from residents for energy audits. The demand for more State auditors is clearly present.

At this time, the program has momentum, good public acceptance and high participation from the audit contractors and the general public. It would be detrimental to the program to be forced to terminate the training and contracting due to lack of funds, especially since the contractors in all except some very rural areas will have performed the maximum allowed under their contracts on or before March 31, 1981. Without supplemental funding the energy audit program will be in limbo until FY 82 funding becomes available in July 1981.

BENEFIT GAINED BY CONTINUED OPERATION

1. Energy audits alone can (if stated energy conservation "practices" shown in the energy audit are implemented) save the average homeowner approximately 25% in annual energy costs. The 25% savings is verified by the Department of Energy in their brochure entitled "Low Cost No Cost". They state that:

   > By following all the suggestions, or whichever ones apply to you, we think you can save 25% of your fuel oil, gas and electricity bills. At current energy prices, these suggestions will put from $100 to $500 a year back into your pocket in a typical home ... Due to higher fuel costs this year, your energy bill will probably go up--however, if you follow low cost/no cost your bill could be reduced by 25%. Savings in this brochure are based on costs of 5¢ per kwh for electricity, 37¢ per therm for gas and 80¢ per gallon for oil. If your costs are higher your savings will be too.

2. A homeowner's "awareness" of possible energy conservation practices and measures is considerably heightened and a great deal of energy education occurs during the course of the home audit.

3. Newly obtained employment will be continued.

4. Energy conservation measures will continue to be installed in homes statewide thus saving the individual homeowner dollars expended for energy often decreasing the use of fossil fuel.

Due to the above, we request the supplemental appropriation in order to maintain continued operation of this highly valuable energy conservation program. Supplemental request is based on inclusion of staffing requested in previously submitted revised program request.

REQUEST FOR SUPPLEMENTAL FUNDING FOR REMAINDER OF FY 81 (MARCH THROUGH JUNE)

		Account Code
Audit Development	PS. for 14.0 Travel 7.6	
Technical review and upgrading of Residential Energy Audit	$ 15.0	
Professional Services for Commercial and Institutional Energy Audit Standards	25.0	
Total	40.0	300
Training		
Professional Services for Revision of training materials	5.0	300
Instructors fees for four additional intensive workshops (Sitka, Unalaska, Dillingham, Nome)	12.0	
Travel and Per Diem	5.0	200
Instructors fees for approximately 10 Residential Energy Auditor recertification and proficiency upgrading workshops (2 Fairbanks, 3 Anchorage, 1 Juneau, 1 Ketchikan, 1 Bethel, 1 Kodiak, 1 Barrow)	26.4	300
Travel and per diem	10.2	200
Training materials and supplies (Residential Energy Audit classes, Recertification workshops, Professional Commercial Auditor Seminars)	10.0	300
Total	$ 68.6	
Energy Audits (approximately 3,500 Statewide)	500.0	300
Required forms and manuals	20.0	300
Energy Refund/Grants		
An additional 3,500 audits Statewide calculated at approximately $275 per audit	~~$ 962.5~~	700
Monitoring of Energy Audits	170.0	
These funds will be used to insure that the audit quality is maintained by all energy auditors performing the State Energy Audit. These funds will provide quality control checks on all audits completed. On-site checks will be made on auditors.	~~$ 30.0~~	300
Homeowner Workshops	40.0 ~~$ 20.0~~	300
"How-to-do-it" homeowner workshops to be sponsored in 5 Alaska communities under the auspices of a local community organization.		
Statistical Analyis & Information Retrieval	50.0 ~~$20.0~~	300
TOTAL	$ 1,661.1	

JAN 30 1981

Are you using too much fuel to heat your home?

Home Energy Audits are now available in the Nome area.

Having your home checked out can mean:

1. That you can find out where your house is losing heat and ways to cut your fuel consumption;
2. That you may be eligible for up to $300.00 in grants from the State of Alaska to make repairs, insulate and cut heat loss;
3. That you may be eligible to borrow up to $5000. at 5% interest from the State to make major weatherization repairs on your home.

For more information contact Frank DICostanzo, State certified home energy auditor at 2739.

FEB 3 1981

25

Energy Audits Funds Low

ANCHORAGE (AP) — The $1.2 million appropriated by the 1980 Legislature for residential energy audits in fiscal 1981 will be obligated by mid-March, the Division of Energy and Power Development says.

Director Clarissa Quinlan said during the last eight weeks alone the division has contracted for some 6,300 residential energy audits at a cost of $1 million.

The program provides for state-financed energy audits of homes, with grants, refunds and low-interest loans available for energy conservation measures recommended by the audits.

Gov. Jay Hammond has asked the Legislature to continue the program at a similar level of funding for fiscal 1982.

SERVICE
Fairbanks
News Miner
Fairbanks, AK
FEB 3 1981

tate roundup 25

Energy audit funds committe

By The Associated Press

CHORAGE—The $1.2 million
propriated by the 1980 Legislature
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will be obligated by mid-March,
Division of Energy and Power
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able for energy conservation
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The [illegible] end of the year Mitchell said reorganization

News
Anchorage, AK
FEB 7 1981

Popular state energy audits draw huge response from homeowners

By JEANNE ABBOTT
Daily News homes editor

The biggest bargain in town has homeowners beating a path to the doors of a new collection of businesses called energy auditors.

For only $10, a homeowner (or renter) can have his home analyzed for energy efficiency. Although the audit costs an average of $125 to perform, the state picks up most of the cost. Most auditors are swamped with requests for the service.

"We've had an overwhelming response," says Dana Hedden of Heat Loss Analysis, one of 20 firms in Anchorage certified to perform the state-subsidized audits. "There are more requests for audits than money allocated for them."

The legislature appropriated 1.2 million for the residential audits for fiscal year 1981. According to Steve Vaden of the Alaska Energy and Power Development office, the money for the audits has already been contracted out.

"When the auditors complete their contract, we won't be able to renew unless the legislature appropriates more money," Vaden said this week.

"But because we've committed the money doesn't mean a homeowner can't get an audit. If the quota hasn't been filled, an auditor can provide the service until his money runs out."

> The grants are going faster than the loans, because it's upfront money.

Based on the strong response, it is expected that most quotas will be filled by mid-March. The audits only began eight weeks ago.

Says Vaden: "Some contracts will run out faster than others."

When a homeowner or renter calls a company to request an audit, the appointment will generally be arranged for a two-to-three hour period.

During the appointment, an auditor will make an on-site inspection of the heating system, insulation, caulking and weatherstripping plus looking at the history of energy bills.

Vaden says all of the auditors were trained in November and passed an examination to be certified.

"An auditor will write up a report indicating how much energy a home is losing, and what can be done to improve the situation," he says.

The state legislature also appropriated money for outright grants and loans to undertake measures recommended by the audit.

Some $2.2 million was allocated for the grants which provide $300 per housing unit ($200 for a duplex) to fund the simpler measures — insulation, caulking, weatherstripping.

For major projects, like heat conversion, there are loans of up to $5,000 available at low interest. The loans are administered through the state Division of Business Loans. They are part of a $1.6 million program.

Vaden said 79 grants had been awarded through the energy office, and 42 of those were dedicated in January. The total amount awarded is $22,000.

"The grants are going faster than the loans, because it's upfront money," says Vaden. With the grants, an audit must show that the money can be recouped in energy savings within seven years.

"Out of the $22,000 we can already project a $16,800 savings within the first year alone," he says. "That's pretty encouraging."

There are a total of 68 auditors certified statewide in Anchorage, Fairbanks, the Mat-Su Valley, Kodiak, Kenai, Juneau and Ketchikan. Training programs are yet to be held in Valdez, Bethel and Barrow.

Vaden said Gov. Jay Hammond has asked the legislature to continue the program, with an 8 percent increase in funding.

Numbers to call for an audit are:

- Alaska Energy Audits — 277-9342.
- Alaska Home Evaluators — 276-9254.
- Anchorage Community Development Corp. — 276-1625.
- Garnet-Adams — 349-4729.
- Bilderbach Enterprises — 344-5736.
- Chugach Electric Association — 276-3500.
- Arctic Energy Management — 266-1511.
- Heat Loss Analysis — 277-1601.
- Kyle Green — 376-5920.
- Charles Johnson — 688-2036.
- John Matus — 349-5087.
- C. Howdy Smith — 333-0769.
- Fred Thoman — 337-5609.
- Alaska Weatherbeaters — 243-5029.
- Pat Meyer — 344-5163.
- Charles Richner — 333-6272.
- Jean Currey — 344-8543.
- D. C. S. Energy Audits — 264-4870.
- Reiches Services — 276-3760.
- John Werner — 276-6879

eau Empire
neau, AK
JAN 28 1981

State takes conservation lead with residential energy au

By Empire Staff

Alaska took the lead in residential energy conservation last spring when the Legislature created a comprehensive energy act.

Part of the legislation provides for state-financed energy audits of residences with grants-rebates and low-interest loans available to the homeowner who wants to implement the improvements recommended by the audit. There is no obligation to make any of the improvements suggested by the audit.

For $10 a resident can have his home inspected by a specially contracted auditor—not a state employee—to find out where heat losses are occuring and receive recommendations on how to make the home more energy efficient.

The two to three hour audit costs about $128, but the state pays for all by $10 of the audit.

People interested in having an energy audit of their home should contact Steve Shannon, an energy specialist with the Division of Energy and Power Development at 465-2591 or write to him at Pouch "D", Juneau, Alaska 99811.

An auditor will make a variety of recommendations ranging from no-cost energy-saving projects a homeowner can do himself to massive undertakings such as installing insu
Shannon. An auditor will take a lool
sulation levels of the home, the
system, the heating system, and cra
the window and doors, said Sha
auditor will also take a "thumbnail lo
solar potential of the home, he said

There are no income requiremer
for a person to qualify for an energy
an audit is completed the state wi
funds or grants of up to $300 for t
and installation of energy saving im
that are recommended by an approv
shown to have a payback of seven y
said Steve Baden, public informatio
the Division of Energy and Power Di

People who have received an apl
of their home may also qualify for a
terest loan up to $5,000 for energy
improvements that the energy aud
have a payback of less than 10 yea

Audits in Juneau are just beginni
opening of a new energy offic
Southeast. The olice is located on th
of the State Office Building.

Fairbanks
News Miner
Fairbanks AK
JAN 28 1981

ALASKA CLIPPING SERVICE
Anchorage Times
Anchorage, AK
FEB 3 1981

Energy audits now hot item

Associated Press

Anchorage — The $1.2 millio appropriated by the 1980 Legislature for residential energy audits in fiscal 1981 will be obligated by mid-March, the Division of Energy and Power Development says.

Director Clarissa Quinlan said during the last eight weeks alone the division has contracted for some 6,300 residential energy audits at a cost of $1 million.

The program provides for state-financed energy audits of homes, with grants, refunds and low-interest loans available for energy conservation measures recommended by the audits.

Gov. Jay Hammond has asked the Legislature to continue the program at a similar level of funding for fiscal 1982, but that money, if approved, will not become available until July 1.

ALASKA RESIDENTIAL ENERGY CONSERVATION

The Division of Energy and Power Development will make grants/refunds up to $300 for the purchase and installation of energy saving improvements recommended by an approved audit. You may also qualify for a 5% loan up to $5,000. There is a $10 charge per audit.

For more information and a list of contracted auditors call the Fairbanks audit information number

479-4383

HB

366

COMMITTEE REPORT

HOUSE

3/19/81

(5)

FURTHER: FINANCE

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 366

"An Act making a special appropriation to the Alaska State Housing Auchority for purchasers of houses built under the Bartlett Act housing program; and providing for an effective date."

urder consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____ CHAIRMAN

H 60 (Rev. 3/81)

Bartlett Rt Hist'g
not Sood—

Auth - rural
Housing program
constructed 100's
of houses—
- Design inadequate—
Poorly constructed
Poor Insulation
Alaska Legal Services
on behalf of residents
years - or litigation
most settled 3yrs
ago -
Alaska Legal Services -
Tilney - Judge Connelie
State Prosecution—

NAME	Bill No.	Representing
Craig Tillery	HB 366	ALSC

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
615 "H" STREET, SUITE 100
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 272-9431

MEMORANDUM

TO: Dian Bergstran

FROM: Cooper Geraty

RE: Mathew; Legislative Refund

DATE: March 3, 1981

The rationale for refunding the money paid to ASHA by class members is quite simple:

(a) Class members contracted with ASHA for a safe, sanitary, habitable house. They did not receive the benefit of their bargains. They were forced to live in substandard housing and had major out-of-pocket costs (especially extremely high heating bills due to substandard insulation, materials, design, and construction);

(b) Refunding the money is good public policy. A refund will encourage these residents and other residents of government-subsidized housing to pay their bills. If no refund is provided, then those persons who did not make their payments will be rewarded, and those persons who did make their payments will be penalized;

(c) Class members will receive new mutual-help housing pursuant to the companion case, Erik v. HUD. However, the class members will have to pay for the new houses. In addition, due to inflation the new houses will be very much more expensive than the old ASHA houses. (Note: In making this argument remember that no person will have to pay more than approximately 25% of their income in house payments.)

(d) Finally, a repayment will restore the State's proper reputation for dealing ethically, morally, and justly with its Bush residents.

CG/csn

Natives win another round in court battle over homes

Continued from Page A-1

ago in federal court claimed hundreds of remote homes financed by HUD and built by ASHA in 1969 and 1970 were defective and substandard. About $2 million was spent on the homes in 18 villages.

Hastily constructed homes built during the life of the program almost immediately began developing problems including leaking roofs, inadequate plumbing and poor insulation.

"It was not a successful program," Curtis said Wednesday.

The construction program — called the Bartlett program after former Sen. Bob Bartlett, who led the drive for funding, originally envisioned 10 years of assistance to Native Alaskans to upgrade homes. The program, however, was dropped after two years.

A federal court judge in 1978 dismissed the case against ASHA but lawyers refiled the lawsuit against the state agency in state court. ASHA has consistently denied the allegations in the suit.

Under the terms of last week's federal court settlement, HUD agreed to begin a three-year, $31 million program to build or repair 347 homes.

The settlement of the state court suit against ASHA pledges ASHA to cancel all the debts incurred by the Natives in buying the houses and to turn over title to the homes.

In return, the Natives represented in the suit agree to waive all legal claims arising from the housing program.

The settlement also permits Alaska Legal Services lawyers to ask the state legislature to give back the money Natives have already paid on the homes.

See Back Page NATIVES

journey that began in federal court in 1976.

Representatives of both sides were pleased with the agreement.

"We think it is a just settlement," said Cooper Gerety, a legal services lawyer.

ASHA director John Curtis said the settlement, which follows the U.S. Department of Housing and Urban Development's pledge last week to pay $31 million to replace or refurbish the homes, is good for the state.

"Our interest is in providing housing in the state. If HUD decided it's a good idea to build $30 million worth of homes in the Bush, that's the business HUD is in. We see it as a good thing for Alaska," Curtis said.

The lawsuit filed five years

TOTALS - All Villages

		1. TOTAL PAYMENTS	
1	AKIACHAK	1658246	1
2			2
3	CHEFORNAK	1418914	3
4			4
5	EMMONAK	1732886	5
6			6
7	KIANA	1674332	7
8			8
9	KIVALINA	500015	9
10			10
11	KOTLIK	1906139	11
12			12
13	MINTO	78757	13
14			14
15	NOORVICK	3223267	15
16			16
17	QUINHAGAK	318235	17
18			18
19	SHISHMAREF	2392945	19
20			20
21			21
22	BUCKLAND	-0-	22
23			23
24	CHEVAK	2038822	24
25			25
26	HOOPER BAY	1500411	26
27			27
28	Mt. Village	1619015	28
29			29
30	Pilot Station	773018	30
31			31
32	POINT HOPE	1847592	32
33			33
34	SCAMMON BAY	1255596	34
35			35
36	Selawik	-0-	36
37			37
38	TOTAL ALL VILLAGES:	23938190	38
39			39
40			40

C-77 MADE IN U.S.A.

	Initials	Date
Prepared By		
Approved By		

VILLIAGE: AKIACHAK

1	2
	TOTAL PAYMENTS
	14624
	84764
	68905
	195318
	75120
	214517
	268528
	54000
	67706
	113285
	73306
	79988
	81400
	59620
	75665
TOTAL:	1658246
	~~1658~~

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1769 HLC HB 366 - HB 586

	Initials	Date
Prepared By		
Approved By		

VILLAGE: BUCKLAND

1	2
	TOTAL PAYMENTS
	€
	€
	€
	€
	€
	€
	€
	€
	€
	€
	€
	€
	€

	Initials	Date
Prepared By		
Approved By		

VILLAGE: CHEFORNAK

1	2
	TOTAL PAYMENTS
	41768
	206242
	66504
	85400
	114097
	16000
	27036
	56472
	41184
	71660
	69416
	48208
	44900
	77224
	105740
	97492
	60532
	149101
	39916
TOTAL:	1418914

	Initials	Date
Prepared By		
Approved By		

C 5

VILLI & CHEVAK

	1	2
TOTAL PAYMENTS		

18700
87068
277504
42500
78880
82000
111235
43157
66348
21500
82484
14128
68916
102930
247627
220599
73600
10000
15312
42965
27155
80000
72900
88104
63210

TOTAL 2038822

Initials Date

Prepared By

Approved By

VILLIAGES EMMONAK

	1	2
	TOTAL PAYMENTS	
40 00	960.00	
	455.36	
	118.24	
	109.36	
	438.28	
	138.40	
	793.40	
	1022.10	
	516.48	
	595.42	
	346.54	
	535.30	
	726.61	
	537.20	
	936.08	
	542.40	
	819.69	
TOTAL	17328.86	

	Initials	Date
Prepared By		
Approved By		

VILLIAGE : HOOPER BAY

1	2
TOTAL PAYMENTS	
	499.29
	479.16
	608.96
	572.92
	722.55
	804.15
	745.49
	359.00
	230.64
	1193.15
	200.00
	301.40
	644.00
	2021.36
	25.00
	814.11
	766.20
	446.02
	913.12
	185.30
	629.64
	1637.05
TOTAL	15004.11

	Initials	Date
Prepared By		
Approved By		

c 8

VILLIAGE & KIANA

1	2
	TOTAL PAYMENTS
	78008
	162296
	129285
	72082
	69932
	57278
	22925
	39607
	102798
	151920
	84884
	189734
	167820
	57132
	129695
	109536
TOTAL	1674332

	Initials	Date
Prepared By		
Approved By		

VILLIAGE: KIVALINA

1	2
TOTAL PAYMENTS	
	77689
	325.20
	34872
	553.80
	39152
	37251
	66367
	46550
	41338
	68846
TOTAL	500015

	Initials	Date
Prepared By		
Approved By		

VILLIAGE : KOTLIK

1	2
TOTAL PAYMENTS	
50231	
73272	
207360	
86530	
95371	
158060	
127776	
294042	
130094	
61080	
192624	
86008	
83626	
67720	
81732	
64976	
45652	

	Initials	Date
Prepared By		
Approved By		

VILLAGE: MINTO

1	2
	0
	0
	0
	14928
	0
	0
	31210
	0
	0
	0
	0
	13359
	3500
	0
	0
	11760
	0
	0
	0
TOTAL	78757

	Initials	Date
Prepared By		
Approved By		

c 3

Village : Mt Village

	1	2
	TOTAL PAYMENTS	
	34300	
	14172	
	59980	
	66852	
	76415	
	144194	
	27124	
	25000	
	47454	
	42700	
	126500	
	76988	
	164152	
	15910	
[illegible]	90000	
	69176	
	52732	
	116444	
	202415	
	15000	
	10000	
	13782	
	39976	
	31988	
	40000	
	12000	
	3561	
TOTAL	1619015	

	Initials	Date
Prepared By		
Approved By		

VILLAGE OF NOORVIK

	1	2
	TOTAL PAYMENTS	
	50642	
	81483	
	174383	
	99396	
	56398	
	166058	
	111259	
	201696	
	34272	
	42590	
	85532	
	271207	
	74575	
	378560	
	331950	
	166572	
	185060	
	198368	
	139240	
	143391	
	333728	
	157502	
TOTAL		3223267

VILLAGE: Pilot Station

	1	2
	TOTAL PAYMENTS	
1	3117.4	
2	5587.2	
3	2496.7	
4	2513	
5	16605	
6	3124.2	
7	2375.0	
8	2000.0	
9	380.0	
10	4649.5	
11	4252.6	
12	6142.8	
13	0	
14	2149.6	
15	4274.2	
16	3430.8	
17	6385.6	
18	5306.4	
19	2899.2	
20	4078	
21	399.8	
22	1531.2	
23		
24		
25		
26		
27		
28		
29		
30	TOTAL-	77301.8
31		
32		
33		
34		
35		
36		
37		
38		
39		
40		

VILLAGE: POINT HOPE

	1	2
		TOTAL PAYMENTS
1		76438
2		30852
3		309658
4		32017
5		226383
6		15000
7		10000
8		131403
9		73000
10		69762
11		63509
12		5012
13		67374
14		33596
15		0
16		82500
17		47224
18		57000
19		163926
20		53644
21		18250
22		57696
23		105497
24		117851
25		
26		
27		
28		
29		
30		
31	TOTAL	1847592
32		
33		
34		
35		
36		
37		
38		
39		
40		

	Initials	Date
Prepared By		
Approved By		

VILLAGE OF QUINHAGAK

	1	2
	TOTAL PAYMENTS	
	21012	
	92552	
	28572	
	87701	
	7931/	
	9084	
TOTAL	318235	

VILLIAGE & Scammon Bay

	1	2
1		45539
2		158896
3		29393
4		182578
5		180491
6		33170
7		30718
8		30010
9		222276
10		72233
11		85300
12		23347
13		272778
14		74695
15		141772
16		
17		
18		
19		
20		
21	TOTAL	1255596
22		
23		
24		
25		
26		
27		
28		
29		
30		
31		
32		
33		
34		
35		
36		
37		
38		
39		
40		

VILLIAGE OF SELAWIK

	1	2
	TOTAL PAYMENTS	
1	0	
2	0	
3	0	
4	0	
5	0	
6	0	
7	0	
8	0	
9	0	
10	0	
11	0	
12	0	
13	0	
14	0	
15	0	
16	0	
17	0	
18	0	
19	0	
20	0	
21	0	
22	0	
23	0	
24	0	
25	0	
26	0	
27		
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35		
36		
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38		
39		
40		

	Initials	Date
Prepared By		
Approved By		

VILLAGE: SHISHMAREF

1	2
	TOTAL PAYMENTS
	318892
	111596
	161105
	55401
	71862
	36258
	50552
	80388
	206655
	102972
	145232
	100008
	62618
	107578
	67308
	68752
	80352
	75868
	109624
	82218
	117388
	179958
TOTAL	2392945

HB

446

COMMITTEE REPORT

HOUSE

4/1/81

FURTHER: FINANCE

(5)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 446

"An Act establishing assistance and information programs on energy in the Department of Commerce and Economic Development; and providing for an effective date."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____ CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 446
Title "An Act establishing assistance and information programs on energy"
Requested by Resources Committee Date 4/16/81

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Development
BRU, Program, or Subprogram(s) Affected Division of Energy & Power Development
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100	PERSONAL SERVICES	145.944					
200	TRAVEL	10.					
300	CONTRACTUAL	105.					
400	COMMODITIES	16.					
500	EQUIPMENT	2.752					
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	$279,696					

FUNDING (Thousands of Dollars)

GENERAL FUND	279.696					
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	4					
PART TIME						
TEMPORARY						

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

The budget presented provides sufficient support for the division to establish a program for technical assiatance to assist municipalities in development of alternative energy technologies and establish a energy programs information office

100 Personal Services		$145,944
##1-Energy Specialist II (18A) $2640 X 12 mo. + 25.5% payroll burden=	$39,758	
##1 Energy Specialist II (18F) $3153 X 12 mo. + 25.5% payroll burden=	$47,484	
1 Librarian (17A) $2455 X 12 Mo. + 25.5% payroll burden*	$36972	
1 Clerk Typist III (8A) $1393 X 12 mo. + 30% payroll burden=	$21730	

##Positions presently federally funded but will need State funding - FY 82

200 Travel		$ 10,000
300 Contractual		$105,000
Professional Services Workshops & Materials Production	$30,000	
Space rental, phone, copying, printing & misc.	$75,000	
400 Supplies		$16,000
500 Equipment		$2,752
1-Typing desk@$433	$433	
1-Regular desk @ $353	$353	
5-Book cases @ $103	$515	
2-Chairs @ $177	$354	
2-Side chairs @ $88	$176	
3-Filing cabinets @ $252	$756	
1-Table @ $165	$165	
TOTAL		$279,696

PUBLIC INFORMATION

Many people in Alaska and throughout the nation do not know what renewable energy is, what it can do, or where to find information, equipment or contractors. This lack of knowledge is not confined to consumers. Builders, construction people and utilities are all important to the use of renewable energy but are often poorly informed about it.

Consumers need information on available energy options, and industry people need training.

Educating consumers requires public relations as well as information. Public relations makes people aware of possibilities. It can get them thinking about technologies and let them know what subsidies, loan funds and technical assistance are available. The best-designed incentives will be useless if people are unaware of them, a fact that many state incentive programs have not taken into account: incentives have been legislated, and forgotten.

One effective way to promote conservation and renewable energy is through direct mail advertising. The U.S. Department of Energy initiated the Low Cost/No Cost energy conservation program in 1979. DOE mailed a package of information directly to consumers in the Northeast. The response was good and several other states, including Colorado, have initiated similar programs.

People who already are interested in installing renewable energy systems need a place to go for more detailed information. Lists of installers and suppliers, books on design, cost estimates and resource assessments are all needed by the potential user of renewable energy. The Energy Extension Service and the Alaska Western SUN office provide this information.

People who sell, install, finance and insure renewable energy systems need information, too. Much of this can be acquired on the job, but organized educational programs are valuable as well. Educational institutions, unions, industry groups and nonprofit institutions around the country have begun to offer training programs on the installation, servicing and financing of renewable energy systems.

In Alaska, the Residential Energy Conservation Program is training energy auditors, and five Alaskan colleges--Alaska Methodist University and the community colleges of Anchorage, Soldotnua, Nome and Fairbanks--all offer at least one course on renewable energy.

> Option. State schools should be encouraged to provide both general and vocational courses on renewable energy.
>
> Option. Coordination of educational programs offered in the state would help prevent duplication and identify gaps in the types of education available.

Government employees often need to be educated about renewable energy. Administrators of loan programs, tax officials, and building inspectors, for example, all have important roles to play in increasing the use of renewable energy, yet often know too little about renewable energy to give it the

consideration it deserves. Workshops and seminars can help remedy this problem.

The Alaska Energy Center should prove very helpful in providing information about Alaska's energy problems. It is important that the Center coordinate its efforts with those of other research organizations and that it work to disseminate its results. It is also important that the Center spend a sufficient portion of its budget and effort on renewable energy.

State efforts to lower costs, improve consumer protection, and provide more information will stimulate the use of renewable energy systems in the private sector. So will some other measures that the state can take directly: making key changes in state procurement policy, coordinating state efforts with federal programs, and implementing state programs.

STATE PROCUREMENT

The state owns buildings and conducts operations that could benefit from energy conservation and the use of renewable energy sources. State use of renewable energy would lower state energy bills and also demonstrate the feasibility of using renewable energy.

Alaska already requires that new state buildings meet the standards of energy efficiency developed by the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE).

Option. The state could, however, establish more stringent standards, such as the Building Efficiency Performance Standards (BEPS) proposed by DOE, that may be more appropriate to Alaska's climate.

The omnibus energy bill requires that state buildings undergo an energy audit as soon as possible and every seven years thereafter. The results, which should show ways to lower the life-cycle cost of each building, are to be presented to the legislature every year by February 1.

Option. The legislature can reduce state energy bills by each year allocating funds for energy-efficient capital improvements.

Option. The use of life-cycle costing could be extended from buildings to other areas of state procurement (e.g., the purchase of vehicles or major equipment).

Option. Further, the state could purchase biomass fuels such as gasohol, methane, or wood waste products to meet some of its energy needs. This would not only reduce the state's dependence on non-renewable fuels but also help create a market for those products.

COORDINATION WITH FEDERAL PROGRAMS

Many federal energy programs require implementation by the states. Others call for cooperation. To use federal programs to the best advantage, Alaska needs to be well informed about them and alert to the opportunities they present. For example, by providing funds to institutions that lacked the matching funds required by the federal Institutional Buildings Program, Alaska doubled the value of its expenditures by attracting federal dollars on a one-for-one basis.

Option. Alaska could leverage its investments in energy by allocating more matching funds to attract more federal funds.

Option. One way to do this would be to create an ombudsman's office to coordinate state energy efforts with federal programs.

The ombudsman would collect information on all federal programs related to renewable energy, then pass this information along to individuals or groups seeking federal funding for projects or to state agencies charged with implementing federal programs.

The Public Utility Regulatory Policies Act of 1978 (PURPA) is one federal law that requires state implementation and that can have significant impact on the use of renewable energy. PURPA requires state public utility commissions to examine a series of rate structures and other policies to determine if they are appropriate for the utilities of that state. One issue the commissions are to examine: the price at which utilities will buy and sell power from small power producers. (A family that uses a wind turbine with utility power as a backup is, for example, a small power producer.)

Option. The legislature could encourage the Alaska Public Utilities Commission to adopt policies that are favorable to renewable energy sources.

Finally, Alaska needs to make sure that the effectiveness of its energy laws is not diluted by federal laws. An example of such dilution is the federal prohibition of "double benefits" found in the Windfall Profit Tax Act (see page 35).

HB
435

COMMITTEE REPORT

HOUSE

4/2/81

(5)

FURTHER: TRANSPORTATION
(Added 4/20)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 455

"An Act relating to the regulation of contractors."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 455 [X] same title [ ] new title

and recommends _____

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

[X] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martinez No Rec
Terry Martin No Rec

CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 455
Title An Act relating to the regulation of contractors.
Requested by Labor & Commerce Committee Date 4-2-81

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Public Protection
BRU, Program, or Subprogram(s) Affected Regulation & licensing of professions - investigations.
(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL		2.9	3.3	3.7	4.1	4.6
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		2.9	3.3	3.7	4.1	4.6

FUNDING (Thousands of Dollars)

GENERAL FUND		2.9	3.3	3.7	4.1	4.6
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)

200 - TRAVEL - 12% inflation factor projected.

Additional travel by investigators (Juneau/Anchorage), not budgeted for in FY'82, to investigate unlicensed contracting activity.

2 investigators, 1 day per diem/mo @ $67.00 per day	$ 1,608.00
" 1 trip every 3 mos. @ $160.00 per trip	1,280.00
	$ 2,888.00

IV. DATE 4-23-81 PREPARED BY Marjorie Odland, Regulations Specialist
AGENCY Division of Occupational Licensing
PHONE 465-2535

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

33-001 (Rev. 12/80

COMMITTEE REPORT FOR CSHB 455

CSHB 455 amends AS 08.18 by adding two new sections related to the regulation of bidding procedures by contractors. This bill is designed primarily to eliminate the practice of "bid shopping." Currently, general contractors force principal subcontractors to lower the amount originally stated for services, or services and materials, in a bid by bid shopping after the bid is awarded. This results in increased and unwarranted profits for the general contractors, and creates an untenable economic climate for subcontractors.

In order to prevent general contractors from bid shopping, this bill requires that general contractors make contracts with the principal subcontractors before the bid is awarded and that those contracts contain a liquidated damage provision equal to 15 percent of the amount of the principal subcontractor's services, or services and materials, which have been included in the general contractor's bid. If after the bid is awarded the general contractor breaches the contract without cause, the general contractor will be required to pay this fixed amount to the principal subcontractor. By requiring that all contracts with principal subcontractors contain a liquidated damage clause, the amount of profit a general contractor may gain by bid shopping will be offset by the amount of damages that contractor will be required to pay.

CSHB 455 ensures compliance with this contract by providing that a general contractor must file a list of principal subcontractors with the commissioner when the bid is submitted. This will allow the parties, after the award of the contract, to verify whether a principal subcontractor was included in the original bid. This provision does not give the state enforcement powers. Rather, the private parties will be required to enforce their rights under this statute. However, it will provide a mechanism for verification in a subsequent dispute. Furthermore, because a bid is void if the filing is not made, the general contractor will be forced to file with the commissioner and to enter into contracts with the principal subcontractors before the award of the bid.

Because the requirements imposed by AS 08.18.065 and 08.18.067 are self-enforcing, CSHB 455 also makes inapplicable to AS 08.18.065 and 08.18.067 the provision in AS 08.18.161 making a violation of AS 08.18 a misdemeanor. Definitions of the terms "registered contractor" and "principal subcontractor" have also been included in CSHB 455 in order to clarify the applicability of the new requirements.

Vernon L. Hurlbert, Chairman
House Labor & Commerce Committee

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSHB 455
Title An Act relating to the regulations of contractors.
Requested by Labor & Commerce Committee Date 5-14-81

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Public Protection
BRU, Program, or Subprogram(s) Affected Regulation & licensing of professions - Administration
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		9.5				
200	TRAVEL		0				
300	CONTRACTUAL		6.0	2.0	2.1	2.2	2.3
400	COMMODITIES		1.0	1.0	1.0	1.0	1.0
500	EQUIPMENT		.5				
600	LAND & STRUCTURES		0				
700	GRANTS, CLAIMS, ETC.		0				
	TOTAL		17.0	3.0	3.1	3.2	3.3

FUNDING (Thousands of Dollars)

GENERAL FUND		17.0	3.0	3.1	3.2	3.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

May 6, 1981

Honorable Vernon L. Hurlbert
Alaska State Legislature
Pouch V, State Capitol
Juneau, AK 99811

Re: HB 455 (regulation of contractors)
Our file no. J-77-120-81

Dear Representative Hurlbert:

Attached are a proposed committee substitute for HB 455 and a committee report on it. The proposed committee substitute will correct the constitutional infirmities noted in my April 27, 1981 letter on HB 455, a copy of which is also attached.

The proposed committee substitute for HB 455 requires that registered contractors file with the commissioner a list of all principal subcontractors whose services, or services and materials, are included in the registered contractor's bid. This filing requirement will enable the state to ensure that the registered contractor complies with the other requirements imposed by this version of the bill.

The constitutional problems noted in regard to HB 455 have been corrected in the proposed committee substitute by requiring that registered contractors have contracts with the principal subcontractors before the bid is awarded. Additionally, this proposed committee substitute allows termination of the contract with a principal subcontractor for any reason, but requires that all contracts contain a liquidated damage provision allowing a subcontractor to collect fifteen percent of the amount of that subcontractor's services or services and materials, included in the registered contractor's bid if the registered contractor breaches the contract without cause. This requirement will operate to prevent "bid shopping" because any advantages gained by bid shopping will be offset by the damages which the principal subcontractor will be entitled to under the contract.

03-C5LH

Lastly, the proposed committee substitute establishes that violation of these requirements will not constitute a misdemeanor under AS 08.18.141. Because of the damage provisions in proposed AS 08.18.067, it is unnecessary to further penalize the conduct through the misdemeanor provision, and the uncertainty of a justifible or unjustifible breach of contract, would be unconstitutionally vague.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By:
Leslie J. Ludtke
Assistant Attorney General

LJL:wjp
Enclosure

2

MSG 81-00014670 PRTY 1 04/29/81 14:26:55 ORIG: LA00 IN= 0017 OUT= 0077
FROM: CAROL, ANCH. TO: JUNEAU INFO
TARGET: LJH2 SUBJ: PUBLIC OPINION MESSAGE PAGE 0002

TO: REP. VERN HURLBERT, CHAIRMAN, HOUSE LABOR AND COMMERCE COMMITTEE

FROM: OVERHEAD DOOR CO.
WALT KAMSTRA
P.O. BOX 4-1145
ANCHORAGE, AK 99509 274-0606

WE SUPPORT HB 455: RE REGULATION OF CONTRACTORS.

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 28, 1981

The Honorable
Wilson L. Condon
Attorney General
Pouch K, State Capitol
Juneau, Ak 99811

RE: HB 455

Dear Attorney General Condon:

I am in receipt of a letter from you dated April 27, 1981 referencing the above.

Based upon the opinion, I am requesting that your office assist us in re-drafting HB 455 so it will meet constitutional questions.

I am thanking you in advance.

Sincerly,

Rep. Vern Hurlbert
Chm., House Labor
and Commerce

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

April 27, 1981

Honorable Vernon L. Hurlbert
Alaska State Legislature
Pouch V, State Capitol
Juneau, AK 99811

Dear Senator Hurlbert:

You have asked this department to comment on the constitutionality of HB 455. This bill requires general contractors to submit the names of all principal subcontractors included in a contract bid. Upon award of the bid to the general contractor, the general contractor may change a principal subcontractor, which was included in the bid, only for cause.

HB 455 raises three constitutional issues which are: (1) whether a general contractor may in light of the right to privacy be required to submit the names of all principal subcontractors in a bid; (2) whether the provision that allows termination only for cause violates the constitutional right to freedom of contract; and (3) whether limiting the bill to cover only general contractors violates the equal protection clause.

The right to privacy guaranteed by Art. I, § 22 of the Alaska Constitution must be balanced against the regulatory interest in requiring disclosure of the information. This bill requires disclosure of the principal subcontractors in order to prevent the general contractor from obtaining a bid, and then pressuring the subcontractors to work for less than the amount included in the bid. Therefore, the regulatory motivation behind this disclosure requirement is to prevent "bid shopping" by general contractors. Because the information sought relates only the business activities of the general contractor, the regulatory interest in requiring disclosure of the names of the principal subcontractors may outweigh the privacy interest of the general contractor in not disclosing the names.

The second constitutional issue raises far more serious questions. The fourteenth amendment of the U. S. Constitution and Art. I, § 7 of the Alaska Constitution guarantee the rights of liberty and property. The right to freely contract may be impinged upon only when there is a legitimate state interest. For example, contracts against public policy may be forbidden by law because there is a legitimate police power interest in prohibiting persons from entering into these type of contracts. However, in this instance the bill requires that the general contractor enter into contracts with principal subcontractors which can be terminated only for cause upon award of the bid. The requirement severely limits a general contractor's right to choose which subcontractors to contract with and what kind of contracts to make with those subcontractors. In Opinion of the Justices, 108 N.E. 807, (Mass 1915), the question of whether a statute may impose a requirement that an employee of a railroad corporation be given a full hearing before discharge was discussed. In holding that that statute constituted an unwarranted infringement upon the right to contract, the Justices focused on the employer's basic right to discharge employees. However, the Justices did state that the requirement of hearing before discharge could be imposed upon civil service employers. Similarly we think that the contractual restrictions contemplated by HB 455 could be imposed in connection with bids for state contracts. The imposition of the requirement that the general contractor execute a contract, only terminable for cause, with all principal subcontractors included in the bid violates the constitutional right to freedom of contract.

The third constitutional issue raised by HB 455 involves the equal protection clause of the constitution. Art. 1, § 1 of the Alska Constitution and the fourteenth amendment of the U.S. Constitution guarantee equal treatment under law for all persons. However, a regulatory statute may pertain only to one group of persons provided that there is a resonable basis for the classification. The application of the requirements of HB 455 only to general contractors in the State meets the rational basis test under Art. I, § 1 of the Alaska Constitution and the Fourteenth Amendemnt of the U.S. Constitution.

Therefore, we conclude that the only significant constitutional problem with HB 455 is the limitation it imposes upon a general contractor's right to freely contract. On this basis we think HB 455 is unconstitutional.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: Leslie J. Ludtke
Assistant Attorney General

LJL:wjp

Introduced: 4/2/81
Referred: Labor & Commerce

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE BY REQUEST

HOUSE BILL NO. 455

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the regulation of contractors."

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

* Section 1. AS 08.18.141 is ~~amended to read:~~

~~Sec. 08.18.141. MISDEMEANOR. A person~~ who violates ~~[ACTING IN THE CAPACITY OF A CONTRACTOR IN VIOLATION OF] this chapter is guilty of a misdemeanor.~~

* Sec. 2. AS 08.18 is amended by adding a new section to article 4 to read:

Sec. 08.18.155. SUBCONTRACTORS TO BE NAMED IN A BID. When submitting a bid for a contract, including a bid for a state contract, a general contractor shall name each principal subcontractor he intends to use in performing the contract. After a contract is awarded, a general contractor may change a principal subcontractor named in the bid only for cause. For purposes of this section "principal subcontractor" means a specialty contractor who, in the performance of a contract awarded to the general contractor, supplies materials and services with a value equal to at least five percent of the total value of the contract.

MSG 81-00014076 PRTY 1 04/24/81 17:46:47 ORIG: LA02 IN= 0007 OUT= 0108
FROM: ROBERTA TO: JUNO INFO
TARGET: LJH2 SUBJ: POMS PAGE 0004

TO: REPRESENTATIVE HURLBERT

FROM: JOHN TAULMAN, TAULMAN PAINTING, 934 W 72ND, ANC 99502; 344-7123 .

I AM IN FAVOR OF HB 455.

MSG 81-00014076 PRTY 1 04/24/81 17:46:47 ORIG: LA02 IN= 0007 OUT= 0108
FROM: ROBERTA TO: JUNO INFO
TARGET: LJH2 SUBJ: POMS

TO: REPRESENTATIVE HURLBERT

FROM: GARY STEPHENS, STEPHENS BROTHERS PLUMBING, 7339 ARCTIC BLVD, ANC 99502, 349-1539

WE SUPPORT HB 455 AND URGE ITS PASSAGE.

2

MSG 81-00013537 PRTY 1 04/22/81 14:01:51 ORIG: LA02 IN= 0005 OUT= 0079
FROM: ROBERTA TO: JUNO INFO
TARGET: LJH2 SUBJ: POMS

TO: REPRESENTATIVE HURLBERT

FROM: HAROLD BEATY, 3701 EUREKA, ANC 99503; 274-6479

I DO SUPPORT YOUR HB 455.

MSG 81-00012390 PRTY 1 04/14/81 16:37:10 ORIG: LA03 IN= 0010 OUT= 0110
FROM: EFFIE TO: JUNEAU INFO
TARGET: LJH2 SUBJ: P.O.M. PAGE 0001

TO: REP. VERN HURLBERT

FR: MR. CHARLIE BROWN, INTERNATIONAL STEEL ERECTORS
1301 W. 48TH AVENUE
ANCHORAGE, AK 99503 248-2600

SENT BY CAROLYN J. BROWN

PLEASE WORK ON PASSAGE OF HB 455.

MSG 81-00012413 PRTY 1 04/14/81 17:3:.53 ORIG: LA00 IN= 0021 OUT= 0123
FROM: LOU TO: JNU INFO
TARGET: LJH2 SUBJ: POM PAGE 0002

TO: REPRESENTATIVE HURLBERT

FROM: RAY PRICHARD, DIOMEDE ENTERPRISES, 7217 ARTIC BLVD., ANC. 99502 349-4772

REF: HB-455
I AM VERY MUCH IN FAVOR OF THE PROPOSED CHANGES TO THIS LAW.

MSG 81-00012609 PRTY 1 04/15/81 16:31:57 ORIG: L400 IN= 0009 OUT= 0024
FROM: LOU TO: JNU INFO
TARGET: LJH2 SUBJ: POM PAGE 0003

TO: REPRESENTATIVES HURLBERT, HAYES AND MONTGOMERY

FROM: VINCENT J. DORAN, 2132 RAILROAD AVE., ANC.99504 274-4303

RE: HB-455
A GENERAL CONTRACTOR IS AWARDED A JOB IF HIS BID IS LOW. PLEASE SUPPORT HB-455 SO SUBCONTRACTORS CAN RECEIVE THE SAME FAIR TREATMENT.

LA11 1339 17.33 JA01 0014 17.33 04/14/81

TO JUNEAU INFO FROM MARCIE, ANC INFO RE: POM

TO: REPRESENTATIVE HURLBERT

FROM: KEN SPEARIN, P. O. BOX 10-1756, ANC 99511 (345-0816)

AM VERRY MUCH IN FAVOR OF HOUSE BILL 455.

HB 509

COMMITTEE REPORT

HOUSE

4/16/81 FURTHER: FINANCE

(5)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 309

"An Act relating to analysis of employment and unemployment in the state; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

CHAIRMAN

H 60 (Rev. 3/81)

Alaska State Legislature

House of Representatives

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

May 5, 1981

TO: Representative Sam Cotten
House Finance Committee

FROM: Representative Vern Hurlbert, Chairman
House Labor and Commerce Committee

The House Labor and Commerce Committee just passed HB 509 relating to analysis of employment and unemployment in the state; and providing for an effective date.

I would appreciate a hearing as soon as possible on this bill and would suggest your committee give the bill a fiscal review as the job can probably be accomplished with a smaller fiscal impact. Also, I might suggest that the household survey be done by local entities and not the state.

Thank you.

Vernon Hurlbert

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 509
Title "An Act relating to analysis of employment and unemployment in the state....
Requested by Rogers, Gardiner, Meekins, Buchholdt, Duncan, Fuller, Zharoff and Grussendorf Date 5/1/81

II. FISCAL DETAIL

Agency Affected Labor
Program Category Affected Employment Stabilization
BRU, Program, or Subprogram(s) Affected Administrative Services, LMI
(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		292.1	312.7	337.7	364.7	393.9
200	TRAVEL		18.0	18.1	19.6	21.2	22.9
300	CONTRACTUAL		717.2	787.7	850.7	918.8	992.3
400	COMMODITIES		8.5	8.7	9.3	10.1	10.9
500	EQUIPMENT		16.5	-0-	-0-	-0-	-0-
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	-0-	1,052.3	1,127.2	1,217.3	1,314.8	1,420.0

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	1,052.3	1,127.2	1,217.3	1,314.8	1,420.0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	8.0	8.0	8.0	8.0	8.0
PART TIME						
TEMPORARY						

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

1. Assumes an effective date of July 1, 1981.
2. Personal Services based on current salary schedule, with allowance of vacancy factor in FY '82.
3. Travel, Contractual Services, Commodities and Equipment are based on cost per position with the exception of Data Processing cost of $130,000 which is based on an estimate for a Time Sharing operation and a contract of $494,000 to do the survey.
4. Assumes an annual inflation factor of 8% for all line items.
5. To meet the requirements of this legislation, funding for the following information components is requested:

REGIONAL ECONOMIC FORECAST BY INDUSTRY $222,778 (FY '82)

The large geographic size of Alaska makes it probable that some regions could have severe shortages of workers while other areas lack economic activity. For the past three years the Research and Analysis Section has developed and improved the employment data base for

IV. DATE May 1, 1981 PREPARED BY Nico Bus, Finance Officer
AGENCY Labor
PHONE 465-2720

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

33-001 (Rev. 12/80)

six regions of the state. This permitted more accurate sub-state regional estimates of employment by industry, labor force and unemployment. Both published and nondisclosable (due to confidentiality restrictions of Alaska's Unemployment Insurance Law) data are contained in this data base.

This component would provide staff to analyze and forecast employment, labor force, and unemployment information for the six regions of the State. With computer assistance, staff would determine the trend and level of economic activity by industry and enable the operation of an industry/occupation matrix to provide occupational forecasts by industry for the six regions.

Purchases: Labor Economist III, 2 Labor Economists II's, Clerical & Data Processing Services

EXPANDED OCCUPATIONAL EMPLOYMENT STATISTICS $91,809 (FY '82)

For much of the past decade Research and Analysis has estimated and projected employment (staffing levels) by occupation. Occupational data from an employer survey is merged with the employment forecast by industry to prepare forecasts of occupational employment.

This component would provide staff to provide occupational forecasts by industry for the six regions of Alaska. Industrial detail used would be expanded to provide for more accurate estimates. For example, more detail in the mining industry, would isolate coal and hard rock mining from oil and gas extraction. This would permit more accurate forecasts of the occupations involved if those sub-industries grew at different rates.

Purchases: 1 Labor Economist II, Data Processing and Clerical Services

HOUSEHOLD SURVEY $617,715 (FY '82)

Each year a statistically valid sample of Alaskan households would be surveyed to determine labor force and demographic status, length of residency, occupation, and skill level. Several survey items would be valid at the regional level, while more complex interrelationships between variables would be studied on a statewide basis only. Future legislative and agency requirements could be added onto this survey for an incremental cost which would be lower than multiple surveys.

Purchases: 1 Labor Economist III, 1 Labor Economist II, Data Processing & Clerical Services and Contractual Survey Cost of $494,000

ANALYSIS OF UI AND ES DATA BASES $41,637 (FY '82)

In the first year of the legislation only, the agency proposes a small increment to analyze how best to utilize the Unemployment Insurance (UI) and Employment Service (ES) data bases for dynamic indicators of unemployment and employee turnover. Potentially, these two data bases could give insight into the mobility and labor force attachment of Alaska's population. Both cross sectional (one point in time) and longitudinal (between different time periods) analysis is feasible. However, some of this analysis has only been done in a few states and the uniqueness of each state's unemployment insurance data base makes it appropriate to limit the study to determining feasible methodologies in the first year.

Purchases: 0.5 Labor Economist III, Clerical and Data Processing Support

MIGRATION STUDY $78,312 (FY '82)

Any analysis of Alaska's labor force supply would be inadequate without considering the impact of migration (both inmigration and outmigration). Migration flows are triggered both by push (lack of available opportunities in the area from which migration emanates) and pull (more lucrative opportunities in the area which receives the migration) factors. Interstate analysis of the factors which correlate with migration would be necessary (for example, construction employment in other western states). Modeling the migration component would give insight into the appropriate timing of large capital projects.

Purchases: 1 Labor Ecomonist II and Clerical and Data Processing Support

These components are interrelated with each other and with other information systems within our Research and Analysis unit. Integration of this complete information system would provide an excellent framework for Alaska's policymakers to determine both the needs of their constituents and the impact of proposed solutions. The output from these components would be prepared annually to meet the continuing information needs of legislative and other governmental officials at local and state levels and for Alaska's businesses and industries both existing and those starting again or expanding in Alaska.

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Clerk Typist III	8B	GGU	Juneau	Gov.		
	Type of Position / Staff Months / RP No. / PCN No.	Priority		Form 12 page/line			
2.	PFT / 12				Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 1,433 per month		17,196	
5.	Benefits		2,729	
6.	FICA		1,054	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		22,779
9.	Travel	02		-0-
10.	Contractual	03		10,807
11.	Commodities	04		1,000
12.	Equipment	05		1,513
13.	Other			
14.	Total Cost			36,099

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	36,099
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position will provide clerical support to the regional forecasting, occupational employment estimates and migration analysis programs. Typing of reports, correspondence and survey analysis will be the position's primary responsibility. Entering employment data into the computer data base will also be required. Mailing and proces ing of forms necessary for the expanded occupational supply and demand information system will be an additional responsibility.

The average non-personal services costs for the Labor Market Information Program are included. The major costs in the contractual area are rent, indirect and lease of a 1202 Lexitron editor.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Administrative Services

COMPONENT Labor Market Information

REVISED DATE _____

PAGE 8 OF FY 82

13 REQUEST FOR NEW POSITION.

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Labor Economist II			16B	GGU	Juneau	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	10					Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,378 per month		23,780	
5.	Benefits		3,774	
6.	FICA		1,458	
7.	Health Ins.		1,500	
8.	Total Personal Services	01		30,512
9.	Travel	02		2,400
10.	Contractual	03		10,240
11.	Commodities	04		1,000
12.	Equipment	05		1,940
13.	Other			
14.	Total Cost			46,092

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	46,092
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position will work under the supervision of the state demographer (PCN 1717) to produce and maintain a complete model of migration. This model would require interstate analysis of occupational demand, and demographic analyis of pupulation cohortts.

Migration flows will be estimated and forecast by this position.

These forecasts will be an important component of the Alaska Jobs Information Bank, which will provide information necessary for policy making.

The average non-personal services costs for the Labor Market Information Program are included. The major costs in the contractual area are rent, indirect and printing.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Administrative Services

COMPONENT Labor Market Information

13 REQUEST FOR NEW POSITION.

REVISED DATE _____

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Labor Economist II	16B	GGU	Anchorage	Gov.		
2.	Type of Position: PFT; Staff Months: 11; RP No.: ; PCN No.:	Priority:		Form 12 page/line:	Leg.		

3.	Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,378 per month		26,158	
5.	Benefits		4,151	
6.	FICA		1,603	
7.	Health Ins.		1,650	
8.	Total Personal Services	01		33,562
9.	Travel	02		2,400
10.	Contractual	03		10,687
11.	Commodities	04		1,000
12.	Equipment	05		1,940
13.	Other			
14.	Total Cost			49,589

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	49,589
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position is required for the preparation of regional employment forecasts consistent with the needs of the occupational employment estimates program structure. These forecasts must be by detailed industry category information for an occupational matrix used to generate detailed estimates of occupational demand. This Labor Economist must regionalize the employment estimates so that detailed occupational demand figures for six regions are available for the matrix. The estimates of regional employment growth must be consistent with statewide totals of industry growth which will require that the development of closely coordinated employment projections.

In order to produce detailed and reliable forecasts extensive and continuing analyses of the labor market areas will be required. Research into historical data, current trends and econometric techniques will be an integral part of the positions work.

This position will be stationed in Juneau and will be responsible for forecasts of the Alaska Southeast region.

The average non-personal services costs for the Labor Market Information program are indicated the major costs, in the contractual area are rent, indirect, and printing.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Administrative Services

COMPONENT Labor Market Information

13 REQUEST FOR NEW POSITION.

REVISED DATE _____

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Labor Economist II			16B	GGU	Juneau	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	10					Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,378 month		23,780	
5.	Benefits		3,774	
6.	FICA		1,458	
7.	Health Ins.		1,500	
8.	Total Personal Services	01		30,512
9.	Travel	02		2,400
10.	Contractual	03		10,240
11.	Commodities	04		1,000
12.	Equipment	05		1,940
13.	Other			
14.	Total Cost			46,092

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	46,092
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position assists in the development and dissemination of information obtained from the statewide household survey relating to employment status and job skills of the Alaskan working age population. Primary responsibility would involve assistance in tabulating and analyzing survey data and preparation of publications. This labor economist would respond to information requests and may assist a Labor Economist III in coordinating the statewide survey.

This position would expedite intra office exchange of labor force characteristic data so that all programs in the jobs information system have quick access to the data.

The average non-personal services costs for the Labor Market Information Program are included. The major costs in the contractual area are rent, indirect and printing.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Administrative Services

COMPONENT Labor Market Information

REVISED DATE _____

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FY 82

13 REQUEST FOR NEW POSITION.

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Labor Economist II	16B	GGU	Juneau	Gov.		
	Type of Position / Staff Months / RP No. / PCN No.	Priority	Form 12 page/line				
2.	PFT / 11				Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,378 per month		26,158	
5.	Benefits 15.87		4,151	
6.	FICA .0613		1,603	
7.	Health Ins. 150		1,650	
8.	Total Personal Services	01		33,562
9.	Travel	02		2,400
10.	Contractual	03		10,687
11.	Commodities	04		1,000
12.	Equipment	05		1,940
13.	Other			
14.	Total Cost			49,589

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	49,589
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position's primary function is to develop occupational demand estimates for sub-state regions. The existing occupational information program (which has been in place and operating for almost a decade) provides detailed occupational estimates for the state as a whole and the Anchorage and Fairbanks labor market areas. The services of a Labor Economist II is required in order to develop occupational estimates and projections for additional geographic areas. These smaller regions (in terms of employment) present major problems and work elements with regard to methodology development, production of estimates, continual monitoring and measuring of estimating accuracy and development of revised estimating proceedures. This information and services provided through the efforts of this position is crucial to effective regional manpower planning.

The average non-personal services costs for the Labor Market Information Program are included. The major costs in the contractual area are rent, indirect and printing.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Administrative Services

COMPONENT Labor Market Information

REVISED DATE _____

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FY 82

13 REQUEST FOR NEW POSITION.

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Labor Economist II	16B	GGU	Juneau	Gov.		
	Type of Position	**Staff Months**	**RP No.**	**PCN No.**	**Priority**	**Form 12 page/line**	
2.	PFT	12					Leg.

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,378 per month		28,536	
5.	Benefits		4,529	
6.	FICA		1,749	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		36,614
9.	Travel	02		2,400
10.	Contractual	03		11,134
11.	Commodities	04		1,000
12.	Equipment	05		1,940
13.	Other			
14.	Total Cost			53,088

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	53,088
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position is required for the preparation of regional employment forecasts consistent with the needs of the occupational employment estimates program structure. These forecasts must be by detailed industry category information for an occupational matrix used to generate detailed estimates of occupational demand. This Labor Economist must regionalize the employment estimates so that detailed occupational demand figures for six regions are available for the matrix. The estimates of regional employment growth must be consistent with statewide totals of industry growth which will require that the development of closely coordinated employment projections.

In order to produce detailed and reliable forecasts extensive and continuing analyses of the labor market areas will be required. Research into historical data, current trends and econometric techniques will be an integral part of the positions work.

This position will be stationed in Juneau and will be responsible for forecasts of the Alaska Southeast region.

The average non-personal services costs for the Labor Market Information Program are included. The major costs in the contractual area are rent, indirect, and printing.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Administrative Services

COMPONENT Labor Market Information

REVISED DATE _____

PAGE 3 OF FY 82

13 REQUEST FOR NEW POSITION.

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Labor Economist III	18B	GGU	Juneau	Gov.		
	Type of Position / Staff Months / RP No. / PCN No.	Priority	Form 12 page/line				
2.	PFT / 12				Leg.		

3. Type of Expenditure	1	2	Amount 3
	Personal Services:		
4.	Salary 2,736 per month	32,832	
5.	Benefits	5,211	
6.	FICA	2,004	
7.	Health Ins.	1,800	
8.	Total Personal Services	01	41,847
9.	Travel	02	2,400
10.	Contractual	03	11,941
11.	Commodities	04	1,000
12.	Equipment	05	2,084
13.	Other		
14.	Total Cost		59,272

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	59,272
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position is responsible for overseeing the development maintenance and utilization of econometric modeling systems and techniques used in production of employment projections by industry and region. This position will hire, train and direct the work of two to three professional staff members. In conjunction with subordinate staff, this position will provide for collection and analysis of current economic development information and maintenance of a data base used in the production of statewide and regional employment forecasts. These forecasts are a prerequisite to development of regional occupational forecasts. Thus, analysis of the effect various policy options would have on the state's labor force is contingent and successful development of this informational component.

The average non-personal services costs for the Labor Market Information Program are included. The major costs in the contractual area are rent, indirect, and printing.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Administrative Services

COMPONENT Labor Market Information

REVISED DATE _____

PAGE 2 OF _____

FY 82

13 REQUEST FOR NEW POSITION.

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Labor Economist III			18B	GGU	Juneau	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	12					Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services.			
4.	Salary 2,736 per month		32,832	
5.	Benefits		5,211	
6.	FICA		2,004	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		41,847
9.	Travel	02		2,400
10.	Contractual	03		11,941
11.	Commodities	04		1,000
12.	Equipment	05		3,215
13.	Other			
14.	Total Cost			60,403

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	60,403
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position will be responsible for coordination of a statewide household survey program which will generate data on the employment status and job skills of the Alaskan working age population. Data will be generated for six Alaskan regions with analysis and tabulations of current industry of attachment, level of education, occupational skills, and employment status. This data would be an integral part of the Alaska Jobs Information Bank.

This labor economist would be responsible for contracting and coordinating with surveyors, assuring the reliability and accuracy of survey data, consolidation and analysis of data and the dissemination of this occupational supply information component of the jobs information program.

Supervision of reports preparation from the tabulated data and analysis would be a prime responsibility of this position.

The average non-personal services costs for the Labor Market Information Program are included. The major costs in the contractual area are rent, indirect and printing.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Administrative Services

COMPONENT Labor Market Information

REVISED DATE _____

PAGE 1 OF FY 82

13 REQUEST FOR NEW POSITION.

SIGN IN

(Person)

Testimony	Bill No.	Representing
Don CATHER	HB 115	DOL
DALE CHEEK	HB 115 / 56	DOL
DWAYNE CARLSON	56	AFL-CIO
RICK URION	56	WIEN AK. AIR ALASKA
HB165		
Steve Hayden		United Utilities
Sharon Taylor	165 / 2510	Div. of Business Loans
Alex Cherry	HB165	AFA

NAME	BILL NO.	REQUESTED BY
Dr. e Cheek	HB 56	Dept of Labor
Lance Youngquist	HB 148	Real Estate Commission

HB

518

COMMITTEE REPORT

HOUSE

4/21/31

(S)

FURTHER:

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 518

"An Act relating to interest on public construction contract payments."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____ CHAIRMAN

H 60 (Rev. 3/81)

KENAI PENINSULA BOROUGH
BOX 850 • SOLDOTNA, ALASKA 99669
PHONE 262-4441

STAN THOMPSON
MAYOR

May 19, 1981

House of Representatives
State Capitol
House Labor and Commerce Committee
Pouch "V"
Juneau, Alaska 99811

ATTN: House Representative Hurlbert

SUBJECT: House Bill #518

Dear Mr. Hurlbert:

The following comments are submitted for your consideration regarding House Bill #518.

Contracts are normally written to allow 30 to 45 days from submission of a pay request to payment. The same limitations should apply to interest. Interest should not accrue until a minimum of thirty (30) days after submission or until payment is due.

Chapter 90, SEC 36.90.001 b. should be revised to read: Interest accrues thirty (30) days after the date of approval of a pay estimate until the date of payment to the contractor or application toward the obligation of the contrac[illegible] under the contract.

Your consideration is appreciated.

Sincerely,

Stan Thompson

Stan Thompson
Mayor

ST:pe

cc: Don Gilman
Hugh Malone
Pat O'Connell

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSHB 518
Title Interest on public construction contract payments.
Requested by H. Labor & Commerce Committee Date 5/1/81

II. FISCAL DETAIL
Agency Affected Dept. of Transportation & Public Facilities
Program Category Affected
BRU, Program, or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES		65.0*				
700 GRANTS, CLAIMS, ETC.						
TOTAL		65.0*				

FUNDING (Thousands of Dollars)

GENERAL FUND		65.0*				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

*Assume increases with inflation.

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

See attached.

IV. DATE 5/6/81 PREPARED BY Ron Lind
AGENCY DOTPF
PHONE 465-3900

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

33-001 (Rev. 12/79)

The change made in this bill is supposed to make it so interest is required only on retainage and not on regular payments. It appears that AS 36.90.001(b) should be changed to clarify that interest is required only on retainage by adding the words "on retainage" between "accrues" and "from".

If interest is required on all payments, the cost would have been approximately $1.9 million, including four positions for calculation of the interest, regionalization of the payment process, and acceleration of the payments. This is based upon a 24 day payment average.

If interest is only required on retainages, the total cost to DOT/PF would be approximately $65,000 per year. Currently the department has approximately $600,000 held in retainage. These amounts are mainly related to older agreements for work by utility firms for the movement of utility lines in conjunction with construction projects. Since we do not have inspectors there during the working period by the utility, we do not have a good method to assure that their billings are correct until audit. We expect to continue to hold retainage on these types of agreements even if we are required to pay interest.

HB
524

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

4/23/81

(5)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 524

"An Act relating to small loans; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 524 (L&C) [ ] same title [ ] new title

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____ CHAIRMAN

H 60 (Rev. 3/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 524
Title An Act relating to Small Loans
Requested by House Labor & Commerce Date April 30, 1981

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Consumer Protection
BRU, Program, or Subprogram(s) Affected Financial Institutions
(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 81	FY 82	FY 83	FY 84	FY 85	FY 86
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

TESTIMONY FOR HB 524

PRESENTED BY DOUGLAS S. BISBEE May 11, 1981

MY NAME IS DOUGLAS BISBEE AND I AM HERE TODAY AS AN EMPLOYEE OF BENEFICIAL FINANCE, AND SPEAKING IN FAVOR OF THIS BILL.

HB 524 EFFECTS ONLY FINANCE COMPANIES LICENSED TO DO BUSINESS IN ALASKA. AT THE PRESENT TIME, THERE ARE TWO SUCH COMPANIES, BENEFICIAL AND HOUSEHOLD FINANCE, WITH BRANCH OFFICES IN FAIRBANKS AND ANCHORAGE. DUE TO INFLATED OPERATING COSTS IN RECENT YEARS, OUR BUSNESS HAS CONTRACTED INSTEAD OF EXPANDED. BENEFICIAL HAS CONSOLIDATED ITS NINE BRANCHES SERVING SEVERAL COMMUNITIES TO, TWO. THIS BILL WOULD HELP THAT PROBLEM AND INSURE THAT MONEY IS AVAILABLE TO NEEDY BORROWERS OF SMALL AMOUNTS BY ADDING SUBSECTION (D) TO 06.20.230 WHICH DOES THE FOLLOWING:

1. INDEXES THE ~~BRACKED~~ Bracketed AMOUNTS (PRESENTLY 500-1000) TO THE ANCHORAGE COST PRICE INDEX IN INCREMENTS OF 10%.

2. DOES NOT CHANGE EXISTING RATE AND ELIMINATES THE NEED FOR LEGISLATURE TO CONSIDER FUTURE RATE INCREASES.

3. PROVIDES FOR THE DEPARTMENT OF BANKING TO REVIEW THE CPI AT THE END OF EACH YEAR, EVALUATE THE CHANGES AND NOTIFY LICENSEES OF CHANGES.

SEC 3 OF THE BILL ALLOWS FOR THE COLLECTION OF A LATE OR DEFAULT CHARGE ON A LATE PAYMENT. FINANCE COMPANIES ARE THE ONLY LENDERS IN ALASKA NOT ALLOWED THIS FEE WHICH COMPENSATES FOR THE ADDITIONAL WORK REQUIRED TO COLLECT THE PAYMENT.

YOUR FAVORABLE CONSIDERATION IS REQUESTED

HB
526

COMMITTEE REPORT

HOUSE

4/24/81 FURTHER: FINANCE

(5)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 526

"An Act repealing the electric and telephone cooperative tax and the coin-operated amusement and gaming devices tax; and providing for an effective date."

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for HB 526 (2 HA) [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

_____

_____

Terry Gamble

Ted Kantner

/

_____

_____

_____

_____

_____

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

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CHAIRMAN

H 60 (Rev. 3/81)

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM May 7, 1981

SUBJECT: CSHB 526 (Labor and Commerce)

TO: Representative Vernon L. Hurlbert

FROM: John B. Chenoweth
Legislative Counsel

I have limited operation of the exemption in AS 10.25.540(b) to an exemption from the state's income tax (AS 43.20) and municipal property tax (AS 29.53.010 - 29.53.410). The state levies a property tax only on certain oil company property under AS 43.56, while municipalities are precluded from levying income taxes by AS 43.20.290. I have no idea what the current "excise tax" exemption reference is to and, because it is unclear, I have deleted it.

The original bill generally repealed taxes and probably did not present a "single-subject" violation problem under Article II, section 13. Given the changes you are making to the telephone and electrical cooperative tax, it is not certain that this committee substitute is not in violation of the single-subject rule. Indeed, given the committee's proposed action on the bill, you are advised to divide into separate legislation the provisions the changes with respect to both taxes in order to avoid a single-subject argument.

There was a notation on the bottom of the page of marked copy suggesting that this legislation was to have a retroactive effect, and I have so drafted this committee substitute.

JBC:ljb

Enclosure

Introduced: 4/24/81
Referred: Labor & Commerce and Finance

IN THE HOUSE

BY ROGERS, BUCHHOLDT, RANDOLPH AND HALFORD

HOUSE BILL NO. 526

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act repealing the electric and telephone cooperative tax and the coin-operated amusement and gaming devices tax; and providing for an effective date."

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

* Section 1. AS 10.25.540 - 10.25.570 and AS 43.35.010 - 43.35.090 are repealed.

* Sec. 2. This Act takes effect January 1, 1982.

Each coop Exempt
Local Bill

10.25.540

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811

May 1981

The Honorable Vernon Hurlbert
Chairman
House Labor and Commerce Committee
Room 411 - Capitol Building
Juneau, Alaska

Dear Mr. Hurlbert:

Re: House Bill No. 526

House Bill No. 526, an Act repealing the electric and telephone cooperative tax and the coin-operated amusement and gaming devices tax, was introduced in the House on April 24, 1981 and was referred to the House Labor and Commerce and Finance Committees.

For the consideration of the House Labor and Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Gary L. Jenkins, Director, Audit Division; Mr. Phillip A. Wall, Director, Administrative Services Division and Mr. Bill Yankee, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

RDS/rdh

cc: The Honorable Samuel R. Cotten
Chairman
House Finance Commitee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Gary L. Jenkins, Director
Audit Division
Department of Revenue

Phillip A. Wall, Director
Aministrative Services Division
Department of Revenue

Bill Yankee
Research Section
Departmen of Revenue

04-D21.H

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 526
Title An Act repealing the electric and telephone cooperative tax
Requested by House Labor & Commerce Committee Date April 26, 1981

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
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) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) NONE

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

The organizations affected by this bill would no longer be required to file a return under AS 10.25, however, they would be required to file a copy of their Forms 990 & 990 T, which they are required to file with the Internal Revenue Service. Thus, the number of returns which would be processed by this division will remain unchanged.

IV. DATE April 27, 1981 PREPARED BY Gary L. Jenkins
AGENCY Audit Division
PHONE 465-2320

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

33-001 (Rev. 12/80)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 526
Title Repealing the Electric/Telephone Cooperative Tax & Coin-Operated/Amusement & Gaming Device Tax
Requested by House Labor & Commerce Committee Date 4-26-81

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected General Government
BRU, Program, or Subprogram(s) Affected Administrative & 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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		Ø	Ø	Ø	Ø	Ø

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 administrative effect of repeal of the Electric/Telephone Cooperative Tax is about 17 man hours per year (for $200 per year). These hours are used by four different employees in performing the mail-out, posting, research, balancing, voucher preparation, filing, and warrant mail-out associated with the annual sharing from this program.

The administrative effect of repeal of the Coin-operated and Amusement and Gaming Device Tax is about 50 man hours per year (for $545 per year). These hours are used by four different employees in performing the functions described above which are required for the semi-annual sharing of receipts from this program.

There is no meaningful reduction in administrative costs assigned with repeal.

IV. DATE May 5, 1981 PREPARED BY Philip A. Wall by Hazel J. Nowlin
AGENCY Revenue
PHONE 465-2313

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

33 001 (Rev. 12/80)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 526

Title Act repealing the electric and telephone tax and the amusement and gaming tax.

Requested by House Labor and Commerce Committee Date April 28, 1981

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 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	(50)	(1400)	(1500)	(1600)	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The FY 82 figure of $50 thousand is for approximately one half of the year's estimated collections for the amusement and gaming devices tax. Subsequent years show an approximate revenue loss of $100 thousand per year due to a repeal of AS 43.35.

It is assumed that the 1981 tax levied due to AS 10.25 will still be payable in early 1982 and therefore, no relief from the telephone and electric co-op tax would be evident until FY 1983.

IV. DATE April 28, 1981 PREPARED BY William H. Yankee Bill Yankee

AGENCY Revenue (Research)

PHONE 465-2173

Original: Legislative Finance

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

33-001 (Rev. 12/80)

HB
586

COMMITTEE REPORT

HOUSE

5/20/81

(S)

FURTHER:

Date: 3-20-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 586

"An Act relating to permits for overweight vehicles."

under consideration and reports it back as follows:

[ ] 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

H 60 (Rev. 3/81)

H. Labor & Commerce 1981-1982

Date Introduced

" Rec'd.

Referrals

Comm. Hering 2-10-82

" action passed with effective date of Jan. 1st 19

taken to Clerks office 3:45 P.M.

NOTE Letter from Comm. Nix / Public Safety herein requesting delay in action until proper persons can testify.

Notified Public Safety Paul Cmyr & Sgt

~~position proponent~~ PN

Sherrie H Fe[illegible] inquiring

Ben Rule
1727 Bartlett
Anch, AK 99507
344-5909

Ted W. Harris
SR Box 71140
Fairbanks, AK
488-3384

Shirley A. Williard
3446 Lathrop St. Apt. 3
Fbks. Ak. 99701 - phone 479-2468

Women For Alaska Outer Open

Fuzzy's Trucking, Inc.
8123 Hartzell Rd
Anch. Ak. 99507 -- 344-0812

Exhibit A

CHAPTER 64.
MOTOR FREIGHT CARRIERS

Article
1. Vehicle Leasing
2. Applications
3. Fees
4. Insurance and Bonds
5. Tariffs, Schedules and Shipping Documents
6. Contracts
7. Safety Regulations and Identification
8. General Provisions

ARTICLE 1. VEHICLE LEASING

Section
10. Leasing requirements
15. Interchange of vehicles
20. (Repealed)
30. (Repealed)
40. (Repealed)
50. (Repealed)
60. (Repealed)
70. Compensation
80. (Repealed)
90. (Repealed)
100. (Repealed)
110. Unauthorized leasing
120. Violations
130. Exemptions to leasing requirements
140. (Repealed)
150. (Repealed)

3 AAC 64.010. LEASING REQUIREMENTS. (a) Common or contract carriers may lease vehicles, but may not lease any vehicle to any person other than another common or contract carrier and, except for vehicles exchanged between authorized motor carriers in interchange service as provided in sec. 15 of this chapter, authorized carriers may perform transportation with vehicles which they do not own only under the conditions set out in this section. The lease for the use of a vehicle

(1) must be made between the carrier and the owner of the vehicle;

(2) must be in writing and signed by the carrier and the owner of the vehicle, or by their regular employees or agents authorized to act for them in the execution of leases;

(3) must specify the period of time for which it applies, which may not be less than 30 days; however, this subparagraph does not apply to vehicle lease agreements between permit holders;

(4) must provide that the lessee have exclusive possession, control, use and complete responsibility for the vehicle and its operation for the duration of the lease, except that,

(A) provision may be made in the lease for considering the lessee as the owner for the purpose of subleasing under this section to other authorized carriers for the duration of the lease;

(B) when entered into by carriers of household goods, for the transportation of household goods, as defined by the Interstate Commerce Commission, the provisions of (A) of this subsection need only apply during the period the vehicle is operated by or for the authorized carrier;

(5) must specify the compensation to be paid by the lessee for the rental of the leased vehicle;

(6) must specify the time and date upon which the possession and control of the vehicle will be taken by the lessee, the conditions upon which the lease begins, the time or the conditions upon which the possession of the vehicle will be returned to the lessor and the conditions upon which the lease otherwise expires; the duration of the lease shall coincide with the time of giving receipts for the vehicle as required by (b) of this section;

(7) must be executed in quadruplicate; the original must be retained by the carrier in whose service the vehicle is to be operated, one copy shall be retained by the owner of the vehicle, one copy must be filed with the commission within seven days of the effective date of the lease, and one copy must be carried on the vehicle specified in the lease during the entire period of the lease; provided that the carrier or its regular employee or agent may prepare a statement certifying that the vehicle is being operated under the terms of a written lease filed with the commission, which certificate must contain the names of the lessor and lessee, a complete description of the vehicle, the effective date and duration of the lease, any restrictions

(a) Connecting Carriers Considered As Owners. An authorized carrier receiving a vehicle in connection with a through movement under this section is considered the owner of the vehicle for the purpose of leasing the vehicle to other authorized carriers in furtherance of the movement to the destination or of the return of the vehicle after the movement is completed. (Eff. 9/26/76, Reg. 59)

Authority: AS 42.07.141 AS 42.10.070
AS 42.10.010 AS 42.10.080

3 AAC 64.020. WRITTEN LEASE REQUIRED. Repealed. (Eff. 9/26/76, Reg. 59)

3 AAC 64.030. WRITTEN LEASE REQUIREMENTS. Repealed. (Eff. 9/26/76, Reg. 59)

3 AAC 64.040. PERIOD OF LEASING. Repealed. (Eff. 9/26/76, Reg. 59)

3 AAC 64.050. COMMISSION APPROVAL AND AUTHORIZATION. Repealed. (Eff. 9/26/76, Reg. 59)

3 AAC 64.060. LEASES BY COMMON OR CONTRACT CARRIERS. Repealed. (Eff. 9/26/76, Reg. 59)

Original

3 AAC 64.070 COMPENSATION. The amount of compensation to be paid under a lease shall not be based upon a division of revenue, including but not limited to a percentage basis dependent upon gross receipts per trip or period of time. Compensation shall not include any arrangement whereby the lessee shall pay the lessor directly or indirectly for a driver or provide a rebate therefor unless otherwise ordered by the Commission upon application therefor. (Eff. 7/29/64, Reg 15)

Authority AS 42.10.070
AS 42.10.080

3 AAC 64.080. TERMINATION OF LEASE. Repealed. (Eff. 9/26/76, Reg. 59)

3 AAC 64.090. DISPOSITION OF LEASE COPIES. Repealed. (Eff. 9/26/76, Reg. 59)

3 AAC 64.100. VEHICLE IDENTIFICATION. Repealed. (Eff. 9/26/76, Reg. 59)

3 AAC 64.110. UNAUTHORIZED LEASING. All leases shall be executed in good faith and entered into without intent to evade the provisions of the law regulating common or contract carriers, or the provisions, rules and regulations of the commission. Where the commission in its discretion deems that a lease is not executed in good faith, such lease shall not be approved, and permit holders are prohibited from entering into the disapproved agreement.

(b) Except as may be specially permitted by the commission upon written application thereto, no common or contract carrier shall seek to extend the scope of his permit rights by leasing his equipment for the transportation of commodities which his permit does not authorize, nor into territory he is not authorized to serve. (Eff. 7/29/64, Reg. 15)

Authority: AS 42.10.070
AS 42.10.080

3 AAC 64.120. VIOLATIONS. Violations of the provisions of secs. 10--150 of this chapter may subject permittee to suspension or cancellation of his permit, in addition to other penalties or remedies provided by law. (Eff. 7/29/64, Reg. 15)

Authority: AS 42.10.230

3 AAC 64.130. EXEMPTIONS TO LEASING REQUIREMENTS. The provisions of secs. 10--120 of this chapter do not apply to the bona fide lease or rental of a vehicle:

(1) by an equipment rental or leasing company to a common, contract, or private carrier where the driver or operator of the leased vehicle is not provided, procured or arranged for, directly or indirectly or by course of dealing, by the leasing company. A vehicle lease under the provisions of this section shall be in compliance with the requirements of secs. 260--290 and secs. 490--500 of this chapter; or

(2) by a construction contractor to another construction contractor when the vehicle is leased for the purpose of transporting construction materials by the lessee in construction work being performed by the lessee. This exemption applies only to vehicles acquired by the lessor as necessary to his performance of previous construction work and which the lessor leases only on occasion to use in performance of contracts secured within the

OF THE ALASKA TRANSPORTATION COMMISSION Exhibit 1

Notice is hereby given that the Alaska Transportation Commission, under the authority vested in AS 42.07.141(a) and (b) proposes to amend regulations in Title 3 of the Alaska Administrative Code to implement AS 42.07.121, AS 42.10.070, AS 42.10.080 and AS 42.10.010 as follows:

---

3 AAC 64.070 is amended as follows:

Compensation. The amount of compensation to be paid by the authorized carrier for equipment must be clearly stated in the lease and may be expressed as a percentage of gross revenue, a flat rate per mile, a variable rate depending on the direction traveled or the type of commodity transported or by any other method of compensation mutually agreed upon by the parties to the lease. The compensation stated in the lease applies only to equipment and not to the driver's service unless otherwise ordered by the Commission.

(Adopted by Dan Quist)

Notice is also given that any person interested may present oral or written statements or arguments relevant to the action proposed at a hearing to be held in the Grand Jury Second Floor Room of the Alaska State Court Building, Fairbanks, Alaska, 3:00 p.m. on Thursday, January, 24, 1980.

The Alaska Transportation Commission, upon its own motion or at the instance of any interested person, may at the hearing or after it adopt the above proposals substantially as set out above without further notice.

DATED at ANCHORAGE, ALASKA, this 18th day of December, 1979.

ALASKA TRANSPORTATION COMMISSION

Keith H. Miller

Keith H. Miller, Chairman

Refer to Docket No. 79-522-RR/A

Exhibit L

3 AAC 64.070 is amended to read:

Compensation. The amount of compensation to be paid by the authorized carrier for equipment must be clearly stated in the lease and may be expressed as a percentage of gross revenue, a flat rate per mile, a variable rate depending on the direction traveled or the type of commodity transported or by any other method of compensation mutually agreed upon by the parties to the lease. The compensation for equipment and a driver, if any is provided by the lessor, must be separately stated, and any deductions, set offs, or charge backs from any compensation must be fully and clearly set forth in the agreement. (Eff. / / Reg ; am. / / Reg.)

Authority: AS 42.10.070
AS 42.10.080

Rejected by numerous letters to Alaska Transportation Comm. from the Owner-Operators!

Adopted language. Next page total payroll and Wage Benefits to be paid to Owner-Operator.

) Connecting Carriers Considered As ners. An authorized carrier receiving a vehicle connection with a through movement under section is considered the owner of the icle for the purpose of leasing the vehicle to authorized carriers in furtherance of the ement to the destination or of the return of vehicle after the movement is completed. ff. 9/26/76, Reg. 59)
thority: AS 42.07.141 AS 42.10.070
AS 42.10.010 AS 42.10.080

AAC 64.020. WRITTEN LEASE RE-IRED. Repealed 9/26/76.

AAC 64.030. WRITTEN LEASE REQUIRE-NTS. Repealed 9/26/76.

AAC 64.040. PERIOD OF LEASING. pealed 9/26/76.

AAC 64.050. COMMISSION APPROVAL D AUTHORIZATION. Repealed 9/26/76.

AAC 64.060. LEASES BY COMMON OR NTRACT CARRIERS. Repealed 9/26/76.

AAC 64.070. COMPENSATION. The ount of compensation to be paid by the horized carrier for leased equipment must be rly stated in the lease and may be expressed percentage of gross revenue, a flat rate per , a variable rate depending on the direction eled or the type of commodity transported, by any other method of compensation tually agreed upon by the parties to the lease. xpenses of operating the equipment (includ-driver compensation) are to be paid by the or from the lease compensation, the lease it specify what items of expense are uded. Payment to the lessor must be made in 15 days after submission of the neces-delivery documents and other paperwork cerning a lease payment or the termination he lease, whichever is applicable. The lease t clearly specify any delivery documents and r paperwork that must be submitted before lessor can receive payment. (Eff. 7/29/64, . 15; am 6/2/80 Reg. 74)
thority: AS 42.07.121 AS 42.10.080
AS 42.10.070 AS 42.10.110

AAC 64.080. TERMINATION OF LEASE. ealed 9/26/76.

3 AAC 64.090. DISPOSITION OF LEASE COPIES. Repealed 9/26/76.

3 AAC 64.100. VEHICLE IDENTIFICATION. Repealed 9/26/76.

3 AAC 64.110. UNAUTHORIZED LEASING. (a) All leases shall be executed in good faith and entered into without intent to evade the provisions of the law regulating common or contract carriers, or the provisions, rules and regulations of the commission. Where the commission in its discretion deems that a lease is not executed in good faith, such lease shall not be approved, and permit holders are prohibited from entering into the disapproved agreement.

(b) Except as may be specially permitted by the commission upon written application thereto, no common or contract carrier shall seek to extend the scope of his permit rights by leasing his equipment for the transportation of commodities which his permit does not authorize, nor into territory he is not authorized to serve. (Eff. 7/29/64, Reg. 15)

Authority: AS 42.10.070
AS 42.10.080

3 AAC 64.120. VIOLATIONS. Violations of the provisions of secs. 10–150 of this chapter may subject permittee to suspension or cancellation of his permit, in addition to other penalties or remedies provided by law. (Eff. 7/29/64, Reg. 15)

Authority: AS 42.10.230

3 AAC 64.130. EXEMPTIONS TO LEASING REQUIREMENTS. The provisions of secs. 10–120 of this chapter do not apply to the bona fide lease or rental of a vehicle:

(1) by an equipment rental or leasing company to a common, contract, or private carrier where the driver or operator of the leased vehicle is not provided, procured or arranged for, directly or indirectly or by course of dealing, by the leasing company. A vehicle lease under the provisions of this section shall be in compliance with the requirements of secs. 260–290 and secs. 490–500 of this chapter; or

(2) by a construction contractor to another construction contractor when the vehicle is leased for the purpose of transporting

PLEASE NOTE

THE ORGINAL FILE CONTAINS AN OVERSIZED DOCUMENT THAT IS UNSUITABLE FOR FILMING. PLEASE REFER TO THE ALASKA STATE ARCHIVES TO VIEW THE ORIGINAL.

NEWSPAPER ARTICLE

"THE BIGGEST "RIP-OFF" OF THEM ALL

DAILY NEWS-MINER, FAIRBANKS, AK

TUESDAY 4/20/82

A M E N D M E N T

Offered in the SENATE By Parr

TO: CSHB 586(Fin) APR 27 1982

Page 1, lines 6 - 7:

Delete "permits for overweight and oversize vehicles"

Insert "motor vehicles and carriers"

Page 1, after line 8:

Insert the following new material:

* Section 1. AS 42.07 is amended by adding a new section to read:

Sec. 42.07.123. OWNER OPERATORS. The commission shall supervise and regulate owner operators in the state and shall prescribe regulations concerning the filing of reports by owner operators, the issuance of permits to owner operators based on public convenience and necessity, and the maximum and minimum rates that may be charged by owner operators. In this section "owner operator" means a person who rents, leases, or otherwise provides a motor vehicle for the use of others in transporting passengers or property upon the condition that the person be employed to operate the vehicle and includes common and contract carriers and construction contractor operators but does not include taxicabs.

* Sec. 2. AS 42.10.280(b) is amended to read:

(b) A common carrier shall file with the commission, and print and keep open to public inspection, schedules showing the <u>maximum and minimum</u> rates, charges, and classifications for the transportation of

property within the state between each point upon its route, and between each point upon its route and each point upon every route leased, operated, or controlled by it, and between each point upon its route or upon any route leased, operated, or controlled by it and each point upon the route of a common carrier, whenever a through route and joint rate has been established or ordered between two such points. If no joint rate over a through route has been established, the carriers in a through route shall file, print, and keep open to public inspection the separately established rates, charges, and classifications applied to the through transportation. The schedules of contract and common carriers shall plainly state the places between which property will be carried, and the schedules of common carriers shall also contain classifications of property in force, and state separately all terminal, storage, icing, and other charges which the commission requires to be stated, all privileges or facilities allowed, and rules and regulations which affect or determine any part or the aggregate of the rates and charges, or the value of the service given to the shipper or consignee. The schedules shall be plainly printed in large type. The carrier shall keep a copy of each schedule readily accessible for inspection by the public in every station or office where property is received for transportation when the station or office is in charge of an agent, and in every station or office of the carrier where bills of lading or receipts for property are issued. The carrier shall produce a schedule for inspection upon the demand of any person. The carrier shall keep posted in two public and conspicuous places in each station in which a schedule is kept a notice, printed in bold type, which

states that the schedules are on file with the agent and open to inspection by any person, and that the agent will assist the person to determine rates or rules and regulations. The commission shall prescribe the form of schedules. The form shall conform as nearly as practicable to the form of schedules required by the Interstate Commerce Commission.

* Sec. 3. AS 42.10.420(7)(A) is amended to read:

(A) a person who transports by motor vehicle, [WITH OR] without compensation, property which is owned or is being bought or sold by him, or property of which he is the seller or [,] purchaser [, LESSEE OR BAILEE,] and the transportation is incidental to and in furtherance of some other primary business conducted by the person in good faith;

Page 1, line 15:

After "relating to" insert "pilot car services and the"

Renumber remaining bill sections accordingly

12-L9LH

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR
William R. Nix
Commissioner
P. O. BOX 6188 ANNEX
ANCHORAGE, ALASKA 99502

February 10, 1982 465-4322

Representative Terry Martin, Chairman
House Labor & Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Martin:

Re: HB 586

Due to preparation for House budget hearings scheduled for tomorrow, the Department's spokesman is unable to attend today's hearing on HB 586.

Since this Bill does have an impact on the Division of Alaska State Troopers, I respectfully request that your Committee take no action on this Bill until testimony is heard from the Department of Public Safety which does oppose transfer of the functions delineated in HB 586.

Sincerely,

William R. Nix
Commissioner

Overweight Vehicles (permits for)

HOUSE BILL NO. 586, by Rep. Rogers. Transfers from the Dept. of Public Safety to the Dept. of Transportation & Public Facilities the responsibility for issuing permits for overweight vehicles and for operating motor vehicle weighing stations and establishing regulations for the enforcement of size, weight, and load limitations. Secs. 1 & 2 amend AS 19.10.060 (Regulation of Weight and Load of Vehicles and Use of Highway During Certain Seasons) by adding that DOT&PF may issue permits for overweight vehicles, etc. Repeals AS 28.05.011(8) (duty of the Commissioner of Public Safety to adopt regulations governing "the operation of motor vehicle weighing stations and the enforcement of size, weight and load limitations, including the issuing of special permits and prescribing fees for special permits . . ."). Does not provide for effective date. (Note: see SB 58, similar.)

Introduced May 20 and referred to Labor & Commerce.

M-B CONTRACTING CO., INC.
7101 Debarr Rd., Anchorage, Alaska 99504 • Ph. (907) 333-5527 • Telex 26-528

January 28, 1981

Senate Transportation Committee
Juneau, Alaska

Gentlemen:

We are not satisfied with the issuance of "Overweight and Overlegnth Permits" as presently being done by the Department of Public Safety, Alaska State Troopers; nor are we satisfied with the operation of the scales by the State Troopers.

1. There seems to be different criteria used at different Permit issuing offices at different locations throught the State.

2. Some of the personnel (State Troopers) operating the scales and issuing citations were not completely familar with the Regulations and in most instances refused to check with his supervisor as to the correct interpretation.

We believe this operation could better be performed by the Department of Transportation.

Very truly yours,

M-B Contracting Co., Inc.

H. A. Leader

Harold A. Leader

WORLD EQUIPMENT

P.O. BOX 4-GG
ANCHORAGE, ALASKA 99509
PHONE (907) ~~ZZXXDSXK~~ 272-9558

January 26, 1981

Associated General Contractors
134 Frankin
Juneau, Alaska 99801

Attention: Jeanie Kline

Dear M's Kline:

First let me say we have owned and operated trucks since 1968 and have been involved in trucking industry since 1966 in Anchorage. Operating one to twenty-five trucks, primary earthmoving but have also hauled freight.

Due to the harassment of the Alaska State Troopers we have consider just quitting. The cost of equipment and men being detained unnessarily is a factor that cann't be figured in hauling cost and beable to obtain work. And the cost is an unwarranted cost, the majority of our work in some manner is paid for by the State and most of our work is performed on State Highway and Road projects.

Attached is copies of permit and ticket issued last week. We were moving our D-6 Cat. from Eagle River to Anchorage. We purchased a wide load permit as a D-6 is a legal weight load; when reaching the scales the cat was not moved forward enough to place the weight properly on the axles. The back axle is legal for 42,000 lbs. When weighted, the back axle actually weighted 46,060 lbs. There was no scales to check the placement of the cat before reaching the scales. The wide-load permit was taken from the driver. A ticket was issued for 4,080 lbs. @.05 per lb. $204.00. Another permit had to be obtained for overwidth and if we did not want to unchain and re locate the cat 8" forward approximately, we could get an overload permit, which we did and took permit to the Glenn Highway, Mile 11 scales. Time involved was over two hours.

Due to not knowing exactly the weight distribution of the D-6 on the lowboy, the cost of a driver, permits, someone to deliver is $354.00, not counting time for equipment just sitting that rents for $95.00 per hour. The total cost for moving the D-6 should have been about $210.00, labor, permits and equipment rental. Instead we have costs of over $550.00.

Troopers maintain we should know weights and distribution on lowboy of each piece of equipment. ATC, also maintains the same. They are not considering the amount of fuel in equipment, dirt and mud on frame, dirt that builts up in the belly pans, all change the weight over the 2%, if they are in a good mood and allow the 2%. A truck can be cleaned and have a bare weight of 3,000 lbs. less than before cleaned. How much experience has anyone in Troopers and ATC had with moving heavy equipment and trucking?

In 1977, I had a trooper come to our office and compliment me on our trucking operation. Good equipment, legal loads, courteous drivers. He also commented that if all truckers and trucking companies followed our example, enforcement would not be needed. Our policys and most of the drivers are the same, only we have six trucks now and had twenty then and we have more lost time due to troopers now.

The fall of 1978 we had to sell all our trucks in order to survive. We had a contract with Rogers and Babler to haul gravel from Eklutna to their plant on Tudor Road, in Anchorage. Which meant going through the Glenn Highway, Mile 11, scales with over ten trucks approximately seven times a day. We didn't anticipate any problems. The first day we were written over $4,000.00 in tickets. Rogers and Babler did not have scales at the Eklutna pit, we were weighting the trucks and material at the plant. Rogers and Babler needed the material for crushing very badly so we kept trying to haul but hauling less per load to get the axle weight. By noon the second day all work had to stop. The time at the scales inspecting and weighting just could not be absorbed and it wasn't getting better. Some trucks being inspected two and three times in one day. Just different troopers that were on duty, they had two and sometimes three in the scales. We stopped hauling, I called the troopers office and tried to make an appointment with the supervisor, he wasn't available to talk via of phone or have a meeting. I went to the troopers office and met with a sargent. It was arranged to have trucks all inspected at our yard so not to have drivers sitting two hours waiting and mechanics being sent to the scales. The inspection never took place after three days the sargent called and said they could not inspect in our yard because then they would have to inspect everyones like that if requested using Sea-Land and freight companies as an example.

Rogers and Babler put in scales at the gravel pit in Eklutna, they were platform scales but we did have gross weight and would split weight them to try and get axle weight correct. This took additional time and at a commerical scales they will not take the time to do this.

We suffered serious losses in labor cost and non-production. A truck would be held up with driver two hours, we would

not be notified till the time had been lost. We had company radio's installed to try and help. Trucks would be held at the scales till repaired, a mechanic sent 24 miles one way, we were located in Sand Lake. Reflector and clearence lights to be replaced during the day time and had happened that day. We inspected every night, lights, tires and etc. The summer was a night mare and we had good equipment, and a good reputation for having our equipment in extra good working order. We were lucky a buyer from Washington and Oregon come in and bought all our trucks savings us from bankruptsy.

The work season of 1979, we bought and operated four trucks. We hauled mostly in the Sand Lake area, we did haul on the Rabbit Creek project for Stephan and Sons and our trucks had very little trouble. There was occasions when trucks would be stopped more than one time just to pull them over, look at weight ticket and check truck over. On one occassion a truck was stopped three times with a load from Glenn Highway, Mile 11 to Rabbit Creek. The truck was not cited any of the three times.

The 1980 season we have hauled and had to cross scales only on one job in October and again a nightmare. The gross weight legal, axle weight off, and no way to check at the scales before going to State scales. We were hauling approximately 25 ton and should have been hauling 29 ton if had been able to check axle weight at the loading area. The operators at the pit become upset when they are loading the same truck two and three times to try and get the load so the driver is not afraid to go to State Scales. We were hauling from a commerical pit and do not have control of the loading.

The cost to anyone needing gravel or anything hauled that entails a truck going through the scales is going to pay extra money and I think any gravel supplies from Eagle River and that area hauling into town is going to find that no one even wants to haul if anything else he can do. I found last fall couldn't get trucks to haul due to the scales and just harassment they had to contend with.

We have a lowboy and haul our heavy equipment. I have many calls asking us to do their hauling as unable to get equipment moved at a reasonable price and due to scales, the added cost, the price is so high when they are quoted they just cann't afford to pay twice what it should cost.

Again, moving our D-6 last week my husband was stopped. driving the truck our son usually drives. The truck was pulled over by Officer Dial, he looked surprised when he saw who was driving. There was no reason to be stopped, like moving violation, he wanted to see the permit, then stated the flagging was wrong and had to be shown on the permit that

the flagging was correct, the blade was measured and equipment inspected. A pilot car and lowboy were stopped ahalf hour to move the equipment one mile. The truck was stopped on a icy narrow side street with a wide load which in my judgement was unsafe and if equipment had been stalled in such a manner would have been very concerned for the safety of others. I feel the truck was stopped just for a personal vindetta, a number of citations have been issued to our son and he has obtained an attorney which Officer Dial has made remarks about to other truckers.

I have drivers tell me while they were stopped the officer discussing what he is going to do to such and such next time. What kind of enforcement of the law is that? Officers threating what they are going to do and a guy just driving a truck for wages and afraid he will lose his license.

After three years a[illegible] the problem seems to have turned into a monster. While ha[illegible]ing for another trucker on the Elmendorf Access project a truck was weighted by the State at the pit at approximately 95,000 and legal. State scales weight him at 125,000+, he showd the weight ticket he had and it was fortunate the owner of trucking firm that we were hauling for was there and had to sweet talk trooper into weighting the truck again, they [illegible]ure wouldn't have done it for him the driver stated as he had told them something had to be wrong. Next time over the scale with the same load he weighted 112,000 by 3rd or 4th time weight at scales reflected approximately the same weight as the state project scales. The time lost was approximately two hours. After the incident the scales were closed and troopers left. I have personal knowledge of two other cases the same thing has happened and in one case the trucker was cited and went to court.

While hauling on International Airport Road project a trooper followed a truck onto the project and at the dump site stopped him for an inspection, the finding was he couldn't move the truck, the brake shoes had to be replaced they were wore out. The driver radioed and the shop, advised him the brake shoes were new just replaced. The trooper let him go back to work.

The Dept. of Transportation and Highways will not buy gravel with axle weight. A scales most be platform and all axles on the scales at one time. Yet they can ticket a truck overwight at .05¢ per lb. from axle scales. The variance in pit scales and trooper axle scales also will reflect less weight as well as overweight we have found.

I have not been able to obtain from troopers a book or whatever that they come up with some of their regulations from. ATC gave me a book saying we have adopted part of these regulations. The book is a ICC book. One item in question is to check air for braking power. The engine is shut off and brakes applied. The air pressure can't drop over so much per minute or the truck is unsafe. The pounds per minute and etc. changes with the trooper.

Our son is the one on the road and if drivers stopped and a real problem, he intercedes, he is very knowledgeable of weights, equipment mechanics and the workings of a truck. He has stated that for his own benefit he is going to carry a small tape recorder to document threats and that regulations change with the troopers.

The personnel that is being used for enforcement I feel has allot to do with the problems. It's a out to get you thing and somewhere this has to be started and I hope now Stopped.

After reciting the figures you quoted this morning on the telephone that enforcement will double as dollars are going to double my husband stated if this is going to be the case we are going to take another avenue for our business.

We have a small family business and the employees we have are Alaska residents that have lived here a number of years. The pressure of everyday business is hard and we have felt the pressure from the trooper enforcement harder than anyother problem we have had, and I feel a unnessary burden on the business, drivers and cost for state projects and private development.

Sincerely,

WORLD EQUIPMENT, INC.

Charlotte Emerson

Charlotte Emerson
Sec/Tres.

Rev. 6/78

STATE OF ALASKA

APPLICATION & PERMIT
TO TRANSPORT OVERSIZE OR OVERWEIGHT
VEHICLES OVER THE ALASKA HIGHWAY SYSTEM
AND OTHER DESIGNATED HIGHWAY

Permit Office: Anch
Date Rec'd.: 1/13/81
Fee Amount: 20.00
Cash ____ Check ____ Charge ✓
Cert. Weight Ticket Attached Yes ☐ No ☐
Alaska Business License No. ____

Name of Owner/lessee: World Equipment, Inc.
Address: P.O. Box 4-66 Anchorage, Alaska 99509
Lisc. No.: Truck 93HBAT Trailer 56733TN Vehicle Type 453 ATC No: B312
Make & Model: Truck Kenworth Trailer Loadking
Load Dozer Blade Make & Model D-6 Cat

Dates of Move: Jan 13
Time of Move: daylight hrs only except per stamp
Exact Origin: Snakes-Glenn Highway Exact Destination: Lido Drilling
Via Highways: Glenn Highway, Palmer, Tudor, Lake Otis, Drilling

VEHICLE WEIGHTS

NO MOVEMENT IF VISION IS OBSCURED BY INCLEMENT WEATHER. ORIGINAL PERMIT MUST BE CARRIED IN ABOVE VEHICLE TO BE MOVED.

OVERALL WHEEL BASE EQUALS ____ FEET from 7 to 9 A.M. & 4:30 to 6 P.M. in Anchorage Area Between Potter & Eagle River Overpass; Eagle River to Palmer Weight Only on Saturdays, Sundays & Holidays unless otherwise specifically stated.

('X' in axles by groups)
Actual Weights: 12,000 / 42,000 / 42,000
Tire Width (in.): 10 / 10 / 10
Tire Loading (No./in.): 350 / 391
Actual Combined Vehicle Weight: 99,000 Legal Combined Vehicle Weight: 94,000
(Circle all values that are overweight)

VEHICLE SIZE

Overall Height: Legal Overall Width: 12' Overall Length: 75'
Overhangs: Rear ____ Semi Trlr. Length: 56'
Over Height ____ Over Width 41 Over Length: 10'

CONDITIONS
(For Office Use Only)

Long/wide Load Sign: ☒ Front ☒ Rear ☐ Convoy
Pilot Cars: ☒ Front ☐ Rear ☒ Rotating Beacon ☐ Communication ☒ Red Flag ☐ Police Escort

Maximum Speed: (1.) Highways 45mph (2.) Bridges (a.) Max speed ____ (b.) No gear change ☐ (c.) No braking ☐

Other Conditions: ____

CERTIFICATION: I, Colleen Johnson (Please Print) certify that:

1. The load has been reduced to a practical minimum size and weight.
2. All vehicle regulations will be complied with.
3. The State of Alaska will be held harmless from any and all liability that may arise from the authorized movement.
4. That all arrangements have been made with Public Utilities for the protection of utilities which may interfere with the authorized move.
5. That owner/lessee will be responsible for all damages to Public Utilities or any other facility incurred as a result of the move.

Signed Colleen Johnson Title Employee Date 1-13-81

Approval: Permission is hereby granted to move the above described vehicle and/or load over the designated highways subjected to the conditions designated above.

Signed Deanna Montoya Title Clerk, Juris III Date 1/13/81

STATE OF ALASKA
PLAINTIFF

THIRD JUDICIAL DISTRICT

SS No. C 032023
SUMMONS

OF ALASKA
IN THE DISTRICT COURT OF ANCHORAGE

THE UNDERSIGNED, BEING DULY SWORN, UPON HIS OATH DEPOSES AND SAYS:

ON TUES THE 13 DAY OF JAN 1981 AT 1:27 A.M. P.M.

NAME OF DEFENDANT (PLEASE PRINT) MORRIMAN JAMES T
LAST FIRST MIDDLE

STREET 701 So. KLEVIN ST #2

CITY - STATE ANCHORAGE, AK PHONE 335-3101

AGE 25 BIRTH DATE 5-5-55 RACE WH SEX M HT 6'5" WT 165

DRIV. LIC. NO. AK UC 4758110 / SS NO 574-52-0774

ADD'L ID NO 1210217 / 3073740 STATE AK/AK YR. 73/74

AKA KOOLEMAN STYLE T-VIC/CAB COLOR GRAY/TAN

ON OR ALONG PUBLIC HIGHWAY, NAMELY AT (LOCATION) Glenn Hwy - I/S SCALES

PLACE OF EMPLOYMENT (WORLD EQUIPMENT)

DID UNLAWFULLY (PARK) (OPERATE) IN THE JUDICIAL DISTRICT AND STATE AFORESAID AND DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE.

In violation of Sec 17AAC 25.064(2)
OVERWEIGHT REAL AXLE GROUPS 3)
TRIPLES
40,000 LBS ACTUAL
40,000 LBS LEGAL
7050 LBS OVER

2 COUNTS 2,000 LBS OVER

☐ State Statute ☒ State Traffic Regulations ☐ Parking Violation
☐ Local Ordinance in such case made and provided ☐ Borough Ordinance

NAME Last First Middle

ROAD SURFACE: DRY ☐ WET ☐ SNOW ☐ ICE ☐
ROAD CONDITIONS: DAYLIGHT ☐ DARK ☐ DUSK ☐ DAWN ☐ RAIN ☐ SNOW ☐ FOG ☐ CLEAR ☐
OTHER TRAFFIC PRESENT: NONE ☐ ONCOMING ☐ PEDESTRIAN ☐ SAME DIRECTION ☐
CAUSED PERSON TO DODGE: [ ] Pedestrian [ ] Driver [ ] JUST MISSED ACCIDENT
DAMAGE: PD [ ] PI [ ] FATAL [ ]
TYPE ACCIDENT: Ped [ ] Vehicle [ ] Fixed Object ☐ Right Angle ☐ Head on ☐ Sideswipe ☐ Rear end ☐ Run off Roadway ☐ Intersection ☐
AREA ☐ Business ☐ Industrial ☐ School ☐ Residential ☒ Rural
HIGHWAY TYPE ☐ 2 lane ☐ 3 lane ☐ 4 lane ☒ 4 lane divided

THE UNDERSIGNED FURTHER STATES THAT HE HAS JUST AND REASONABLE GROUNDS TO BELIEVE AND DOES BELIEVE, THAT THE PERSON NAMED ABOVE COMMITTED THE OFFENSE HEREIN SET FORTH, CONTRARY TO LAW. J. Morriman

SWORN TO AND SUBSCRIBED BEFORE ME

ON 19

(Name and title) WITHIN 15 DAYS (Client No.) 6802

COURT APPEARANCE ON 19 AT M.

C 032023

SENATE COMMITTEE ON TRANSPORTATION

Meeting Minutes
January 29, 1981

The January 29, 1981 meeting of the Senate Committee on Transportation was called to order at 1:30 p.m. in the Butrovich Room located in the Capitol Building in Juneau, Alaska, by Senator Bill Ray, Chairman.

Present at the meeting were: Senators Ray, Gilman, Dankworth and Kerttula.

Absent from the meeting was: Senator Sackett (due to illness).

Senator Ray asked for testimony on Senate Bill 58, "An act relating to permits for overweight vehicles."

John Dean, representing H & H Trucking Co., Inc., testified in favor of the bill and brought up several points of concern. He felt there should be regular procedures for inspection of trucks because of lost money on time spent in Troopers inspections. He felt the jump scales used by the troopers are not accurate and not being used in an accurate method. There is also a problem with overweight Trooper inspection with the scales used. Senator Kerttula suggested that possibly a system could be devised to solve the overweight problem on the spot during inspections. Senator Dankworth asked if moving the permit section from Public Safety to DOT would solve the problems or did the regulations need to be revised. Mr. Dean felt they should and stated that moving the section wouldn't solve all their problems.

Lt. Kolivosky, representing the Department of Public Safety, testified in opposition to the bill. He states that the axle weight is the largest cause of road deterioration. He also stated that by regulation the Troopers are bound to go by the most restricted method. The jump scales, or portable scales, used were said to be accurate by the State of Washington, and Nevada also uses the scale. The scale house doesn't issue permits, the permit office does, because the scale house doesn't have road condition information needed and also there is a problem with keeping accurate records. He stated that the problems weren't going to be solved by moving the permit section.

Charlotte Emerson, representing World Equipment Inc., testified in favor of the bill. She objected to the time spent in obtaining permits and felt that since the Department of Public Safety is not responsible for anything after the permits are issued, the trucking company is, it didn't matter who issued permits. She thought truckers were over-regulated and over-policed and suggested that a current publication be available listing all of the rules and regulations concerning trucking. She also felt truckers should be allowed to adjust their loads and make them legal at the scale house, instead of having to go back to the permit office. Senator Dankworth again asked if moving the permit section is going to help or do the regulations need to be rewritten. Ms. Emerson said it didn't matter who gave out permits but she didn't think the permit section being in Public Safety was helping matters any. Ms. Emerson also reiterated several points brought out in the written testimony she had previously submitted.

Ms. T. J. Thrasher, representing the Alaska Trucking Association, testified in opposition to the bill. She felt the problems are with the regulations and they won't be solved by moving the permit section from one department to another. She would rather see the regulations improved, with a review of trucking operations.

Senator Ray asked if the Department of Transportation wanted the permit section within their department. DOT Commissioner Ward stated that he didn't feel the move would resolve any of the problems and he was more concerned with the regulations. He added that if the permit section was moved to his department, the enforcement efforts would continue because of his concern with the road conditions.

Senator Ray appointed Senator Kerttula to a subcommitte of one to investigate the City of Seward.

Senator Ray stated that Senate Bill 40 and Senate Bill 58 would be rescheduled for hearing on Tuesday, February 3.

There being no further business, the meeting was adjourned on January 29, 1981 at 3:25 p.m.

Addendum

The additional trucking problems explained by the witnesses weren't part of the testimony on Senate Bill 58.

H & H Trucking Company

P. O. BOX 10-777 - ANCHORAGE, ALASKA 99511 - PHONE 344-0993

February 7, 1981

Senator Bill Ray
Senate Transportation Commission
Pouch V
Juneau, Alaska 99811

Lear Senator Ray:

I would like to take this opportunity to thank you and the other members of the committee for your genuine interest of the problems facing transportation of sand and gravel in the State of Alaska. As I testified before your committee, the double standards that we must satisfy are impossible to comply with because of the strict enforcement of the Department of Transportations' unit weight policies and the State Troopers' axle weight policies. It is not that the sand and gravel truckers are trying to circumvent the law, it is just an impossibility to serve two masters with total loyalty to both.

It was exceedingly gratifying to encounter a branch of government that is genuinely interested in the problems facing its constituents.

Thank you again for my opportunity to testify. I stand ready to do anything that would help correct this problem.

Sincerely,

H & H TRUCKING

John R. Dean
Vice President

JRD/era

✓ cc: Jean Kline
Alaska Chapter - AGC

ROGERS & BABLER

A Division of Earth Resources
Company of Alaska

1301 East 64th Avenue, Anchorage, Alaska 99502
Phone:(907) 344-4547

January 26, 1981

Associated General Contractors
134 North Franklin Street
Juneau, Ak. 99801

Attn: Jean Kline

Dear Jean:

We have not had many problems obtaining trip permits from the Anchorage office. However, we can go to Palmer and obtain a permit to road a 988 Caterpillar Loader with bucket from Palmer to Chugiak. But we cannot get a like permit from the Anchorage Office. They make us remove the bucket. This is very costly to remove the bucket and some organizations do not have any lifting capabilities at the location where they would have to reinstall the bucket. Another rig would have to be hired just increasing costs to all. Some Contractors are required to remove rippers from tractor dozers. We don't think this is necessary, just an additional cost.

As far as the scales go here in Anchorage, everybody has problems. As an example: 1) We will obtain a permit to move a piece of equipment and when we get to the scale if we are off on one axle weight, but the total axles are okay, they can jerk the permit then issue a ticket for not having a permit and another ticket for being over weight. We had to go to court on this example and one of the tickets was resended. 2) Another problem is that the D.O.T. Highways require the Contractors to weigh the loads on a scale with sufficient length that the total rig is weighed at one time. Then when the rig arrives at the scale, individual axles are weighed and if one axle is over then a ticket is issued. One inspector made a driver shift 500#'s of gravel because one axle was over but the total weight was okay. We have had the same truck & trailer inspected 3 times in a single day, taking a lot of time and costing at least $60.00 to $70.00 per hour. That is $1.00 per minute.

They also require the Contractors to have indentification signs on their trucks. The letters are to be 2½" in size. If you look at the DOT, Municipality, and the ARR trucks, their letters on their trucks are not 2½" in size. They are smaller.

We are not against safety, but believe the inspections are carried too far. In fact the legislature voted out the car inspections but still all trucks have to have all glass, lights, horn, wipers, & etc. in perfect condition at all times.

Some times when it is raining heavy we loose light bulbs in marker and tail lights. A ticket is issued if they burn out during the day.

Truckers are refusing to quote the Contractors by the ton haul from Eagle River, Chugiak or Eklutna due to the harassment at the scales. Assuming that 150,000 tons of aggregate is hauled into Anchorage the price has increased at least $1.00 per ton due to the harassment. This is costing the D.O.T., Municipality and other agencies in additional dollars which we all are forced to pay our share. The trucking industry doesn't care about permits, harassment, and etc. because they pass the costs on to the consumer.

Hope this helps you.

Very truly yours,

ROGERS & BABLER

Ted R. Cadman
Operations Manager

TRC/fmc

HB 586 - SB 58

OVERSIZE & OVERWEIGHT COMMERCIAL VEHICLES, PERMITS

Supplied by

BACKGROUND:

A.G.C.: The Alaska Chapter, Associated General Contractors represents a membership of over 550 firms within the state directly involved or associated with the Alaska construction industry. Highway and vehicle safety are of prime concern with the industry as shown through A.G.C. sponsored accident prevention programs, safety seminars and voluntary on-site project inspections.

During the 1981 legislative session HB 586 and SB 58 were introduced as vehicles with which to focus legislative attention on a specific industry problem in the hope of securing statutory relief.

B.V.E.: Currently oversize, overweight permits, weigh stations and commercial vehicle inspections are under the jurisdiction of state troopers in the Bureau of Vehicle Enforcement, Department of Public Safety.

Formerly the permit section was operated by the Department of Highways, Division of Maintenance and the weigh stations/inspection fell under the authority of Weights and Measures Section, Department of Commerce.

PROBLEM:

Permits: (a) inconsistency in issuance (b) different and often conflicting criteria (c) ridigity of attitude and approach

Weigh Stations & Inspections: (a) restrictive interpretation of statutes and regulations (b) excessive, non-productive "nit-picking" enforcement (c) needless multiple inspections of vehicles (d) rigidity of attitude and approach

NOTE: specific examples are detailed in attached back-up which were offered in testimony supporting passage of a like bill (SB 58) during a Senate Transportation Committee hearing last session.

EFFECT ON USERS:

The initial response is of ire and frustration with governmental bureaucracy.

The net result is one of cost. Cost not only reflected in fees but lost time dollars in man hours and delayed delivery which, in turn, may mean the difference between profit or loss to the small contractor. Those unable to absorb lost time dollars may also be faced with a reduction of work force and work. The indirect results will be noted in inflated material and project cost to the paying public.

CONCLUSIONS:

By definition, state trooper duty is one of rigid adherence to policy and prosecution even within service delivery categories concerning victimless violations.

Commercial vehicle permitting and inspection could be appropriately assumed within a civil enforcement category with a more common sense approach and built in flexibility in regulatory and enforcement fields.

ACTION:

Transfer BRU from Public Safety to DOT/PF. This is a logical move as under AS 28.05.011 (8), Public Safety operates permits and enforcement "...based upon directives of the Department of Transportation and Public Facilities for proscribing or restricting conditions for the driving of vehicles when necessary to protect against undue damage to road foundations, surfaces or structures."

DOT/PF maintains continuous data on load limit and surface conditions for both road and bridge structures; up to date working knowledge of commercial vehicle type and size.

ALTERNATIVES:

(1) transfer sections to former agency control, i.e. permit section to DOT/PF and weigh station/inspection to Weights & Measures Section, DC&ED.

(2) consider long range reorganization of departments (DOT/PF - DC&EC) to allow reform .

(3) regulatory revision in Publis Safety to address possibilities as pre-arranged multiple vehicle inspection with identifying safety sticker, weigh station ability to modify or issue permits.

POSITION:

Alaska Chapter, Associated General Contractors supports an immediate transfer to DOT/PF as stated in HB 586.

HB 586 - SB 58

OVERSIZE & OVERWEIGHT COMMERCIAL VEHICLES, PERMITS

Supplied by

BACKGROUND:

A.G.C.: The Alaska Chapter, Associated General Contractors represents a membership of over 550 firms within the state directly involved or associated with the Alaska construction industry. Highway and vehicle safety are of prime concern with the industry as shown through A.G.C. sponsored accident prevention programs, safety seminars and voluntary on-site project inspections.

During the 1981 legislative session HB 586 and SB 58 were introduced as vehicles with which to focus legislative attention on a specific industry problem in the hope of securing statutory relief.

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H & H Trucking Company

P. O. BOX 10-777 · ANCHORAGE, ALASKA 99511 · PHONE 344-0993

February 7, 1981

Senator Bill Ray
Senate Transportation Commission
Pouch V
Juneau, Alaska 99811

Dear Senator Ray:

I would like to take this opportunity to thank you and the other members of the committee for your genuine interest of the problems facing transportation of sand and gravel in the State of Alaska. As I testified before your committee, the double standards that we must satisfy are impossible to comply with because of the strict enforcement of the Department of Transportations' unit weight policies and the State Troopers' axle weight policies. It is not that the sand and gravel truckers are trying to circumvent the law, it is just an impossibility to serve two masters with total loyalty to both.

It was exceedingly gratifying to encounter a branch of government that is genuinely interested in the problems facing its constituents.

Thank you again for my opportunity to testify. I stand ready to do anything that would help correct this problem.

Sincerely,

H & H TRUCKING

John R. Dean
Vice President

JRD/era

✓ cc: Jean Kline
Alaska Chapter - AGC

ROGERS & BABLER

A Division of Earth Resources
Company of Alaska

1301 East 64th Avenue, Anchorage, Alaska 99502
Phone:(907) 344-4547

January 26, 1981

Associated General Contractors
134 North Franklin Street
Juneau, Ak. 99801

Attn: Jean Kline

Dear Jean:

We have not had many problems obtaining trip permits from the Anchorage office. However, we can go to Palmer and obtain a permit to road a 988 Caterpillar Loader with bucket from Palmer to Chugiak. But we cannot get a like permit from the Anchorage Office. They make us remove the bucket. This is very costly to remove the bucket and some organizations do not have any lifting capabilities at the location where they would have to reinstall the bucket. Another rig would have to be hired just increasing costs to all. Some Contractors are required to remove rippers from tractor dozers. We don't think this is necessary, just an additional cost.

As far as the scales go here in Anchorage, everybody has problems. As an example: 1) We will obtain a permit to move a piece of equipment and when we get to the scale if we are off on one axle weight, but the total axles are okay, they can jerk the permit then issue a ticket for not having a permit and another ticket for being over weight. We had to go to court on this example and one of the tickets was resended. 2) Another problem is that the D.O.T. Highways require the Contractors to weigh the loads on a scale with sufficient length that the total rig is weighed at one time. Then when the rig arrives at the scale, individual axles are weighed and if one axle is over then a ticket is issued. One inspector made a driver shift 500#'s of gravel because one axle was over but the total weight was okay. We have had the same truck & trailer inspected 3 times in a single day, taking a lot of time and costing at least $60.00 to $70.00 per hour. That is $1.00 per minute.

They also require the Contractors to have indentification signs on their trucks. The letters are to be 2½" in size. If you look at the DOT, Municipality, and the ARR trucks, their letters on their trucks are not 2½" in size. They are smaller.

We are not against safety, but believe the inspections are carried too far. In fact the legislature voted out the car inspections but still all trucks have to have all glass, lights, horn, wipers, & etc. in perfect condition at all times.

Some times when it is raining heavy we loose light bulbs in marker and tail lights. A ticket is issued if they burn out during the day.

Truckers are refusing to quote the Contractors by the ton haul from Eagle River, Chugiak or Eklutna due to the harassment at the scales. Assuming that 150,000 tons of aggregate is hauled into Anchorage the price has increased at least $1.00 per ton due to the harassment. This is costing the D.O.T., Municipality and other agencies in additional dollars which we all are forced to pay our share. The trucking industry doesn't care about permits, harassment, and etc. because they pass the costs on to the consumer.

Hope this helps you.

Very truly yours,

ROGERS & BABLER

Ted R. Cadman
Operations Manager

TRC/fmc

M-B CONTRACTING CO., INC.
7101 Debarr Rd., Anchorage, Alaska 99504 • Ph. (907) 333-5527 • Telex 26-528

January 28, 1981

Senate Transportation Committee
Juneau, Alaska

Gentlemen:

We are not satisfied with the issuance of "Overweight and Overlength Permits" as presently being done by the Department of Public Safety, Alaska State Troopers; nor are we satisfied with the operation of the scales by the State Troopers.

1. There seems to be different criteria used at different Permit issuing offices at different locations throught the State.

2. Some of the personnel (State Troopers) operating the scales and issuing citations were not completely familar with the Regulations and in most instances refused to check with his supervisor as to the correct interpretation.

We believe this operation could better be performed by the Department of Transportation.

Very truly yours,

M-B Contracting Co., Inc.

H. A. Leader

Harold A. Leader

SENATE COMMITTEE ON TRANSPORTATION

Meeting Minutes
January 29, 1981

The January 29, 1981 meeting of the Senate Committee on Transportation was called to order at 1:30 p.m. in the Butrovich Room located in the Capitol Building in Juneau, Alaska, by Senator Bill Ray, Chairman.

Present at the meeting were: Senators Ray, Gilman, Dankworth and Kerttula.

Absent from the meeting was: Senator Sackett (due to illness).

Senator Ray asked for testimony on Senate Bill 58, "An act relating to permits for overweight vehicles."

John Dean, representing H & H Trucking Co., Inc., testified in favor of the bill and brought up several points of concern. He felt there should be regular procedures for inspection of trucks because of lost money on time spent in Troopers inspections. He felt the jump scales used by the troopers are not accurate and not being used in an accurate method. There is also a problem with overweight Trooper inspection with the scales used. Senator Kerttula suggested that possibly a system could be devised to solve the overweight problem on the spot during inspections. Senator Dankworth asked if moving the permit section from Public Safety to DOT would solve the problems or did the regulations need to be revised. Mr. Dean felt they should and stated that moving the section wouldn't solve all their problems.

Lt. Kolivosky, representing the Department of Public Safety, testified in opposition to the bill. He states that the axle weight is the largest cause of road deterioration. He also stated that by regulation the Troopers are bound to go by the most restricted method. The jump scales, or portable scales, used were said to be accurate by the State of Washington, and Nevada also uses the scale. The scale house doesn't issue permits, the permit office does, because the scale house doesn't have road condition information needed and also there is a problem with keeping accurate records. He stated that the problems weren't going to be solved by moving the permit section.

Charlotte Emerson, representing World Equipment Inc., testified in favor of the bill. She objected to the time spent in obtaining permits and felt that since the Department of Public Safety is not responsible for anything after the permits are issued, the trucking company is, it didn't matter who issued permits. She thought truckers were over-regulated and over-policed and suggested that a current publication be available listing all of the rules and regulations concerning trucking. She also felt truckers should be allowed to adjust their loads and make them legal at the scale house, instead of having to go back to the permit office. Senator Dankworth again asked if moving the permit section is going to help or do the regulations need to be rewritten. Ms. Emerson said it didn't matter who gave out permits but she didn't think the permit section being in Public Safety was helping matters any. Ms. Emerson also reiterated several points brought out in the written testimony she had previously submitted.

Ms. T. J. Thrasher, representing the Alaska Trucking Association, testified in opposition to the bill. She felt the problems are with the regulations and they won't be solved by moving the permit section from one department to another. She would rather see the regulations improved, with a review of trucking operations.

Senator Ray asked if the Department of Transportation wanted the permit section within their department. DOT Commissioner Ward stated that he didn't feel the move would resolve any of the problems and he was more concerned with the regulations. He added that if the permit section was moved to his department, the enforcement efforts would continue because of his concern with the road conditions.

Senator Ray appointed Senator Kerttula to a subcommitte of one to investigate the City of Seward.

Senator Ray stated that Senate Bill 40 and Senate Bill 58 would be rescheduled for hearing on Tuesday, February 3.

There being no further business, the meeting was adjourned on January 29, 1981 at 3:25 p.m.

Addendum

The additional trucking problems explained by the witnesses weren't part of the testimony on Senate Bill 58.

HB

595

H. Labor & Commerce 1981-1982

Date Filed
1 Rec'd.
Referred Personnel
Comm. Hearing [illegible] - held & rescheduled 3/1/82
1 Action

3/19/82 notify Ben Ward 586-3680 Notified H/N included Dept of Labor

Notified Dept of Commerce occupational hearing

Ph. 338-1272 Ken Lowtak - notify Rep. Cuddy office #490

Notify → Judy - Mr Smith's office #4930 when rescheduled.

Staff Analysis of testimony and documents presented.

Overview: The fundamental question of regulation and licensing is whether the licensing and/or regulation process is necessary to protect the public from serious and likely harm. In the case of an already existing Board or Commission the question on a viable alternative to the Board or present licensing practice should be considered.

Public Need: The Board of Welding Examiners received an audit by the Division of Legislative Audit on June 8, 1979, and a follow-up audit on November 24, 1980. Both audits reached the same conclusion: "In our opinion, there is not a sufficient public need for continuing either the Board or State licensing of welding personnel."

Public testimony has been critical of the performance of the Board and questions the need of the licensing of welding personnel by the State of Alaska. As the legislative audit (June 8, 1979, p9) points out, "that only one other state to date requires licensing of WI's." Further, there have been questions raised about conflicts of interest by certain of the Board members, and that the sole reason for the continuance of the Board is for their personal financial gain.

Analysis of Arguments: Perhaps it would be easiest to keep this report short to refer to Mr. Lockman's letter of January 25, 1982 (exhibit #1) and address each of his question and concerns.

First is "some vital areas which control the public's safety as it applies to welding." Since the Board has adopted the AWS QC1-78 (Exhibit #2) as the basis of testing and regulation perhaps it should be noted what these Standards state. "1.2 This Standard is intended to supplement any requirements of an employer, code, standard or specification and shall not be construed as a preemption of the employer's responsibility for the work or for the performance of such work." It would appear to be in the Public Interest for the liability

and responsibility of welding problems accrue to the responsible employer and not to the State.

Next, t[illegible]stions that Mr. Lockman asks, "If the Licensed Welding Inspecto[illegible]bolished,". Perhaps it would be more accurate to say, if the Board of Welding Examiners is abolished.

"1. Who will certify the welders for Alaska work?" Who certifies the welders for Alaska work now? The Board requires a $50 examination fee for the welder inspector applicant. This fee is paid directly to the American Welding Society who administers, grades and certifies the test. In addition, the applicant must take an all position welding qualification test in at least one welding process. This is one of the areas that the conflict of interest has been raised. These tests are given by licensed Welding Inspectors or Certified Test Labs. The Board itself does not witness the test and has no knowledge if the individual whose application they review has, in fact, ever taken a test or is the same individual whose application they are certifying as a licensed Welding Inspector.

"3. How do we safeguard agai[illegible]t false welder certification papers?" The real question is, How is t[illegible] safeguard being provided now? The AWS QC1 program, as administered, seems to be providing the sole protection that is being afforded. There is no physical control by the Board over the physical test being administered by the licensed Welding Inspectors. Elimination of the Board and adoption of the AWS QC1 standards would not change what is being done at the present time, except that it would be less expensive for the employers and the Public.

"4. Can a welder come into Alaska without proving his ability and take a job welding?" Under the current Board regulations there is no requirement for an individual to have ever been in Alaska to be certified as a Welder or a Welding Inspector. The only figures available are found in the Legislative Audit of June 8, 1979 (p2') and show that 45% of the licensed Welding Inspectors are out-of-state residents. From the regulations of the Board, the requirement is that

an individual be AWS QCl certified and have paid the necessary fees to a licensed Alaska Welding Inspector. Exhibit #3, Sunday Times of 2/28/82 would seem to indicate that it would be easier for residents of Denver to become certified as welders and welding inspectors than it would be for Alaska residents who do not live in Anchorage.

This practice raises a policy question of whether or not the license is or could be used as a means to restrict entry of qualified individuals into the market. If there would be another large scale project, like the gas line, would it b desirable to restrict the licensing of Alaska Welding Inspectors to some facilities, such as the one in Denver? If so, which areas and who should be chosen? The Alyeska letter of April 12, 1977 (Exhibit #4) raises this and some other questions.

Further considerations. It would be easy to go point by point through all of the materials that have been presented but that would miss the main aspect. The fundamental questions raised by the Legislative Audit have not been addressed. The Public Need has not been demonstrated. If the Legislative Audits are to be given credence, then attention should be directed to their recommendation that "Welder qualification certificates can be required by statute and, if desired, the AWS certification program for WI's could be adopted by reference." In fact, except for the requirement of a test by a licensed Alaska Welding Inspector, this is the procedure that is being followed today.

Under any set of facts, the procedure adopted should not be structured in a manner that it be construed as a preemption of the employer's responsibility for the work or for the performance of such work.

Final Note. There seems to be some question over the validity on some of the testimony and "public input". The advertisement of 2/21/82 (Exhibit #5) purported to be by, or sanctioned by the American Welding Society was repudiated by the American Welding Society and should not be construed as indicative of their position Exhibit #6). Likewise the letter of January 29, 1982 (Exhibit #7) has been viewed by the American Welding Society as a breach of their position on legislative matters

(Exhibit #9) and a possible breach their ethical code (Exhibit #8). The unsolicited testimony, input from the public and the Legislative Audits would appear to indicate that there is a rational to adopt the codes and the standards by reference.

#2.

January 25, 1982

Representative Terry Martin, Chairman
Legislative House Labor & Commerece Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

In your consideration to reestablish or abolish the Board of Welding Examiners, I would like you to consider some vital areas which control the public's safety as it applies to welding.

If the Licensed Welding Inspector is abolished,

1. Who will certify the welders for Alaska work?

2. Do the persons who will be doing the welder certifications know how to comply with the national codes used in Alaska?

3. How do we safeguard against false welder certification papers?

4. Can a welder come into Alaska without proving his ability and take a job welding?

5. Who will inspect these welds?

6. Is it in the public's best interest to <u>not</u> test the knowledge of a Welding Inspector?

7. If the Welding Inspector is tested who will give the test and what test will be used?

There is no question about the need for a welder to be certified, the question is (1) certified to what? (2) certified by who?

We have today a proven mechanism to safeguard the public against bad welding. To abolish this mechanism or trade it for some other that may not work or damage the quality of future projects is certainly not in the <u>public's</u> best interest.

I have worked hard to create good welding in the public's interest and will certainly leave the Board if that will help.

I'm sure you see the future of Alaska is dependent upon good people doing quality work.

Sincerely,

Donald M. Lockman

Donald M. Lockman, Chairman
Board of Welding Examiners

#2

AWS QC1-81

Standard for Qualification and Certification of Welding Inspectors

Introduction

The purpose of welding inspection is to determine that the welded product meets the criteria of a specific code, standard or specification. These criteria usually contain references to an appropriate code, standard or specification, and detailed drawings that outline specific and general requirements of the work. The Welding Inspector must be thoroughly familiar with welding processes, welding procedures, welder qualifications, materials, and the limitations of weld testing; and must be able to read drawings, keep records, make reports and make responsible judgements. For weld inspection to be effective, it must be performed in a manner that is consistent with the specification(s) requirements and the technical and ethical principles involved.

1. Application and Scope

1.1 This Standard establishes the requirements for the qualification and certification of welding inspection personnel and describes how these personnel may become qualified and the principles of conduct and practice by which certification may be maintained.

1.2 This Standard is intended to supplement any requirements of an employer, code, standard or specification and shall not be construed as a preemption of the employer's responsibility for the work or for the performance of such work.

2. Levels of Qualification

2.1 There shall be two levels of qualification for welding inspection personnel.

2.1.1 Welding Inspector — A person who has been certified as meeting the requirements of Section 6.1 of this Standard.

2.1.2 Associate Welding Inspector — A person who has been certified as meeting the requirements of Section 6.2 of this standard.

3. Definitions

3.1 Terms used in this document are defined as follows:

3.1.1 Certificate — The document issued the applicant upon successful examination.

3.1.2 Certification — Written testimony of qualification.

3.1.3 Committee — The AWS Qualification and Certification Committee.

3.1.4 Welding Inspectors

3.1.4.1 Certified Welding Inspector (CWI) — A person who has been qualified and certified to the requirements of Section 5.1 and 6.1 of this Standard.

3.1.4.2 Certified Associate Welding Inspector (CAWI) — A person who has been qualified and certified to the requirements of Sections 5.2 and 6.1 of this Standard.

3.1.5 All other terms defined by AWS A3.0, "Welding Terms and Definitions."

4. Function

4.1 Primary

4.1.1 The CWI performs inspections or verifies that the work inspected and records maintained conform to the requirements of the applicable codes, standards and specifications.

4.1.2 The CAWI performs inspections, under the direction of a CWI, as defined in Section 4.2. It is the CWI, however, who has responsibility for determining if weldments conform to workmanship and acceptance standards.

4.2 Detail — The Welding Inspector

4.2.1 Interprets drawings and specifications.

4.2.2 Verifies that the base materials and consumable welding materials conform to the specification requirements and that the specified welding filler metals are used on each base metal or combination of base metals.

4.2.3 Verifies that the welding equipment to be used for the work is appropriate for use with the welding procedure and has the capability to produce the specified welds.

4.2.4 Verifies that the welding procedures are as specified and qualified and that the welding is performed in accordance with the applicable procedure.

4.2.5 Verifies that the welders, welding operators and tackers have been properly qualified in accordance with the applicable codes, standards and specifications, and that their qualifications permit them to use the welding procedures specified for the work.

4.2.5.1 Assures that the qualification tests are properly performed.

4.2.5.2 Rec
or welding operator
applicable code, sta

4.2.5.3 Requ
operator's qualificatio
ble code, standard or s

4.2.6 Inspectior

4.2.6.1 Verifi
ing procedures are use

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requirements of the w

4.2.6.3 Verifi
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4.2.6.4 Verifi
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4.2.7.1 Perfor

4.2.7.2 Verifi
examinations have bee
manner. The resulting
results are complete.

4.2.7.3 Perfor
providing qualificatio
ments.

4.2.8 Records

4.2.8.1 Prepare
ords of the welding pr
welder's, welding ope
welding materials, and

4.2.5.2 Requires requalification if there is evidence the welder's or welding operator's work does not conform to the requirements of the applicable code, standard or specification.

4.2.5.3 Requires requalification if the welder's or welding operator's qualification is not current by the requirements of the applicable code, standard or specification.

4.2.6 Inspection of Work

4.2.6.1 Verifies that only specified and properly qualified welding procedures are used for the work.

4.2.6.2 Verifies that the joint preparation and fit-up meet the requirements of the welding procedure and drawings.

4.2.6.3 Verifies that the specified filler metals are used and that filler metals are maintained in proper condition for use as specified.

4.2.6.4 Verifies that the technique and performance of each welder, welding operator and tacker are as specified.

4.2.6.5 Verifies that the work conforms to requirements of the applicable code, standard, specification and drawing.

4.2.6.6 Verifies that the work inspected is identified with specified marking methods or with appropriate records.

4.2.7 Nondestructive Examination

4.2.7.1 Performs the required visual inspections.

4.2.7.2 Verifies that the required visual and other nondestructive examinations have been performed by qualified personnel in the specified manner. The resulting information shall be reviewed to assure that the results are complete.

4.2.7.3 Performs nondestructive examinations that are required, providing qualifications are in accordance with the specified requirements.

4.2.8 Records

4.2.8.1 Prepares clear and concise reports and verifies that records of the welding procedure, the welding procedure qualifications, the welder's, welding operator's and tacker's qualifications, the control of welding materials, and the results of inspections and tests are maintained.

5. Education and Experience Requirements

5.1 Each applicant for certification as a **Certified Welding Inspector** (CWI):

5.1.1 Shall be a high school graduate or hold a state or military approved high school equivalency diploma.

5.1.2 Shall have no less than five years experience in an occupational function that had a close relationship to weldments fabricated to a code, standard or specification, and directly involved in one or more of the following:

5.1.2.1 Preparation of plans and drawings for weldment construction—**design.**

5.1.2.2 Planning and control of welding materials, welding procedures and welding operations for weldment fabrication—**production.**

5.1.2.3 Fabrication and erection of weldments—**construction.**

5.1.2.4 Detection and measurement of weld discontinuities; verification of fabrication requirements as described in Section 4.2—**inspection.**

5.1.2.5 Repair of welds that were determined defective—**repair.**

5.1.3 Alternatives to 5.1.1 and 5.1.2 with proper supporting documentation (e.g., copies of transcripts, letters of reference, etc.):

5.1.3.1 Eighth grade level schooling with no less than 10 years work experience in welding functions.

5.1.3.2 Less than an eighth grade education with no less than 15 years work experience in welding functions.

5.1.3.3 A maximum of two years of post high school education may be substituted for an equal number of years of the required five years experience, provided studies are relevant to any of the functions covered in 5.1.2. Credits are given as follows:
(1) Associate or higher degree. Two years maximum in engineering technology, engineering, physics or sciences.
(2) Engineering/Technical School Courses. Two years maximum of successfully completed courses* in a curriculum that can be (or could have been) applied to (1) above.
(3) Trade/Vocational School Courses. One year maximum of successfully completed courses* in a curriculum related to welding that can be (or could have been) applied to (1) above.

*NOTE: "Successfully completed courses" means completed the quarter or semester term with credit in that course. "Courses in the curriculum" means courses within a body of courses offered toward a degree, or can be applied to a degree in (1) above.

5.1.3.4 Three yea
stituted for two years of the
documentation (e.g., photo
certificates, and letters of
ered on the following basis
school, college or universi
related to welding: its appl

5.1.4 Shall be famili
following processes:

SMAW	GTAW
FCAW	SAW
GMAW	ESW

Note: Cutting processes re
the fabrication and repair

5.1.5 Shall be thorou
the functions outlined in S

5.2 Each applicant for
Inspector (CAWI):

5.2.1 Shall be a hig
approved high school equi

5.2.2 Shall have no
tional function that had a
code, standard, or specifi
the following:

5.2.2.1 Preparatio
tion—**design.**

5.2.2.2 Planning
cedures, and welding oper

5.2.2.3 Fabricatio

5.2.2.4 Detection
ification of fabrication requ
tion.

5.2.2.5 Repair of

5.1.3.4 Three years of relevant teaching experience may be substituted for two years of the five years experience requirement with proper documentation (e.g., photocopied summaries of subjects taught, teaching certificates, and letters of reference). Relevant experience will be considered on the following basis: Teaching full time in a trade, area or technical school, college or university, the occupational skill of welding or subjects related to welding: its application, control, materials, and processes.

5.1.4 Shall be familiar with and understand the fundamentals of the following processes:

SMAW	GTAW	OFW	thermal cutting
FCAW	SAW	SW	mechanical cutting
GMAW	ESW	B	

Note: Cutting processes refer only to those processes that are applied to the fabrication and repair of weldments.

5.1.5 Shall be thoroughly familiar with, and capable of performing, the functions outlined in Section 4.

5.2 Each applicant for certification as a Certified Associate Welding Inspector (CAWI):

5.2.1 Shall be a high school graduate or hold a state or military approved high school equivalency diploma.

5.2.2 Shall have no less than two years experience in an occupational function that had a close relationship to weldments fabricated to a code, standard, or specification, and directly involved in one or more of the following:

5.2.2.1 Preparation of plans and drawings for weldment construction—**design.**

5.2.2.2 Planning and control of welding materials, welding procedures, and welding operations for weldment fabrication—**production.**

5.2.2.3 Fabrication and erection of weldments—**construction.**

5.2.2.4 Detection and measurement of weld discontinuities; verification of fabrication requirements as described in Section 4.2—**inspection.**

5.2.2.5 Repair of welds that were determined defective—**repair.**

5.2.3 Alternatives to 5.2.1 and 5.2.2 with proper supporting documentation (e.g., copies of transcripts, letter of reference, etc.):

5.2.3.1 Eighth grade level schooling with no less than four years experience as a qualified welder in any welding process.

5.2.3.2 Less than an eighth grade education with no less than six years work experience in welding functions.

5.2.3.3 Eighth grade level schooling with no less than one year of vocational education and training in a welding curriculum and three years experience in welding fabrication or inspection activities.

5.2.3.4 Two years post high school education in a welding curriculum or engineering technology, engineering or physical sciences, and six months actual welding inspection experience, as defined in 5.2.2.4.

5.2.4 Shall be familiar with and understand the fundamentals of the following processes:

SMAW	FCAW	B
GTAW	SAW	thermal cutting
GMAW	OFW	mechanical cutting

Note: Cutting processes refer only to those processes that are applied to the fabrication and repair of weldments.

5.2.5 Shall be familiar with, and capable of performing under the direction and/or supervision of the CWI, specific functions outlined in Section 4.

6. Examination Requirements

6.1 The CWI

6.1.1 Shall pass an eye examination, with or without corrective lenses, to prove (1) near vision acuity on Jaeger's J1 letters or Snellen English at 12 inches, (2) far vision acuity of 20/40, or better, and (3) color perception.

6.1.1.1 Eye examination must be administered by an Optometrist, Medical Doctor or Registered Nurse no more than 7 months prior to the date of the welding inspector examination or recertification.

6.1.2 Shall pass an open book test on the requirements of a code or standard.

6.1.3 Shall pass a test on fundamental principles of such topics as welding processes, NDE methods, mechanical properties of materials, heat treatment, and duties.

6.1.4 Shall pass a test on practical application of welding inspection fundamentals such as interpretation of weld discontinuities, symbols, welding procedures and drawings, and basic on-the-job arithmetic, etc.

6.1.5 CWI — Shall pass all tests with a minimum score of 72% on each test.

CAWI — Shall pass all tests with a minimum score of 50% on each test.

7. Certification

7.1 The American Wel
applicant who complies w
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Certification shall be vali
defined in Section 8.6 and
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8. Code of Ethics

Preamble: In order to safe
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CWI and CAWI shall be
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8.1 Integrity—The CW
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8.2.4 Neither associa
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8.3 Public Statements

8.3.1 The CWI or C
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interest.

7. Certification

7.1 The American Welding Society will issue to each CWI or CAWI applicant who complies with the requirements of Sections 5.1 or 5.2 and 6, as applicable, a serialized (unique number) certificate and pocket work card stating that the applicant has met the AWS certification requirements. Certification shall be valid for three years unless revoked by reasons defined in Section 8.6 and the authority of Section 9 of this Standard. The certificate shall indicate the date of certification. The pocket work card shall indicate the expiration date of certification and any need for corrective lenses.

8. Code of Ethics

Preamble: In order to safeguard the public's health and well-being and to maintain integrity and high standards of skills, practice, and conduct in the occupation of welding inspection, the American Welding Society CWI and CAWI shall be cognizant of the following principles and the scope to which they apply with the understanding that any unauthorized practice is subject to the Committee's review and may result in suspension or revocation of certification.

8.1 Integrity—The CWI and CAWI are obligated to act with complete integrity in professional matters and to be forthright and candid to the Committee or its representatives on matters pertaining to this Standard.

8.2 Responsibility to the Public—The CWI and CAWI are obligated to preserve the health and well-being of the public by performing the duties required of weld inspection in a conscientious and impartial manner to the full extent of the inspector(s) moral and civic responsibilities and qualifications. Accordingly, the CWI and CAWI shall:

8.2.1 Undertake and perform assignments only when qualified by training, experience and capability.

8.2.2 Be completely objective, thorough, and factual in any written report, statement or testimony of the work and include all relevant or pertinent testimony in such communiques or testimonials.

8.2.3 Sign only for work that the inspector has inspected, or for work over which the inspector has personal knowledge through direct supervision.

8.2.4 Neither associate with nor knowingly participate in a fraudulent or dishonest venture.

8.3 Public Statements

8.3.1 The CWI or CAWI will issue no statements, criticisms or arguments on weld inspection matters connected with public policy which are inspired or paid for by an interested party, or parties, without first identifying the party, the speaker, and disclosing any possible pecuniary interest.

8.3.2 The CWI or CAWI will publicly express no opinion on a weld inspection subject unless it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence pertinent to the subject, and upon honest conviction of the accuracy and propriety of the statement.

8.4 Conflict of Interest

8.4.1 The CWI and CAWI shall avoid conflict of interest with the employer or client and will disclose any business association, interests, or circumstances that might be so considered.

8.4.2 The CWI and CAWI shall not accept compensation financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties or their authorized agents.

8.4.3 The CWI and CAWI shall not solicit or accept gratuities, directly or indirectly, from any party, or parties, dealing with the client or employer in connection with the CWI's and CAWI's work.

8.4.4 The CWI and CAWI shall, while serving in the capacity of an elected, retained or employed public official, neither inspect, review nor approve any work on projects relating to his public office.

8.5 Solicitation of Employment

8.5.1 The CWI and CAWI shall neither pay, solicit, nor offer, directly or indirectly, any bribe or commission for professional employment with the exception of the usual commission required from licensed employment agencies.

8.5.2 The CWI and CAWI shall neither falsify, exaggerate, nor indulge in the misinterpretation of personal academic and professional qualifications, past assignments, accomplishments, and responsibilities, or those of the inspector's associates.

8.5.3 The CWI and CAWI are cautioned against functioning as an independent in public fields out of his or her capability, without first investigating for possible industry or public requirements and additional education/experience requirements. (e.g., industrial labs, in the concrete and soil testing field, etc.)

8.6 Unauthorized Practice

8.6.1 Any violation of any required standard of conduct prescribed by this Standard if related to a CWI's or CAWI's occupation, including any violation of the Code of Ethics contained in this Standard, shall constitute an unauthorized practice subject to the imposition of sanctions.

9. Revocation

9.1 The Committee sh
revoke the CWI's or CA
regarding personnel qual
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9.2 The Committee n
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10. Reinstatement

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11. Upgrading of Certi

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12. Recertification

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12.3 The CWI and CA
AWS Q&C Department fo
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*Certification becomes ef
the date of examination.

9. Revocation

9.1 The Committee shall have the power to suspend, refuse renewal, or revoke the CWI's or CAWI's certification for misrepresentation of facts regarding personnel qualifications, assignments, etc., relating to CWI's or CAWI's certifications; to place on probation or to reprimand certificate holder, if found guilty of an unauthorized practice in a proceeding conducted in accordance with the "Administrative Procedure Manual." (Available from the AWS Q&C Department.)

9.2 The Committee may apply to any court of competent jurisdiction for an enforcement of its administrative decisions and rulings.

10. Reinstatement

10.1 Reinstatement of a revoked certification will be allowed with no penalty or prejudice to the individual, provided the reason for such revocation has been rectified to the Committee's satisfaction.

11. Upgrading of Certification

11.1 The CAWI may, by his own choice, remain at the same classification, or level. Should he desire to upgrade his classification, or level, to that of the CWI, he must comply with the requirements of Sections 5.1 and 6.1.

12. Recertification

12.1 The Qualification and Certification Department shall notify by mail each CWI and CAWI of the expiration of certification and requirements of recertification. Such notice shall be mailed approximately 45 days in advance of the expiration date* of certification.

12.2 The CWI and CAWI shall be recertified by renewal or reexamination every three years; however, recertification without examination is limited to two consecutive three-year periods.

12.2.1 Applicants requesting renewal of their certification must attest to two years activity, of their three year certification, in the practice of welding inspection and/or related activities as defined in Section 5.1.2 and 5.2.2. (Applicants shall complete a "Renewal Application" form.)

12.2.2 Applicants for renewal of certification that has expired or those choosing recertification by examination will be considered as new applicants. (Applicants shall complete an "Application for Welding Inspector Examination" form.)

12.2.3 Applicants must pass an eye examination. The requirements for this examination are listed in Section 6.1.1.

12.3 The CWI and CAWI shall maintain a current address with the AWS Q&C Department for the mailing of correspondence relative to the inspector's application, examination, certification/recertification.

*Certification becomes effective on the first day of the month following the date of examination.

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STATE OF ALASKA

The Alaska Vocational Technical Center in Seward has openings in the Office Occupations Training Program for the February and March enrollment dates. Up-to-date equipment including the IBM Displaywriter is available for individualized instruction. Tuition $365, dormitories are available. AVTEC is a State-operated school serving all parts of Alaska. For more information call 224-3322.

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Prepare for the state exam.
Call Lee Houston, 276-5909.

WELDING
A Rewarding Career
Courses in ARC, MIG, TIG, OXY, and Pipe, Plate, and Pipe Certifications. You can complete maximum program in 5 months. Approved for VA, BIA. Loans and grants are available to qualified Alaska residents with two yrs. residency. Write Welding (include name, address, age, and phone number), PO Box 3415 D. T., Anchorage, Alaska. Certified Welding School is located in Denver, Colorado.

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1835 SOUTH BRAGAW STREET (99504), P.O. BOX 4-Z (99509), ANCHORAGE, ALASKA, TELEPHONE (907) 278-1611, TELEX 090-25-127

#4

April 12, 1977 EAL-1734

Department of Commerce and Economic Development
Division of Occupational Licensing
Pouch D
Juneau, Alaska 99801

Attention: Karen Crouse, Regulations Specialist

Re: Board of Welding Examiners-Proposed Welding Regulations

Gentlemen:

In regard to the subject welding regulations, representatives of Alyeska attended the public hearing which was held on February 3, 1977 and we have thoroughly reviewed the proposed regulations. In our judgment the proposed regulations are unnecessary. Notwithstanding this opinion the following comments are made as to the proposed regulations which are based on our recent experience in building the trans-Alaska pipeline, which involved the greatest amount of welding on one project in the history of construction.

Article 1-Codes: We concur that welders must be qualified to the applicable codes or standards as determined by the job specification designated by the project owner and incorporated in the construction contract. We do not agree with the requirement of Section 72.005 that the American Welding Society D1.1 Structural Welding Code all position fillet weld test is suitable in the absence of any code requirement in a job specification. A welder who is certified by the Board pursuant to this code only would not necessarily be qualified to do other types of welding, such as pipeline or tank construction. Yet if the welder has been issued a card or other evidence of competency by the Board, it is likely that possession of such a card will be deemed to be evidence of qualification for performing any kind of welding in the State of Alaska. In contrast to this, the standard practice in the industry is that welders are re-tested for each job to the requirements of the code which applies to that job. Meeting the requirements of one code is no guarantee that a welder can meet the requirements of some other code.

Article 2-Welders: We agree that welders must be qualified prior to performing on weldments whose failure whould involve a hazard to life or property. However, we do not agree that it is necessary for welders to be qualified in a State approved facility licensed by the Board. While welder qualification must be monitored to assure that the applicable

procedures are being followed, there are many circumstances where testing can be done in the field. It is normal industry practice to test welders at a job site, where the test can be administered under actual field conditions and where the contractor's engineering and technical personnel are available. Testing at a central laboratory facility usually requires additional travel time, often at the contractor's expense, for welders who are tested, as well as a delay in getting welders on the job. (See also our comments on Article 4).

Article 3-Welding Inspectors: We agree that improved welding inspection is a desirable goal. However, we disagree with the Board's proposal to establish unique and unusual qualifications and requirements for welding inspectors which deviate from industry practice with which Alyeska is familiar. We believe that one way to accomplish the goal of upgrading welding inspection in Alaska, without posing unusual and unnecessary requirements on the industry, would be to accept certification by the American Welding Society (through its newly adopted national certification program for welding inspectors) as evidence of qualification to act as a welding inspector in Alaska. Although the American Welding Society certification program is relatively new, we believe that there would be a great advantage to Alaska in fitting into such a nationally recognized program, rather than developing its own, different requirements. It might be noted that if another large scale project, such a gas pipeline, comes to Alaska, there could be a need for hundreds of qualified welding inspectors. The only feasible way for these persons to be available when needed would be for the Board to accept certification under a nationally recognized program rather than waiting for a sufficient number of applicants to be processed through Alaska's program.

Article 4-Test Facilities: As previously stated, welder qualifications can be properly done under field conditions, as well as in a laboratory. In fact, laboratory conditions, e.g., test booths and controlled temperatures, tend to make the conditions somewhat artificial. Certainly where large numbers of welders are to be tested, a central test facility may be the only practical approach, and the Board may want to inspect and approve such a facility. However, we urge the Board to give contractors the latitude to arrange for testing welders in the field, where the contractor deems this to be desirable and feasible.

Article 5-General Provisions: We have no comments on this article.

In conclusion, we understand and sympathize with the Board's legitimate concern with developing some type of regulation of welding operations, such as gas stations, logging operations, and small fabricating shops, which presently are not committed (as are pipeline and other large scale projects) to meet any nationally recognized codes or standards. However, the proposed regulations are so broad and sweeping that they would encompass projects such as the trans-Alaska pipeline and other projects which invariably incorporate as part of their building specifications nationally recognized welding codes and standards. Alyeska fears that the proposed regulations, if broadly applied, as they appear intended to

apply, would pose serious obstacles and unnecessary and unproductive regulation to those firms which already have committed themselves to operate under and comply with the strictest nationally recognized codes and standards. Thus Alyeska urges the Board to revise the proposed regulations to permit members of the industry which operate under nationally recognized codes and standards, in the areas of testing, welding procedures and inspection, to continue to operate pursuant to these recognized industry practices.

Very truly yours,

J. Whitley for J

J.F. McPhail
Manager, Technical Services

JFMcP:ls

WPC

---

cc: H. V. Mowell
J. D. Knodell, Jr.
W. N. Sorensen
J. L. Willing
J. R. Fraylick
J. C. Wormeli
Alyeska Information Center

#5

Pd. Advertisement

Welding Regulations

The American Welding Society in Alaska is supporting the Legislative House Bill #595 currently in the Labor & Commerce Committee for passage this session. This bill will retain the current welding statutes, regulations and Welding Board as it is today. These State regulations today say that Welders doing work in Alaska must be properly certified by an Alaska Licensed Welding Inspector and when welding is inspected it shall be inspected under the direct supervision of an Alaska Licensed Welding Inspector.

These regulations are in the best interest of the public to create safe welded projects in Alaska.

If this Bill, #595, is not passed, there could be no Alaska welding regulations and will open the door to welders from other areas who may not have the abilities to do quality welding.

It will also open the door to anyone calling themselves a welding inspector to work in Alaska without the requirement of passing a test to prove their abilities.

Today persons wishing to do welding inspection in Alaska must pass a written test which is a national standard administered nationally by the American Welding Socity and be certified in at least one all position welding certification. In Alaska today, welders being certified to do welding are tested these Licensed Welding Inspectors to determine their abilities.

If you wish Alaska to continue with these minimum standards you can call the State Information Center in Anchorage at 278-3668 and have a 50 word or less message transmitted to the Legislative House and Senate Labor & Commerce Committee expressing your opinion.

The Committee meeting to determine the recommended pass or fail vote to the Legislators is scheduled for the 26th of this month in Juneau. Your opinions should be expressed before that date. You could also write the Committee Chairman, Representative Terry Martin, Legislative House Labor & Commerce Committee, Twenfth Alaska State Legislature, Pouch V, Juneau, Alaska 99811.

It's easy to have your opinion heard, just pick up the phone, give your name, mailing address, telephone number and your message in 50 words or less to be transmitted to the Legislative House and Senate Labor & Commerce Committee. They can respond back to you acknowledging your opinion and relate other information about the bill.

This is an effort by the Alaska Section of the American Welding Society to help create better welding for the users of welded products in Alaska.

Pd. for by The American Welding Society of Alaska Donald M. Lockman, Chairman, 2114 Railroad Ave., Anchorage, AK 99501

Sunday, February 21, 1982, The Anchorage Times C-9

#6

ANCHORAGE TIMES

WEDNESDAY

February 24, 1982

OF SHAREHOLDERS

Our Annual Meeting of Shareholders will be held April 12, 1982 beginning at 7:00 p.m. at the Frank A. Degnan High School.

[illegible] positions on the board of directors [illegible] election. Contact Unalakleet Native Corporation at Box 100, phone 624-3411 for nominee applications.

The American Welding Society does not engage in lobbying and neither endorses nor opposes any legislation. Any person or organization using the name of the American Welding Society for such purposes has done so without authorization. Signed, William T. DeLong, President, American Welding Society, P.O. Box 351040, Miami, FL 33135.

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moving! We will be
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January 29, 1982 #7

AWS Member:

There is a House Bill (HB 595) in Juneau in the Legislative House Labor & Commerce Committee to reestablish the State Board of Welding Examiners which is being abolished by the Sunset Legislation. If this bill is <u>not</u> passed, there will be no regulations in Alaska for the certification of welders or inspection of weldments. If the licensed Welding Inspector is abolished;

1. Who will certify the welders in Alaska for Alaska work?
2. A welder will be able to come into Alaska without proving his or her ability and take an Alaska job.
3. How would we safeguard against false welder certification papers?
4. Who will be the responsible persons to inspect welds?
5. Is it in the public's best interest to <u>not</u> test the knowledge of a Welding Inspector?

There is no question about the need for a welder to be certified, the question is always (1) Certified for what application? (2) Certified by who?

We have today a proven mechanism to safeguard the Alaskan public against bad welding. To abolish this mechanism or trade it for some other that may not work or damage the quality of future projects is certainly <u>not</u> in the public's best interest.

The American Welding Society's total existance is to create better welding for the public's safety.

The Executive Board of tne AWS met 1-29-82 and is soliciting your support in passage of HB 595. This support must be heard before 2-20-82 in Juneau before the next committee meeting.

You can call 278-3668, the State Information Center and at no cost, in 50 words or less have a message transmitted to the House Labor & Commerce Committee. Or, you can write to:

Representative Terry Martin, Chairman
Legislative House Labor & Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Action on your part is required to keep Alaska safe, don't just let the other guy do it, he may not.

Sincerely,

Donald M. Lockman
Chairman

attn alaska drilling Co

DATE: November 13, 1981

TO: All State Licensed Welding Inspectors
and interested parties.

FROM: Donald M. Lockman, Chairman
State Board of Welding Examiners

SUBJECT: State Board of Welding Examiners and State Licensing of Welding Inspectors future existence.

Every four or five years all State boards come under a sunset legislative law that automatically terminates those boards and subsequent regulations. This is the case with the Board of Welding Examiners and licensing of welding inspectors. The termination date of the Board and licenses is June of 1982. The House Bill #595 that was introduced last year to extend the Board did not get out of committee and was not acted upon. This bill can be inacted between the beginning of the new legislative term in January 1982 and the June deadline if it is properly moved through the various committees to the floor.

Enclosed are several documents containing information pertaining to this issue.

1. An overview of the sunset process.
2. Copy of the House Bill #595 currently in the Labor & Commerce Committee.
3. A probable successful route of HB 595.
4. A list of the legislative standing committees for 1981-82.
5. A list of the Alaska House and Senate Legislators for 1981-82 with addresses when the Legislature is not in session.

If interested in keeping the State Board of Welding Examiners and subsequently the licensing of welding inspectors, please write your Representatives and Senators and the respective Committees illustrating your opinions.

If, in fact, the HB 595 is not acted upon before June 1982, the Board and licensing will be terminated and the State will have no guidelines for welding quality in Alaska.

If you feel there are items in the State Regulations that should be modified, please send your proposed wordings to myself for consideration at our next State Board Meeting to be held in January 1982.

If there are any questions about the enclosed documents, please feel free to contact me at 2114 Railroad Avenue, Anchorage, Alaska 99501
(907) 276-3440

[illegible] STATE LEGISLATURE

[illegible] ALASKA STATE LEGISLATURE

1981 - 1982

---HOUSE OF REPRESENTATIVES---

Name	Address	District
Abood, Mitchell E., Jr. (R)	4504 Spenard Road, Anchorage 99503	9
Adams, Albert P. (D)	P.O. Box 333, Kotzebue 99752	21
*Anderson, Charles G. (R)	1841 East 24th Avenue, Anchorage 99504	10
*Barnes, Ramona L. (R)	P.O. Box 3382, Downtown Stn., Anchorage 99510	10
Beirne, Michael F. (R)	P.O. Box 4-1539, Anchorage 99509	7
Bettisworth, Robert H. (R)	P.O. Box 80288, College 99708	20
*Brown, Fred E. (D)	P.O. Box 1718, Fairbanks 99707	25
Buchholdt, Thelma (D)	2607 Kona Lane, Anchorage 99503	9
*Bylsma, Bernard C. (R)	SRA Box 4106, Anchorage 99502	11
Carney, Patrick J. (D)	Pouch N, Wasilla 99687	6
Cato, Bette M. (D)	P.O. Box 775, Valdez 99686	5
Chuckwuk, Joseph (D)	P.O. Box 8, Dillingham 99576	26
Clocksin, Donald E. (D)	1527 "H" Street, Anchorage 99501	
Cotten, Samuel R. (D)	P.O. Box 296, Eagle River 99577	
Cuddy, David W. (R)	704 Sunset Drive, Anchorage 99501	
Duncan, Jim (D)	P.O. Box 690, Juneau 99802	4
Fanning, Kenneth J. (L)	P.O. Box 80929, College 99708	20
Freeman, Oral E. (D)	2743 Third Avenue, Ketchikan 99901	1
Fuller, John G. (D)	P.O. Box 689, Nome 99762	22
*Gardiner, Terry (D)	P.O. Box 6092, Ketchikan 99901	1
Grussendorf, Ben F. (D)	P.O. Box 928, Sitka 99835	3
Halford, Richard W. (R)	P.O. Box 66, Chugiak 99567	8
Haugen, E. J. (R)	P.O. Box 1049, Petersburg 99833	2
Hayes, Joe L. (R) Speaker	2810 "C" Street, Suite A, Anchorage 99503	12
*Hurlbert, Vernon L. (D)	General Delivery, Sleetmute 99668	18
Malone, Hugh (D)	P.O. Box 9, Kenai 99611	13
*Martin, Terry (R)	3960 Reka Drive, B-6, Anchorage 99504	8
Meekins, Russ, Jr. (D)	1526 "K" Street, Anchorage 99501	7
Metcalfe, Ray H. (R)	P.O. Box 4-2766, Anchorage 99509	11
Miller, Mike (D)	P.O. Box 1494, Juneau 99802	4
Montgomery, Joe D. (R)	1048 Beech Lane, Anchorage 99501	12
Moss, H. Pappy (D)	P.O. Box 182, Delta Junction 99737	19
O'Connell, Patrick M. (R)	Rt. 2, Box 743, Soldotna 99669	33
Phillips, Randy E. (R)	P.O. Box 142, Eagle River 99577	6
*Randolph, Richard L. (L)	1105 Cushman Street, Fairbanks 99701	23
*Rogers, Brian D. (D)	Box 80690, College 99708	24
Smith, Sarah J. "Sally" (D)	321 Church Street, Fairbanks 99701	25
Sutcliffe, Eric G. (R)	P.O. Box 3, Unalaska 99685	26
Vaska, Anthony N. (D)	P.O. Box 892, Bethel 99559	27
Zharoff, Fred F. (D)	P.O. Box 405, Kodiak 99615	28

---SENATE---

Name	Address	District
[illegible] (R)	P.O. Box 2801, Fairbanks 99707	C
[illegible] (R)	P.O. Drawer S-Q, Anchorage 99503	[illegible]
[illegible], Mike J. (R)	SRA 1458-K, Anchorage 99502	[illegible]
[illegible], M. E. (R)	2425 Hialeah Drive, Anchorage 99503	[illegible]
Ellison, Richard I. (R)	P.O. Box 143, Sitka 99835	E
*[illegible]enkamp, Bettye (D)	4016 Evergreen, Fairbanks 99701	O
*Ferguson, Frank R. (D)	Box 131, Kotzebue 99752	F
Fischer, Vic (D)	221 East Seventh Avenue, #204, Anchorage 99501	I
Gilman, Donald E. (R)	Box 630, Kenai 99611	K
Hohman, George H., Jr. (D)	P.O. Box 289, Bethel 99559	M
*Kelly, Tim (R)	283 Muldoon Road, Stn. Box 76, Anchorage 99504	T
Kertula, Jalmar M. (D) President	Box Z, Palmer 99645	P
*Mulcahy, Bob (R)	P.O. Box 246, Kodiak 99615	A
Parr, Charles H. (D)	S.R. Box 50599, Fairbanks 99701	C
*Ray, Bill (D)	Pouch V, Juneau 99811	C
Rodey, Patrick M. (D)	3271 Montclaire, Anchorage 99503	C
Sackett, John C. (R)	P.O. Box 29, Ruby 99768	N
*Stimson, Terry (D)	1610 "E" Street, Anchorage 99501	E
*Sturgulewski, Arliss (R)	2957 Sheldon Jackson Street, Anchorage 99504	R
*Ziegler, Robert H., Sr. (D)	307 Bawden Street, Ketchikan 99901	A

*Senators terms expire in January 1983.
Others have terms expiring in January 1985.

The addresses listed above should be used when the Legislature is not in session. During sessions, members of the Legislature receive mail at Pouch V, Juneau, Alaska 99811 (Interdepartmental Mail Stop 5[illegible]

LEGISLATIVE STANDING COMMITTEES

TWELFTH ALASKA STATE LEGISLATURE

1981 - 1982

HOUSE

COMMUNITY AND REGIONAL AFFAIRS
O'Connell (Chairman)
Anderson (Vice-Chairman)
Bylsma, Grussendorf, Clocksin

FINANCE
Adams (Chairman)
Montgomery (Vice-Chairman)
Hurlbert, Chuckwuk, Fuller,
Bettisworth, Cuddy, Haugen,
Cotten

HEALTH, EDUCATION AND SOCIAL SERVICES
Belmo (Chairman)
Martin (Vice-Chairman)
Cato, Smith, Malone

JUDICIARY
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Anderson (Vice-Chairman)
Phillips, O'Connell, Meekins,
Buchholdt, Freeman

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Bylsma (Vice-Chairman)
Randolph, Rogers, Gardiner

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Fanning (Co-Chairman)
Halford (Vice-Chairman)
Barnes, Vaska, Grussendorf, Carney

[illegible] (Chairman)
[illegible] (Vice-Chairman)
[illegible]s, O'Connell, Smith

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Abood (Vice-Chairman)
Fanning, Brown, Miller

TRANSPORTATION
Cato (Chairman)
Abood (Vice-Chairman)
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Charoff, Moss

SENATE

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FINANCE
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Dankworth (Co-Chairman)
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Sturgulewski

HEALTH, EDUCATION AND SOCIAL SERVICES
Parr (Chairman)
Stimson (Vice-Chairman)
Fischer, Colletta, Kelly

JUDICIARY
Rodey (Chairman)
Bennett (Vice-Chairman)
Hohman, Parr, Ray

LABOR AND COMMERCE
Mulcahy (Chairman)
Hohman (Vice-Chairman)
Fahrenkamp, Rodey, Ziegler

RESOURCES
Fahrenkamp (Chairman)
Fischer (Vice-Chairman)
Bradley, Eliason, Gilman, Mulcahy,
Sturgulewski

RULES
Kelly (Chairman)
Dankworth (Vice-Chairman)
Ferguson, Kerttula, Ziegler

STATE AFFAIRS
Fischer (Chairman)
Colletta (Vice-Chairman)
Stimson, Bradley, Eliason

TRANSPORTATION
Ray (Chairman)
Gilman (Vice-Chairman)
Kerttula, Dankworth, Sackett

1- HB 595 was introduced on 5/20/81 and referred to the Labor and Commerce Committee.

2- If the House Labor and Commerce Committee approves HB595 as is, it will be referred to the House Finance Committee.

3- If the House Finance Committee approves it as is, it will be sent to the House rules Committee for calendaring for a vote on the floor of the House.

4- If the full House approves the bill, it will be sent to the Senate for its consideration.

5- It will be referred to the Senate Labor and Commerce Committee for consideration.

6- If Senate Labor and Commerce Committee approves it, it will be sent to the Senate Finance Committee for consideration.

7- If the Senate Finance Committee approves it, it will be sent to the Senate Rules Committee for calendaring for a floor vote in the Senate.

8- If the Senate approves it as it was sent over from the House, it will be sent to the Governor for signature or veto. If the bill has been changed in the Senate from the form and content it was approved originally in the House, it would then be sent back to House for its concurrance in any changes prior to going to the Governor for his consideration.

OVERVIEW : SUNSET REVIEW PROCESS

State law requires that licensing boards justify their existance approximately every five years.

The sunset review process involves the following basic steps.

1- A termination date is set by statute for an existing board.

2- A performance audit of the board is conducted by the Division of Legislative Audit during the calendar year prior to the termination date.

3- During the session immediately preceding the termination date the legislature sets up a committee* to hold hearings and make recommendations to the legislature on the board under review. At these hearings the Department of Commerce and Economic Development and the interested public give testimony.

4- Based on the hearing testimony, the findings of the performance audit and any other factors that the legislature wishes to consider, a decision is made to :

A) eliminate the licensing process,
B) modify the licensing process, or
C) continue the licensing process unchanged.

The fundamental questions that underlie the sunset review process are :

1- Is the licensing process necessary to protect the public from serious and likely harm? What alternatives to the present licensing process exist?

2- Is the board necessary to the licensing process? Is board licensing the most effective way to protect the public? Is board licensing the most economical way of protecting the public? Is board licensing the most desireable way to protect the public?

Other less fundamental, but often equally important, questions are raised during the sunset review process, usually by the performance audit. These questions usually include :

1- How efficiently has the board been operating?

2- How responsive has the board been to the public?

3- Has the board been unnecessarily restricting entry into the profession?

4- How conscientious has the board been in meeting its statutory and other obligations?

* committee of reference

January 18, 1982

Labor & Commerce and Finance Committee
Legislature of the State of Alaska
Twelfth Legislature - Second Session

The State of Alaska Board of Welding Examiners will cease to exist in June, 1982, in accordance with current Sunset requirements.

The members of the board would like to re-cap some of the goals and accomplishments of the past few years and give an opinion of what will happen if the board ceases to exist.

In 1976, members of the board observed that regulations were being largely ignored by the industry. A review of the regulations governing welders and weld inspection revealed them to be unworkable. In 1976/77, a new set of regulations (12AAC72) were formalized. For the most part, this new regulation met with statewide industry acceptance. There was little opposition noted during the public hearings, held in 1977 and 1978.

Several hundred manhours were spent writing these regulations. This time was, of course, spent at the individual board member's own expense. Each board member considered the time well worth the effort, once the statutes and regulations became effective August 21, 1978.

These regulations became a nationwide standard, with at least two other states adopting similar regulations. Most large construction companies, as they became aware of the new regulations, started having their welders certified in accordance with approved guidelines. Until this time, most working welders considered themselves "certified" which was a term without true meaning. Once the welders learned they would have to certify, or re-certify, to prove their proficiency, they obtained additional training as required to meet the various welding codes used in Alaska.

The additional requirement of licensed welding inspectors so enhanced the overall quality of major construction projects that many companies (including the major oil companies) who had established quality control groups made the acquisition of this license mandatory for employment or promotion. Alyeska Pipeline Service Company felt this program was important enough to set up an extensive (and expensive) welding inspector training program for their inspectors. Industry in the "lower 48" has started to follow the example set in Alaska for certifying welders via welding inspectors. This standard has considerably increased the level of expertise in weld inspection.

As you know, one of the major reasons for expensive repair work on the Trans-Alaska Pipeline was due to inadequate and/or incompetent weld inspection. This one item caused millions of dollars of additional expense to the consumer.

The high weld reject rate and lack of knowledgeable, qualified welding inspectors on this project was one of the main reasons the State of Alaska elected to regulate welders and inspectors in the first place. With the forthcoming construction of the natural gas pipeline, the same problems will arise if there is no regulation to govern them. Welders will be qualified incorrectly (or not at all), and welding inspection will be done by the "brother-in-law" system or by individuals the contractors believe will cause the least amount of weld repairs. This possible situation is not an exaggeration; these things did occur during the construction of the Trans-Alaska Pipeline and will occur on the gas line if not closely governed.

As with any regulation or law, there are "special interest" groups that may either benefit or be adversely affected by the law. This analogy certainly applies here. There is little doubt that the three or four testing inspection laboratories in Alaska derive a certain amount of business because of the regulations. However, if these labs were not available locally, the work would simply be provided by "lower 48" companies.

This board has found that most individuals who are opposed to the regulations either can't pass the professional examination (or certification) or have a contrary special interest. One special interest group is working to set up a separate State organization for personal benefit called a Welding Bureau. This was suggested in Senate Bill No. 121, submitted by Senator Bill Summner in 1979.

Industry's opposition to the present regulation has been extremely light. In fact, most negative feedback from the industry involves suggested revisions to the regulations, rather than opposition to the regulation itself. We agree that it does need revision. The proposed changes will make it easier for industry to comply with the regulations.

During the public Sunset hearings, many individuals from within the industry testified in favor of continuing the board and its regulations. Of all the testimonies submitted, only two were negative. Neither individual was licensed as an inspector, and both worked for the State in educational areas. It is hard to understand why a professionsl board was allowed to be Sunsetted when almost all the public input was positive. The board believed then, and still does, that it exists as a board to protect the public. We satisfied both the public and industry but, apparently did not satisfy the members of the Sunset committees.

A significant result of present regulation that the legislative audit did not and could not cover is the fact that the overall welding quality in the State has taked a significant step forward since the enactment of the welding inspector regulation. Better welding quality translates directly into economic and safety benefits for the public.

There ar many welding projects throughout the State that have been brought to a safe standard by the conscientious inspection of licensed welding inspectors. These cases do not reach the public's awareness because they are not given the publicity that a catastrophic failure would create. The public benefits are all around us in our everyday use of welded products and facilities.

Our point is this: Industry has accepted this regulation as an important tool for controlling quality. To let the board, and subsequently the regulation, cease to exist at a time when industry is interested in (and receptive to) a governing regulation, is certainly not in the public's best interest.

Your consideration of re-establishing the professional and vocational regulations, as defined in 12AAC72, and continuing the existance of the Board of Welding Examiners, as defined in State Statute AS 08.99 and House Bill No. 595, is sincerely solicited.

This is a unanimous opinion from the board.

Respectfully Submitted,

Donald M. Lockman
Chairman
State Board of Welding Examiners

MIDDLETOWN, VA. 22645

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LOUIE J. ROUSSEAU
2700 PORCUPINE DRIVE
ANCHORAGE, AK 99501

COPY OF TELEGRAM SENT FEBRUARY 17, 1982 TO DONALD M. LOCHMAN.
QUOTE: IN VIEW OF YOUR LETTER OF JAN. 29 TO AWS MEMBERS UNDER AWS LETTERHEAD, PLEASE READ AND CONSIDER SECTIONS 8.3 AND ALL OF 8 AND 9 OF AWS QC-1.
YOU MAY BE IN VIOLATION OF PORTIONS OF 8, IF THIS IS CORRECT IT COULD RESULT IN ACTIONS UNDER 8.9 OR 9.0.
SIGNED: ACTING EXECUTIVE DIRECTOR, PERRY J. RIEPPEL - UNQUOTE.
ADVERTISEMENT I MENTIONED WILL APPEAR UNDER NOTICES IN CLASSIFIED AD SECTION OF ANCHORAGE TIMES ON FEBRUARY 24, 25, AND 26. DEADLINE FOR AD IN OTHER PARTS OF PAPER WAS LAST WEEK.
HARRY BROADBENT
AMERICAN WELDING SOCIETY
519245
AMWELD SOC MIA

1047 EST

MGMCOMP MGM

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▶

[illegible] J ROUSSEAU
7[illegible]0 PORCUPINE DRIVE
[illegible]HORAGE AK[illegible] 99501

[illegible]FERENCE LETTER BY DONALD LOCHMAN JAN 29, 1982 TO AWS MEMBERS
[illegible]ER AWS LETTERHEAD REFERENCE SUNSET LEGISLATION CONCERNING
[illegible]TE BOARD OF WELDING EXAMINERS. SUCH ACTION BY AN AWS OFFICER,
[illegible]CTION CHAIRMAN, OR ANY MEMBER IS FORBIDDEN BY ACTION OF AWS
[illegible]BOARD OF DIRECTORS BY ACTION OF 3RD BOARD MEETING 1970-71 FOLLOWING:

1) [illegible]AL, REGIONAL AND LOCAL ISSUES - THE EXECUTIVE DIRECTOR WAS DIRECTED TO ADVISE THE ALASKA SECTION THAT THE AMERICAN WELDING SOCIETY CANNOT ENDORSE LEGISLATION.

2) 2ND BOARD MEETING 1977-78 - AWS PROTOCOL FOR RECOMMENDATIONS TO GOVERNMENT AGENCIES - THE AWS BOARD ACTION REQUIRES THAT [illegible]Y ACTION OF THIS TYPE BE APPROVED AND TRANSMITTED BY THE EXECUTIVE DIRECTOR.

[illegible]CTING EXECUTIVE DIRECTOR
[illegible]RY J RIEPPEL
[illegible]ELD SOC MIA
1-248

[illegible] ESL

[illegible] COLD [illegible]

TO REPLY BY MAILGRAM, SEE INSTRUCTIONS ON REVERSE SIDE

Anchorage Tank & Welding, Inc.

2700 Porcupine Dr.
Anchorage, Alaska 99501
(907) 272-3543

FEBRUARY 10, 1982

THE HONORABLE REPRESENTATIVE TERRY MARTIN, CHAIRMAN
STATE HOUSE LABOR & COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99811

RE:HB595, CONTINUANCE OF THE BOARD OF WELDING EXAMINERS

DEAR REPRESENTATIVE MARTIN:

WE ARE WRITING AS ONE OF YOUR CONSTITUANTS IN THE MOUNTAIN VIEW AREA TO URGE YOU AND YOUR COMMITTEE TO ALLOW THE BOARD OF WELDING EXAMINERS TO TERMINATE. WE DO NOT ENDORSE ITS EXISTANCE PROVIDED REGULATIONS ARE CHANGED; WE ARE ADAMANTLY OPPOSED TO ITS BEING IN ANY FORM, FOR THE FOLLOWING REASONS:

1. STEEL FABRICATORS SUCH AS OURSELVES, HAVE STRUCTURED OUR ORGANIZATIONS TO COMPLY WITH AND TO CONFORM TO NATIONALLY RECOGNIZED CODES PRIMARILY BECAUSE THE CUSTOMER BASE WE SEEK DEMANDS THE TYPE OF QUALITY REQUIRED BY THESE CODES IN THEIR PROJECTS. THE END USERS OF FABRICATIONS WHERE SAFETY AND/OR ECOLOGICAL REGULATIONS MUST BE COMPLIED WITH, ARE REQUIRED BY EXISTING LAWS TO SPECIFY CERTAIN NATIONALLY ACCEPTED CODES AND STANDARDS TO WHICH THESE PRODUCTS MUST BE MANUFACTURED. THESE REQUIREMENTS MUST BE ADHERED TO BY FABRICATORS WITHOUT EXCEPTION. IT IS OUR EXPERIENCE THAT THIS TYPE OF CUSTOMER REQUIRES PROOF OF

QUALIFIED SHOP WELDING PROCEDURES AND PERFORMANCE QUALIFICATION OF WELDERS PRIOR TO THE START OF ANY WELDING FABRICATION. IN ADDITION, THESE CUSTOMERS REQUIRE THAT WE PROVIDE ACCESS TO OUR FACILITY FOR INSPECTION OF THE WELDING BY THEIR OWN INSPECTION PERSONNEL DURING MANUFACTURE OF THEIR PRODUCT. IT IS THEREFOR READILY APPARENT, THAT WITH ADHERANCE TO NATIONALLY RECOGNIZED CODES AND STANDARDS, AS WELL AS CUSTOMER INSPECTION OF CRITICAL WELDMENTS DURING FABRICATION, ADDITIONAL INSPECTION BY STATE LICENCED PERSONNEL ACCOMPLISHES NOTHING EXCEPT TO ADD ADDITIONAL AND UNNECESSARY EXPENSE TO THE PROJECT.

2. IT IS OBVIOUSLY IN OUR BEST INTEREST AS A FABRICATOR TO INSURE THE QUALITY OF OUR PRODUCT SO THAT WE CAN OBTAIN THE WORK WE DO, THEREBY ENABLING US TO KEEP OUR CUSTOMERS AND AVOID THE PROBLEMS INVOLVED WITH POOR QUALITY WORK. WE ACCOMPLISH THIS BY CONFORMING TO NATIONALLY ACCEPTED CODES AND STANDARDS AND THROUGH IN HOUSE TRAINING AND QUALIFICATION OF OUR WELDING PROCEDURES AND WELDERS AS PROVIDED BY THESE CODES. OUR TRAINING AND QUALIFICATION IS CONDUCTED AND PERFORMED BY INDIVIDUALS AND TESTING FIRMS OF OUR CHOICE WHO HAVE DEMONSTRATED THEIR CAPABILITY TO COMPLY WITH OUR OWN AND OUR CUSTOMERS STRINGENT REQUIREMENTS. HOWEVER, BECAUSE OF THE REGULATIONS OF THIS STATE, PROMULGATED BY THE BOARD OF WELDING EXAMINERS, WE ARE COMPELED TO HIRE A STATE LICENCED WELDING INSPECTOR TO WITNESS OUR WELDER QUALIFICATION ACTIVITY IN ORDER FOR HIM TO SIGN OFF ON THE PERFORMANCE QUALIFICATION TEST RECORD. IT MUST BE RECOGNIZED THAT HE, THE STATE LICENCED WELDING INSPECTOR,MAKES ABSOLUTILY NO CONTRIBUTION TOWARD UPGRADING OUR WELDERS. NON THE LESS, WE ARE SADDLED WITH THIS UNNECESSARY INTRUSION AND EXPENSE.

3. STATE LICENCED WELDING INSPECTORS,(INCIDENTLY, THE ONLY REQUIRED LICENCEES BY THE STATE AT THIS TIME), DO NOTHING TO FURTHER THE ADHERANCE TO A PARTICULAR CODE AND DO NOTHING TO ENHANCE THE QUALITY OF WORK PERFORMED. ANY

PERSON WHO MEETS THE REQUIREMENTS OF THE AMERICAN WELDING SOCIETY CERTIFICATION PROGRAM FOR WELDING INSPECTORS SHOULD BE ACCEPTED BY THE STATE AS COMPETANT TO ACT AS SUCH. THIS ELIMINATES THE NECESSITY OF LICENCING THESE INDIVIDUALS BY THE STATE AND THE PUBLIC EXPENSE ASSOCIATED THEREWITH.

4. YOUR COMMITTEE HAS BEFORE IT, A REVIEW AND FOLLOW-UP REVIEW OF THE BOARD OF WELDING EXAMINERS, PERFORMED BY THE DIVISION OF LEGISLATIVE AUDIT WHICH CONCLUDES:

> ''IN OUR OPINION, THERE IS NOT A SUFFICIENT PUBLIC NEED FOR CONTINUING EITHER THE BOARD OR STATE LICENCING OF WELDING INSPECTORS.''

WE BELIEVE THAT LEGISLATIVE AUDITS AND SUNSET LAWS WERE PROVIDED BY LEGISLATORS SUCH AS YOURSELF WHO SAW THE NECESSITY OF DISCONTINUING UNNECESSARY REGULATORY BOARDS AND COMMISSIONS. WE BELIEVE ALSO THAT WHEN AN OPINION IS THIS SUCCINCTLY AND UNAMBIGUOUSLY WRITTEN, THERE MUST BE OVERWHELMING ADVERSE EVIDENCE TO REFUTE THE AUDIT BEFORE A COMMITTEE SHOULD EVEN CONSIDER REVERSING THEIR FINDINGS.

5. FINALLY, AS 08:01.025 STATES:

> ''NO PUBLIC MEMBER OF A BOARD MAY:
> (1)BE ENGAGED IN THE OCCUPATION WHICH THE BOARD REGULATES
> (3)HAVE A DIRECT FINANCIAL INTEREST IN THE OCCUPATION WHICH THE BOARD REGULATES.''

AS A MATTER OF FACT, THE CHAIRMAN OF THE BOARD OF WELDING EXAMINERS WHO IS ALSO APPARENTLY THE STRONGEST SUPPORTER THEREOF, VIOLATES BOTH OF THESE PROVISIONS BY OWNING AND OPERATING A WELDER TRAINING AND TESTING FACILITY WHICH ACTIVELY TESTS FOR LICENCING, STATE WELDING INSPECTORS. HOWEVER, STATE REGULATIONS SHOULD NOT REQUIRE THE NEED FOR TRAINING AND QUALIFICATION FACILITIES SUCH AS THIS, FOR THE LICENCING OF WELDING INSPECTORS WHEN THE MECHANISM IS

AVAILABLE ON A NATIONAL LEVEL FROM THE AMERICAN WELDING SOCIETY.

IN CONCLUSION,WE ASK YOU AND YOUR COMMITTEE, AFTER REVIEWING THESE AND OTHER FACTS, TO HOLD HB 595 IN YOUR COMMITTEE AND THEREBY ALLOW THIS BOARD TO TERMINATE

VERY TRULY YOURS

ANCHORAGE TANK & WELDING, INC.

LOWELL D, MACNUTT, VICE-PRESIDENT

February 25, 1982

Representative Terry Martin
Legislative House Labor & Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Martin:

I am writing this letter to voice my opposition to the re-establishment of H.B. 595. I fully agree with the legislative audit of 1979, and its follow-up in 1980 that the need for the continuation of the State of Alaska Board of Welding Examiners does not exist.

I feel that the state should allow private industry to manage its own welding and welding inspection programs in accordance with the widely used and nationally recognized codes and standards. It appears to me that the Board and its continuations is wanted solely because of personal gains, and not really in the publics' best interest.

I have considerable experience in welding, both as a welder and now a Welding Engineer, and I have never seen such a mess and dealt with so many incompetent welding inspectors.

Please do us all a favor and abolish the State of Alaska Board of Welding Examiners.

Sincerely,

Lee A. Gabrielson

Lee A. Gabrielson

Steel Distributors
FOR THE NORTH-WEST
AND ALASKA

STACK STEEL Co of Alaska
1200 W. DOWLING — ANCHORAGE ALASKA 99502 (907) 279-0691

February 24, 1982

The Honorable Terry Martin - Chairman
Legislative House Labor and Commerce Committee
Twenty Fifth Alaska State Legislator
Pouch V (Interdepartmental Mail Stop 3100)
Juneau, Alaska 99811

Subject: Sunseted Board of Welding Examiners Statutes AS08.99 and Regulations 12ACC72, House Bill 595, and Senate Bill 757.

Dear Honorable Terry Martin:

Recently I have had occasion to study the statutes and Regulations contained in the subject Board of Welding Examiners and House Bill 595 for continuation of the Board. In addition, I have reviewed the Legislative "Follow-up" Review Audit conducted 11-24-80 by your Legislative Auditor Gerald L. Wilkerson.

After studying the statutes and Regulations covered in the subject item along with my indepth review of the audit findings as well as taking special note of the rebuttal to the audit report signed by the Chairman of the Board of Welding Examiners; I find that we at Stack Steel, are in total agreement with the underscored conclusions of the Legislative Auditor, identified as: "Prior Audit Recommendation No. 1 Page -5-.

In review of the Chairman of the Boards rebuttal to the audit findings it is noted, that his primary argument for maintaining the Board of Welding Examiners is based solely on the need for "State licensing" of the welding inspector as the single instrument that will maintain quality and protect the public.

It should be noted by you and your committee panel members, that in the Chairman of the Boards rebuttal no comment or apparent thought is given to the many other significant items that must be taken into account, with a view toward public safety before, the welding inspector is even assigned to the job of inspection. For example, items which the

design engineer and the welding engineer (assuming a welded fabrication) must attend to in compliance with the existing National Accepted Codes, Federal and State Government Regulations and Practices, which are relevant to the item to be fabricated. Some of those items which the design engineer and welding engineer must take into consideration and attend to, are:

1) Establish the necessary quality criteria for the job under consideration.

2) Determine what Codes, Standards, and Government regulations apply.

3) Prepare design drawings of the item to be fabricated.

4) Prepare fabrication specifications, which identifies: the applicable Codes/Standards to be used. Identifies the base materials, welding materials, and welding processes. Establishes the quality requirement and the level of inspection required for the specific job.

From the criteria identified in the fabrication specifications, the welding inspector and/or other inspectors (dependent on the type of fabrication) can be assigned by their employer to his specific inspection task. Most certainly the inspectors performance on the job will and must be measured by his employer whether a State license is required or not.

A very important item that should be considered is the fact that the State licensing of the individual inspectors places no assurance or warranty for the inspectors on-the-job, performance. In that consideration, and assuming that the inspector lacks insuficient welding inspection knowledge but still holds the State license, one of two things can happen. That is, dependent on the caliber of the firm which employs that type of an inspector; 1) his employment will be terminated or 2) he may be retained by the employer simply for window dressing because of the State license.

In either case the State license requirement will not have made any contribution toward guaranteeing or assuring welding quality.

We in private industry dealing in welded fabrications are concerned with economics in this competitive market. Being concerned we know that we will not stay in business if the welded fabrication or welded products which we produce do not meet our customers quality requirement. Therefore we work with the existing National Accepted Codes/Standards Federal, State, Borough, and Municipality Regulations which are already in place and required.

We have not seen in the past, any significant benifit in welding quality or added protection of the public from the Board of Welding Examiners regulation. As the regulations are now written in the present Board Statutes and considering the existing and apparent conflicts of interest by some Board members, we believe it would be in the best interest of the State to terminate the Board of Welding Examiners and cease any further expendature of public funds other than allowing the Board time to gather up records to send to archive files and close up shop!

Thank you for your attention and consideration to this matter.

I will be looking forward to your reply.

Respectfully,

DENNIS R. PFEIFFER
General Manager
Stack Steel Co. of Alaska

DRF/vs

cc: House Finance Committee - Chairman Albert P. Adams
House Judiciary Committee - Chairman Romona L. Barnes
Senate Finance Committee - Co Chairman Don Bennett
Senate Judiciary Committee - Chairman Patrick M. Rodey
Senate Labor & Commerce - Chairman Robert Mulcaby
Senate Rules Committee - Chairman Tim Kelly

WELDING APPLICATIONS METHODS, INC.

2700 Porcupine Drive
Anchorage, AK. 99501 (907) 272-3543

October 6, 1981

The Honorable Charles Anderson
House of Representatives
1841 E. 24th Ave.
Anchorage, AK. 99504

Subject: Current Status of: The Sunsetted Board of Welding Examiners.

Dear Honorable Charles Anderson:

My apology for the delay in sending you a copy of the Follow-up Review and Legislative audit of the Board of Welding Examiners, which you requested during our phone conversation of 9-16-81. The delay results from putting in long hours and long work weeks for my present clients.

Following your recommendations during our last discussion, I made a phone call to the State Attorney General's Office-Juneau. The objective of course was to get a letter confirming the information which you had given me regarding; "the sunsetting of the Board of Welding Examiners on June 30,1981. and for that reason it was no longer in force."

I would like to take the liberty at this time to inform you of the results of my phone call to the Attorney General's Office and the phone call which I received the same day from the Division of Occupational Licensing:

1) Phone call to the Attorney General's Office. Conversation with Susan Burke. Date of call; 9-17-81

2) Phone call from Division of Occupational Licensing-Juneau. Conversation with; Mr. Richard Long Chief Investigator. Date of call 9-17-81

My phone conversation with (Miss/Mrs.) Susan Burke did not prove very fruitful in as much as she was not, by her statement, very well informed about the current status of the Board of Welding Examiners. She did state however, that she would do some checking and get back to me later. As yet, I have not been contacted by her or anyone from the Attorney General's Office.

The same day, 9-17-81 I received a phone call from Mr. Richard Long. Mr. Long indicated that he had been contacted by the Attorney General's Office regarding my earlier phone call to that office.

Mr. Long informed me that, to the best of his knowledge the Board of Welding Examiners Law was still in force even though House Bill 595 was held in committee and the Board was sunsetted June 30, 1981. He also mentioned a provision in the Law which grants a year of continuation for the sunsetted Board, to conclude its affairs and during that time period the powers of the Board remain in force.

I informed Mr. Long of my phone conversation with you on 9-16-81 wherein you advised me that the Board was sunsetted and for that reason was no longer in force nor could it be, without new Legislative acts which would be required to permit the Board to be reenacted. Mr Longs comment was, that he was not aware of any Legislative act which removed the statute permitting the years extention and continuation of enforcement for the additional years time period. However, he stated that he would do some further research and contact me again.

The following day, 9-18-81, Mr. Long called me again to advise me of new information which he found and which infact, supported what he had stated in his first phone call to me 9-17-81. I asked Mr. Long for a letter concerning that information and the present status of the Board of Welding Examiners. In return he asked me for a letter concerning other portions of his and my phone conversation in which I discussed the following items:

1) My activity under Alaska State Business License No. BL023144 SIC4299 DBA Owner WAM-Welding Application Methods, Providing a service as; Welding Consultant, Technical Welding Services, Welder Training and Qualification and Manufacturer's Representative.
2) Known infractions of the Board's Law (if in fact the law is still in force), by unlicensed Welding Inspector's of another Firm.
3) What may be considered to be a direct conflict of interest (again if the Board is still in force. See Section 08.01.025. Public Members), by two memebers of the Board of Welding Examiners who own or are actively engaged in Welder Testing Facilites.
4) My personal views (which are supported by my business clients & others--Owners and Managers of Fabrication Firms in Alaska) concerning the merit of the Board of Welding Examiners and its potential impact on Alaska Industry.

I have been in the process of drafting the letter to Mr. Long however, I decided to break away from that letter in order to get this one out to you and transmit the Legislative audit to you. In addition I am enclosing a copy of the letter I received 9-25-81 from Mr. Long, which I feel you may be interested in.

I would like to propose a meeting with you at your earliest convenience to discuss possible Legislative means of preventing additional public funds from being spent to continue enforcement of any part of the Board of Welding Examiners rules and permitting only the limited use of public funds for completly shutting down the activity and the closing of their affairs! Inaddition to discuss other recommendations and alternative methods which the Legislature and the Govenor may consider, to assist rather than hamper private industry in continuing to upgrade the quality of welded fabrications within this state.

An example of what may be considered:

1) The state has accepted the American Society of Mechanical Engineers, like so many other states have, as the governing Code for Code stamped Pressure Vessels and Pressure Piping Systems and has established an Office of the State Boiler Inspector. In addition, staffed that office with individuals

who are fully knowlegable with welding and Code welding requiremnts within that Code catagory and others. It seems logical then, if the Legislator and Govenor feels that there is need to expand on the control and upgrading of welded fabrication which fall within other Codes and Standard catagories, that the existing State Boiler Inspectors office would be the place to expand rather than setting up some other agency or Board. Wherein another agency or Board may end up in direct conflict with the existing and functional State Boiler Inspectors office.

I look forward to a reply from you on this matter.

Thank you for your attention and cooperation.

Respectfully yours,

Louie J. Rousseau

Louie J. Rousseau
WAM-Welding Application Methods

Enclosures: Legislative Audit of the Board of Welding Examiners.
Letter from Mr. Richard Long-to Louie Rosso
Copy of List of State Licensed Welding Inspectors
WAM-Business Card

cc: Mr. R. Lee Higbee/Mr. Lowell McNutt
Owners-Anchorage Tank & Welding, Inc.
Mr. Dennis Pfieffer/Manager Stack Steel Co. of Alaska
Mr. Erv Long/Owner Arctic Foundations, Inc.
Mr. Tom J. Martin/State Licensed Welding Inspector
Mr. Paul Lott/Manager-Alaska Welding Center-Fairbanks
Mr. Don Cather-State Boiler Inspector

LJR/File

WELDING APPLICATIONS METHODS, INC.
2700 Porcupine Road
Anchorage, AK 99501 (907) 272-3543

October 4, 1981

Mr. Richard H. Long,
Chief Investigator
Division of Occupational Licensing
Pouch "D"
Juneau, Alaska 99811

Subject: (1) Sunsetted Board of Welding Examiners Welding Statutes AS08.99 and Board of Welding Examiners Regulations 12AAC72.

(2) Termination, continuation, and reestablishment of Regulatory Boards AS08.03.

References: (1) Telephone conversation concerning current status of the Board of Welding Examiners, from Mr. Richard Long to Louie Rousseau. Date: 9-17-81.

(2) Follow-up telephone conversation concerning new evidence on current status of the Board of Welding Examiners, from Mr. Richard Long to Louie Rousseau. Date: 9-18-81.

Dear Mr. Long:

This letter will acknowledge receipt of your letter of 9-22-81 concerning the Subject items (1) and (2); and to respond to your request to me for setting down some of the other items which we briefly discussed during our phone conversations, references (1) and (2).

In review of my daily notes and daily log, our phone conversation briefly covered the following items which I shall list and follow-up with the item-by-item discussion:

Mr. Richard H. Long
Chief Investigator
Division of Occupational Licensing
October 4, 1981
Page Two.

Item 1) Personal business activities: Welding Consultant, Technical Welding Services, Welder Training and Qualification, Manufacturers Representative. Doing business as, Owner, WAM - Welding Application Methods, under Alaska State Business License No. BL 02314 SIC 4299.

Item 2) Conflicting information received concerning status of the Sunsetted Board of Welding Examiners from the Office of Legislative Affairs - Anchorage, and the Division of Occupational Licensing - Juneau.

Item 3) Comments on: the follow-up review of the Board of Welding Examiners, November 24, 1980 Legislative Audit Control Number 08-21-1004-R.

Item 4) Information on possible infractions of the Board's Laws and Regulations, and other statutes, if in fact those regulations are still in force.

Discussion:

Item 1) Since my demobilization from Alyeska Pipeline Service Company on February 2, 1978, and after completion of my assignment as Welding Engineer, I have been actively engaged as a Welding Consultant to a number of welding fabrication firms and others within the state.

Following is a list of some of the firms who have engaged my services:

*Technical Welding Laboratory, Fairbanks - 1978
*Alaska Welding Center, Anchorage & Fairbanks - 1978/1979
*H.C. Price Const. Co., Fairbanks - 1978
*Stack Steel Co. of AK, Anchorage - 1978/1979/1980/1981
*Anchorage Tank & Welding, Anchorage - 1980/1981
*Arctic Foundations, Anchorage - 1981
*Arctic Welding Supply, Anchorage - 1981

With the exceptions of my services to Technical Welding Laboratory and H.C. Price Co., my activities as I stated during our phone conversation, have been directed toward on-the-job (or in-house) welder training and welder qualifications and upgrading overall welding methods for my various clients.

The primary objective, of course, in that activity, is to upgrade their welding quality and the methods of application, which in turn will permit their firms to produce welded fabrications which meet the design criteria and code/standards requirements that are imposed on the fabrications by their customers.

In August of 1978, I was made aware that the Board of Welding Examiners introduced a stipulation into their rules which became a state law requiring that only a State Licensed Welding Inspector could qualify welders. Since I was not at that time and still not in ag eement with what the Board of Welding Examiners was attempting to do, plus the fact that I do not sell my services as a welding inspector, I elected to not contribute to that activity by not applying for the welding inspector license. However, in order to not jeopardize my client's position or their welders, it was necessary that I inform them prior to entering into a work agreement that I could not legally, because of the law, sign off on the Welders Qualification Test Record following his training. For that reason if the prospective client wished my services, it would be necessary to call in a state licensed welding inspector to witness the welder qualification testing activity and sign off over my signature on the Test Report.

In every case, that was the arrangement agreed upon between my clients and I before we launched into any in-house activity to train and qualify their welders. It must be recognized that such an arrangement, in having to pay for the licensed inspectors time, resulted in additional costs to my client for something that was not directly contributing to the upgrading or improvement of

their welding requirements. Never the less, that was the working arrangement up until the time that we were informed by the Office of Legislative Affairs-Anchorage that: "The Board of Welding Examiners was sunsetted June 30, 1981, and for that reason, the law is no longer in force."

Item 2) Following receipt of that information from Legislative Affairs, I proceeded to conduct my welder training activity and welder qualification testing activities as I have done for several major corporations over my past 27 years of welder training and qualification testing. That of course resulted in my signature on the welder performance Qualification Test Report, as required by the National Codes and Standards, to which the tests were conducted. At that time, I was not aware of any stipulation in the law which would permit the rules of the Board to remain in force for any period of time. Nor was I advised by the Legislative Affairs of any such stipulation. In fact, as already noted, the information received from that office was totally the reverse of that.

On 8-5-81, I received a phone call from Mr. Larry Cherveny, Welding Engineer, Peter Kiewit & Sons Co., at Valdez, who I was qualifying welders for under a purchase order agreement. (Peter Kiewit Co. is working under contract to Alyeska Pipeline Service Co. at the Valdez terminal). Mr. Cherveny advised me that during an inspection of their welding documentation by Alyeska inspectors, they informed him my signature on their Welder Qualification Test Records was not valid since I was not a State Licensed Welding Inspector. For that reason, their welder would have to be requalified. I informed Mr. Cherveny of the past information received from Legislative Affairs, concerning the Sunsetted Board and the need for an inspect r's license was no longer required. His commen was that he informed the Alyeska inspectors of that, however, their response was that they knew the Board was sunsetted, but the rules were still in force for another year. I informed Mr. Cherveny

that I would do some more checking on the situation and get back to him as soon as possible. Following that, I again called Legislative Affairs Office - Anchorage and again, received the same information as previously noted. I immediately called Mr. Cherveny that same day and advised him of Legislative Affairs confirming their past information.

The following day, 8-6-81, I received another phone call from Mr. Cherveny. He informed me that Alyeska Inspection Services was insisting that the requirement for a State Licensed Welding Inspector to qualify welders was still in force. For that reason, he would be compelled to cancel our purchase order agreement.

Since the cancellation of that purchase order amounted to a considerable financial loss to my company, I decided to try and find out how a law could be sunsetted (to use Legislative Affairs term, "and dead"), yet still be in force. I started contacting personnel of different state agencies and state representatives to try and find out what exactly was going on.

My first contact and meeting was with the Commissioner of Economic Development and Commerce, Mr. Charles Webber. After discussing the Board of Welding Examiners rules and my resulting problems, Mr. Webber assured me that he would be contacting his Director of the Division of Occupational Licensing, Mr. Harry Treager, in order to try and find out the current status of the Board and its rules.

On 8-26-81, I received a phone call from Mr. Treager. During our brief discussion concerning the questionable usefulness of the Boards' rules and regulations, and why those laws would continue in force, Mr. Treagor indicated that he shared some of my concerns, and following our phone conversation would be contacting the Attorney General in order to get a legal disposition on the matter.

On 9-15-81, I called Mr. Treagor to find out if he had received any information from the Attorney Generals office concerning the disposition of the Sunsetted Board. Mr. Treagor indicated that he had not received any information from the Attorney General, as yet.

On 9-17-81, I called the Attorney Generals office and inquired who I may talk to in regard to the Sunsetted Board of Welding Examiners. My call was transferred to Susan Burke. (Miss/Mrs.) Burke indicated that she was not familiar with its statutes, however, would do some checking and contact me later.

The preceeding information in item 1 and 2 brings us up to the time (same date) of your first phone call to me and your follow-up phone call on 9-18-81, concerning the status of the Sunsetted Board.

Item 3) Comments on the Legislative Audit No. 08-21-1004-R

A review of the Legislative audit and a review of the attached rebuttal to the Audit Report, prepared by the Chairman of the Board of Welding Examiners, simply serves to reinforce my early contentions regarding the questionnable usefulness of the Board and to be in total agreement with the audits findings and its recommended conclusions.

Item 4) Information on possible infractions of the Boards Laws and Other Statuates.

As I had indicated during our last phone conversation of 9-18-81, I received information from Peter Kiewit & Sons Co., at the Valdez terminal that the last welder which I had qualified for them was requalified by an Alyeska inspector. A short time later, it was learned that of the three Alyeska inspectors assigned to the Valdez terminal, (one of whom conducted the welder requalification tests), none were AWS certified welding inspectors (which is a prerequisite), nor, at that time, did they possess the Alaska State Welding Inspector License.

I was also made aware that the two requalification pipe test coupons were sent to Alaska Industrial X-Ray in Anchorage for radiography, sectioning, and removal of the required guided bend test specimens for bend testing. After the test coupons were received by AIX, I received a phone call from that firm inquiring how I removed the guided bend specimens which are welded with stainless steel weld filler, from a carbon steel test pipe.

At this time I am not sure of who signed off on the Peter Kiewit Co. Welder Qualification Test Record. However, I believe it can be assumed that it was not the inspector who conducted the requalification tests. On that assumption, it would appear that Alyeska Inspection Services was engaging in an activity which seems to be as much an infraction of the Boards laws (even with their recognition that the law was still in effect) as what they earlier prevented me from doing.

In regard to what appears to be an infraction to another statuate covered in the booklet of the Board of Welding Examiners under AS08.01.020, "Business and Professions" Sec. 08.01.025, "Public Members", which states, "No public member of a Board may:

(1) Be engaged in the occupation which the Board regulates.
(2) Be associated by legal contract with a member of the occupation which the Board regulates except as a consumer of the services provided by a practitioner of the occupation; or
(3) Have a direct financial interest in the occupation which the Board regulates.

It is known that the Chairman of the Board and one other board member are either owners, or actively and financially engaged in facilities which perform welder qualification testing and is considered part of the occupation which the Board regulates. What is not understood is why there seems to be no action taken to enforce the above statuate if in fact any other portion of the Laws and Statuates are being enforced by or in behalf of the Board.

Conclusion:

In my considered judgment, there has not been any major contribution made by the Board of Welding Examiners toward upgrading the overall quality of welding within the state since its inception. In fact, it appears that the only accomplishment of the Board has been in the area of acquiring a quite large number of individuals who now possess an Alaska State Welding Inspectors License.

Since it is acknowledged throughout industry that quality cannot be inspected into a fabricated item, but must be trained into the individuals who are performing the work on the fabrication, it seems unreasonable to place so much emphasis on the need for increased inspection.

It is acknowledged that industry has adopted standards which require certain welded fabrications to be inspected prior to going to the consumer, however, it is also acknowledged that need is lessened when the individuals are trained to perform the task.

In view of the foregoing, it is again recommended that the Sunsetted Board of Welding Examiners Laws be deactivated and that the use of public funds to continue enforcement of the board laws and rules for the years grace period be discontinued.

Thank you for your assistance and attention to this matter.

attachments:
List of State Licensed Welding Inspectors
Copy of Legislative Audit Report
No. 08-21-1004-R

Respectfully ours,

Louie J. Rousseau
Welding Application Methods
2700 Porcupine Drive
Anchorage, AK 99501

c.c.

FEB, 4, 1982

REPRESENTATIVE TERRY MARTIN, CHAIRMAN
LEGISLATIVE HOUSE LABOR & COMMERCE COMMITTEE
TWELFTH ALASKA STATE LEGISCATURE
POUCH V
JUNEAU, ALASKA 99811

DEAR REPRESENTATIVE MARTIN
IT IS IMPERATIVE THAT (HB 595)
BE PASSED REESTABLISHING THE
STATE BOARD OF WELDING EXAMINERS

Resp

Leonard R. Elwood
Welder / Sheet metal mechanic

expire June 30

Anchorage Tank & Welding, Inc.

2700 Porcupine Dr.
Anchorage, Alaska 99501
(907) 272-3543

MAY 28, 1981

REPRESENTATIVE VERNON HURLBERT,CHAIRMAN
HOUSE COMMITTEE OF LABOR & COMMERCE
CAPITAL ROOM 517
POUCH V STATE CAPITAL
JUNEAU, AK. 99811

HB595

DEAR VERN;

PLEASE EXCUSE THE COMPUTER LETTER, IT'S OUR ONLY TYPEWRITER.

WHILE YOU MAY NOT REMEMBER ME I HAVE TALKED TO YOU AT LENGTH ABOUT TWO SUBJECTS. ONE WAS A COUPLE OF YEARS AGO ABOUT THE STATE LAND LEASING POLICIES WITH A FELLOW NAMED JOE WILHOUR. THE OTHER WAS WHEN I WROTE YOU A LETTER LAST YEAR ABOUT THE INCOME TAX REPEAL, AND YOU CALLED ME AT HOME ABOUT IT.

NOW THAT I AM WITH ANCHORAGE TANK & WELDING, SOMETHING HAS COME TO MY ATTENTION WHICH IS ANOTHER REGULATORY BURDEN TO THE SMALL BUSINESSMAN. I'VE ENCLOSED SOME INFORMATION WHICH I HOPE YOU WILL LOOK AT.

THE CONTINUED EXISTANCE OF THE BOARD OF WELDING EXAMINERS IS UP FOR REVIEW UNDER THE SUNSET LAW. IT'S CLEAR HOWEVER THAT LEGISLATIVE AUDITORS DON'T THINK ITS WORTH KEEPING. THIS IS THE GENERAL CONCERN OF THOSE OF US IN THE FABRICATION BUSINESS. ALSO, IT SHOULD BE ALLOWED TO DIE BECAUSE IT REALLY DOESN'T PROVIDE ANY PUBLIC SAFETY NOT ALREADY CALLED FOR ON PROJECTS BY SPECIFICATION.

IT DOES, HOWEVER INSURE THE CONTINUATION OF THE WELDING SCHOOL OWNED AND OPERATED BY ITS CHAIRMAN AND THEREFORE HB595 TO CONTINUE THE BOARD HAS BEEN REFERRED TO YOUR COMMITTEE.

IF YOU FEEL THIS BILL COMMANDS THE PRIORITY TO BE BROUGHT OUT OF YOUR COMMITTEE, PLEASE GIVE ME A CALL AS YOU DID BEFORE. I AM SURE I CAN GIVE YOU A LOT MORE DETAIL IN SUPPORT OF OUR POSITION IN JUST A FEW MINUTES.

IF YOU FEEL IT DOES HAVE TO SURFACE, I WOULD ALSO LIKE TO HAVE YOUR OFFICE CONTACT ME AS, IF NECESSARY, WE WOULD COME DOWN TO TESTIFY AT A HEARING.

THANKS FOR YOUR TIME AND CONSIDERATION.

ANCHORAGE TANK & WELDING, INC.

LOWELL D. MACNUTT, VICE PRESIDENT

SENATOR
DON GILMAN
REPRESENTING
DISTRICT 13
KENAI PENINSULA

Alaska State Legislature

HOME ADDRESS
P.O. BOX 630
KENAI, ALASKA 99611
(907) 283-4182

DURING SESSION
POUCH V
JUNEAU, ALASKA 99811

State Senate

February 5, 1982

MEMORANDUM

TO: Representative Terry Martin
Chairman
House Labor and Commerce Committee

FROM: Senator Don Gilman

SUBJECT: Status of House Bill 595

In light of the attached letter, I would appreciate your letting me know your intentions in regard to House Bill 595.

cc: Harry Barnes

PENINSULA INSTITUTE OF WELDING TECHNOLOGY

WELDING TRAINING & WELDER CERTIFICATION
AWS CERTIFIED
ALASKA STATE WELDING INSPECTOR LIC. NO. AA0100

P.O. BOX 907
KENAI, ALASKA 99611
(907) 776-5292

JANUARY 25, 1982

CHAIRMAN TERRY MARTIN
LEGISLATIVE HOUSE LABOR & COMMERCE COMMITTEE
TWELFTH ALASKA STATE LEGISLATURE
POUCH V
JUNEAU, ALASKA 99811

Dear Sir:

It has come to our attention that this important piece of Legislative Business has been put on the back burner of importance by the last Legislature. As was brought to everyone's attention by the construction of the Oil Pipeline, a serious lacking of qualified Alaskan Welding Inspectors was apparent. With the possibility of pending construction of the gas pipeline, and other major construction projects, the deletion of this legislation would be of no benefit to the State of Alaska, and in fact a tremendous disservice to Alaska and Alaskans.

It is our opinion that the State Board of Welding Examiners and State licensing of welding inspectors has been effective and has done a valuable service to the citizens of the State of Alaska by increasing the quality of welders and quality of construction. We also support the necessity of the Board of Welding Examiners as they are the only means of policing the regulations.

Licensing Welding Inspectors in our opinion is the only feasible way to protect the public without increasing the bureaucracy.

As you know, if HB 595 is not acted upon before June 1982 the Board and licensing will be terminated and the State will have no guidelines for welding quality in Alaska and this would be another serious disservice to the Alaskan public.

Enclosed are several documents containing information pertaining to this issue:

1. An overview of the sunset process.
2. A copy of HB #595 currently in the Labor and Commerce Committee.
3. A probable successful route for HB #595.

With your support, this legislation can be inacted between the beginning of the new legislative term in January and the June of 1982 deadline, if it is moved properly through the various committees to the floor.

At your February meeting we implore you to act in favor of retaining the Board and licensing as it presently exists.

Sincerely,

HARRY F. BARNES

RANDOLPH L. BARNES

CC A.P. ADAMS (REP.)
J.G. FULLER (REP.)
R. MALONE (REP.)
P.M. O'CONNELL (REP.)
D. BENNETT (SEN.)
M.E. DANKWORTH (SEN.)
D.E. GILMAN (SEN.)
T. KELLY (SEN.)
B. MULCAHY (SEN.)
J. HAMMOND (GOV.)

OVERVIEW : SUNSET REVIEW PROCESS

State law requires that licensing boards justify their existance approximately every five years.

The sunset review process involves the following basic steps.

1- A termination date is set by statute for an existing board.

2- A performance audit of the board is conducted by the Division of Legislative Audit during the calendar year prior to the termination date.

3- During the session immediately preceding the termination date the legislature sets up a committee* to hold hearings and make recommendations to the legislature on the board under review. At these hearings the Department of Commerce and Economic Development and the interested public give testimony.

4- Based on the hearing testimony, the findings of the performance audit and any other factors that the legislature wishes to consider, a decision is made to :

A) eliminate the licensing process,
B) modify the licensing process, or
C) continue the licensing process unchanged.

The fundamental questions that underlie the sunset review process are :

1- Is the licensing process necessary to protect the public from serious and likely harm? What alternatives to the present licensing process exist?

2- Is the board necessary to the licensing process? Is board licensing the most effective way to protect the public? Is board licensing the most economical way of protecting the public? Is board licensing the most desireable way to protect the public?

Other less fundamental, but often equally important, questions are raised during the sunset review process, usually by the performance audit. These questions usually include :

1- How efficiently has the board been operating?

2- How responsive has the board been to the public?

3- Has the board been unnecessarily restricting entry into the profession?

4- How conscientious has the board been in meeting its statutory and other obligations?

* committee of reference

February 11, 1982

Chairman Terry Martin
Legislative House Labor & Commerce Committee
Twelfth Alaska State Legislature

Mr. Martin:

I just received notice of the possibility of your doing away with the State Licensing of Weld Inspectors. I personally, am most decidedly against this both professionally and personally. I am a licensed Inspector in your state and it took many hours of toil and study to accumulate the various certifications required.

It bothers me to think that you consider the job of Weld Inspector so lightly that you make it possible for the various companies to go back to the brother-in-law system where I, with 8 years of experience could work equally or underneath a man who is putting in his first day in Weld Inspection.

There are various environmental groups who could and would make very good use of you discontinuing this program. I have seen a lot of problems in various nuclear plants that would have been lessened or eliminated if they would have had a good competent crew of Inspectors.

I certainly hope that you don't make this mistake.

Sincerely,

Jon Elliott

Jon Elliott
613 Rd 47
Pasco, Wa 99301

Anchorage Tank & Welding, Inc.

2700 Porcupine Dr.
Anchorage, Alaska 99501
(907) 272-3543

FEBRUARY 10, 1982

THE HONORABLE REPRESENTATIVE TERRY MARTIN, CHAIRMAN
STATE HOUSE LABOR & COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99811

RE:HB595, CONTINUANCE OF THE BOARD OF WELDING EXAMINERS

DEAR REPRESENTATIVE MARTIN:

WE ARE WRITING AS ONE OF YOUR CONSTITUANTS IN THE MOUNTAIN VIEW AREA TO URGE YOU AND YOUR COMMITTEE TO ALLOW THE BOARD OF WELDING EXAMINERS TO TERMINATE. WE DO NOT ENDORSE ITS EXISTANCE PROVIDED REGULATIONS ARE CHANGED; WE ARE ADAMANTLY OPPOSED TO ITS BEING IN ANY FORM, FOR THE FOLLOWING REASONS:

1. STEEL FABRICATORS SUCH AS OURSELVES, HAVE STRUCTURED OUR ORGANIZATIONS TO COMPLY WITH AND TO CONFORM TO NATIONALLY RECOGNIZED CODES PRIMARILY BECAUSE THE CUSTOMER BASE WE SEEK DEMANDS THE TYPE OF QUALITY REQUIRED BY THESE CODES IN THEIR PROJECTS. THE END USERS OF FABRICATIONS WHERE SAFETY AND/OR ECOLOGICAL REGULATIONS MUST BE COMPLIED WITH, ARE REQUIRED BY EXISTING LAWS TO SPECIFY CERTAIN NATIONALLY ACCEPTED CODES AND STANDARDS TO WHICH THESE PRODUCTS MUST BE MANUFACTURED. THESE REQUIREMENTS MUST BE ADHERED TO BY FABRICATORS WITHOUT EXCEPTION. IT IS OUR EXPERIENCE THAT THIS TYPE OF CUSTOMER REQUIRES PROOF OF

QUALIFIED SHOP WELDING PROCEDURES AND PERFORMANCE QUALIFICATION OF WELDERS PRIOR TO THE START OF ANY WELDING FABRICATION. IN ADDITION, THESE CUSTOMERS REQUIRE THAT WE PROVIDE ACCESS TO OUR FACILITY FOR INSPECTION OF THE WELDING BY THEIR OWN INSPECTION PERSONNEL DURING MANUFACTURE OF THEIR PRODUCT. IT IS THEREFOR READILY APPARENT, THAT WITH ADHERANCE TO ATIONALLY RECOGNIZED CODES AND STANDARDS, AS WELL AS CUSTOMER INSPECTION OF CRITICAL WELDMENTS DURING FABRICATION, ADDITIONAL INSPECTION BY STATE LICENCED PERSONNEL ACCOMPLISHES NOTHING EXCEPT TO ADD ADDITIONAL AND UNNECESSARY EXPENSE TO THE PROJECT.

2. IT IS OBVIOUSLY IN OUR BEST INTEREST AS A FABRICATOR TO INSURE THE QUALITY OF OUR PRODUCT SO THAT WE CAN OBTAIN THE WORK WE DO, THEREBY ENABLING US TO KEEP OUR CUSTOMERS AND AVOID THE PROBLEMS INVOLVED WITH POOR QUALITY WORK. WE ACCOMPLISH THIS BY CONFORMING TO NATIONALLY ACCEPTED CODES AND STANDARDS AND THROUGH IN HOUSE TRAINING AND QUALIFICATION OF OUR WELDING PROCEDURES AND WELDERS AS PROVIDED BY THESE CODES. OUR TRAINING AND QUALIFICATION IS CONDUCTED AND PERFORMED BY INDIVIDUALS AND TESTING FIRMS OF OUR CHOICE WHO HAVE DEMONSTRATED THEIR CAPABILITY TO COMPLY WITH OUR OWN AND OUR CUSTOMERS STRINGENT REQUIREMENTS. HOWEVER, BECAUSE OF THE REGULATIONS OF THIS STATE, PROMULGATED BY THE BOARD OF WELDING EXAMINERS, WE ARE COMPELED TO HIRE A STATE LICENCED WELDING INSPECTOR TO WITNESS OUR WELDER QUALIFICATION ACTIVITY IN ORDER FOR HIM TO SIGN OFF ON THE PERFORMANCE QUALIFICATION TEST RECORD. IT MUST BE RECOGNIZED THAT HE, THE STATE LICENCED WELDING INSPECTOR,MAKES ABSOLUTELY NO CONTRIBUTION TOWARD UPGRADING OUR WELDERS. NON THE LESS, WE ARE SADDLED WITH THIS UNNECESSARY INTRUSION AND EXPENSE.

3. STATE LICENCED WELDING INSPECTORS,(INCIDENTLY, THE ONLY REQUIRED LICENCEES BY THE STATE AT THIS TIME), DO NOTHING TO FURTHER THE ADHERANCE TO A PARTICULAR CODE AND DO NOTHING TO ENHANCE THE QUALITY OF WORK PERFORMED. ANY

PERSON WHO MEETS THE REQUIREMENTS OF THE AMERICAN WELDING SOCIETY CERTIFICATION PROGRAM FOR WELDING INSPECTORS SHOULD BE ACCEPTED BY THE STATE AS COMPETANT TO ACT AS SUCH. THIS ELIMINATES THE NECESSITY OF LICENCING THESE INDIVIDUALS BY THE STATE AND THE PUBLIC EXPENSE ASSOCIATED THEREWITH.

4. YOUR COMMITTEE HAS BEFORE IT, A REVIEW AND FOLLOW-UP REVIEW OF THE BOARD OF WELDING EXAMINERS, PERFORMED BY THE DIVISION OF LEGISLATIVE AUDIT WHICH CONCLUDES:

> ''IN OUR OPINION, THERE IS NOT A SUFFICIENT PUBLIC NEED FOR CONTINUING EITHER THE BOARD OR STATE LICENCING OF WELDING INSPECTORS.''

WE BELIEVE THAT LEGISLATIVE AUDITS AND SUNSET LAWS WERE PROVIDED BY LEGISLATORS SUCH AS YOURSELF WHO SAW THE NECESSITY OF DISCONTINUING UNNECESSARY REGULATORY BOARDS AND COMMISSIONS. WE BELIEVE ALSO THAT WHEN AN OPINION IS THIS SUCCINCTLY AND UNAMBIGUOUSLY WRITTEN, THERE MUST BE OVERWHELMING ADVERSE EVIDENCE TO REFUTE THE AUDIT BEFORE A COMMITTEE SHOULD EVEN CONSIDER REVERSING THEIR FINDINGS.

5. FINALLY, AS 08:01.025 STATES:

> ''NO PUBLIC MEMBER OF A BOARD MAY:
> (1)BE ENGAGED IN THE OCCUPATION WHICH THE BOARD REGULATES
> (3)HAVE A DIRECT FINANCIAL INTEREST IN THE OCCUPATION WHICH THE BOARD REGULATES.''

AS A MATTER OF FACT, THE CHAIRMAN OF THE BOARD OF WELDING EXAMINERS WHO IS ALSO APPARENTLY THE STRONGEST SUPPORTER THEREOF, VIOLATES BOTH OF THESE PROVISIONS BY OWNING AND OPERATING A WELDER TRAINING AND TESTING FACILITY WHICH ACTIVELY TESTS FOR LICENCING, STATE WELDING INSPECTORS. HOWEVER, STATE REGULATIONS SHOULD NOT REQUIRE THE NEED FOR TRAINING AND QUALIFICATION FACILITIES SUCH AS THIS, FOR THE LICENCING OF WELDING INSPECTORS WHEN THE MECHANISM IS

AVAILABLE ON A NATIONAL LEVEL FROM THE AMERICAN WELDING SOCIETY.

IN CONCLUSION,WE ASK YOU AND YOUR COMMITTEE, AFTER REVIEWING THESE AND OTHER FACTS, TO HOLD HB 595 IN YOUR COMMITTEE AND THEREBY ALLOW THIS BOARD TO TERMINATE

VERY TRULY YOURS

ANCHORAGE TANK & WELDING, INC.

LOWELL D, MACNUTT, VICE-PRESIDENT

February 25, 1982

Representative Terry Martin
Legislative House Labor & Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Martin:

I am writing this letter to voice my opposition to the re-establishment of H.B. 595. I fully agree with the legislative audit of 1979, and its follow-up in 1980 that the need for the continuation of the State of Alaska Board of Welding Examiners does not exist.

I feel that the state should allow private industry to manage its own welding and welding inspection programs in accordance with the widely used and nationally recognized codes and standards. It appears to me that the Board and its continuations is wanted solely because of personal gains, and not really in the publics' best interest.

I have considerable experience in welding, both as a welder and now a Welding Engineer, and I have never seen such a mess and dealt with so many incompetent welding inspectors.

Please do us all a favor and abolish the State of Alaska Board of Welding Examiners.

Sincerely,

Lee A. Gabrielson

Lee A. Gabrielson

Steel Distributors
FOR THE NORTHWEST
AND ALASKA

STACK STEEL Co of Alaska
1200 W. DOWLING — ANCHORAGE, ALASKA 99502 (907) 279-0691

February 24, 1982

The Honorable Terry Martin - Chairman
Legislative House Labor and Commerce Committee
Twenty Fifth Alaska State Legislator
Pouch V (Interdepartmental Mail Stop 3100)
Juneau, Alaska 99811

Subject: Sunseted Board of Welding Examiners Statutes AS08.99 and Regulations 12ACC72, House Bill 595, and Senate Bill 757.

Dear Honorable Terry Martin:

Recently I have had occasion to study the statutes and Regulations contained in the subject Board of Welding Examiners and House Bill 595 for continuation of the Board. In addition, I have reviewed the Legislative "Follow-up" Review Audit conducted 11-24-80 by your Legislative Auditor Gerald L. Wilkerson.

After studying the statutes and Regulations covered in the subject item along with my indepth review of the audit findings as well as taking special note of the rebuttal to the audit report signed by the Chairman of the Board of Welding Examiners; I find that we at Stack Steel, are in total agreement with the underscored conclusions of the Legislative Auditor, identified as: "Prior Audit Recommendation No. 1 Page -5-.

In review of the Chairman of the Boards rebuttal to the audit findings it is noted, that his primary argument for maintaining the Board of Welding Examiners is based solely on the need for "State licensing" of the welding inspector as the single instrument that will maintain quality and protect the public.

It should be noted by you and your committee panel members, that in the Chairman of the Boards rebuttal no comment or apparent thought is given to the many other significant items that must be taken into account, with a view toward public safety before, the welding inspector is even assigned to the job of inspection. For example, items which the

design engineer and the welding engineer (assuming a welded fabrication) must attend to in compliance with the existing National Accepted Codes, Federal and State Government Regulations and Practices, which are relevant to the item to be fabricated. Some of those items which the design engineer and welding engineer must take into consideration and attend to, are:

1) Establish the necessary quality criteria for the job under consideration.

2) Determine what Codes, Standards, and Government regulations apply.

3) Prepare design drawings of the item to be fabricated.

4) Prepare fabrication specifications, which identifies: the applicable Codes/Standards to be used. Identifies the base materials, welding materials, and welding processes. Establishes the quality requirement and the level of inspection required for the specific job.

From the criteria identified in the fabrication specifications, the welding inspector and/or other inspectors (dependent on the type of fabrication) can be assigned by their employer to his specific inspection task. Most certainly the inspectors performance on the job will and must be measured by his employer whether a State license is required or not.

A very important item that should be considered is the fact that the State licensing of the individual inspectors places no assurance or warranty for the inspectors on-the-job, performance. In that consideration, and assuming that the inspector lacks insuficient welding inspection knowledge but still holds the State license, one of two things can happen. That is, dependent on the caliber of the firm which employs that type of an inspector; 1) his employment will be terminated or 2) he may be retained by the employer simply for window dressing because of the State license.

In either case the State license requirement will not have made any contribution toward guaranteeing or assuring welding quality.

We in private industry dealing in welded fabrications are concerned with economics in this competitive market. Being concerned we know that we will not stay in business if the welded fabrication or welded products which we produce do not meet our customers quality requirement. Therefore we work with the existing National Accepted Codes/Standards Federal, State, Borough, and Municipality Regulations which are already in place and required.

We have not seen in the past, any significant benifit in welding quality or added protection of the public from the Board of Welding Examiners regulation. As the regulations are now written in the present Board Statutes and considering the existing and apparent conflicts of interest by some Board members, we believe it would be in the best interest of the State to terminate the Board of Welding Examiners and cease any further expendature of public funds other than allowing the Board time to gather up records to send to archive files and close up shop!

Thank you for your attention and consideration to this matter.

I will be looking forward to your reply.

Respectfully,

DENNIS R. PFEIFFER
General Manager
Stack Steel Co. of Alaska

DRF/vs

cc: House Finance Committee - Chairman Albert P. Adams
House Judiciary Committee - Chairman Romona L. Barnes
Senate Finance Committee - Co Chairman Don Bennett
Senate Judiciary Committee - Chairman Patrick M. Rodey
Senate Labor & Commerce - Chairman Robert Mulcaby
Senate Rules Committee - Chairman Tim Kelly

3651 McGinnis Dr.
Juneau, Alaska 99801
February 17, 1982

Legislative House and Labor Committee
Pouch V
Juneau, Alaska 99811

Attn: Representative Terry Martin

Gentlemen:

I am writing in support of HB 595. It is my opinion that there is a continuing need for State involement in the area of welding regulation and inspection to assure that adequate standards are maintained and that high quality weldments are produced. There is no margin for error - failure is generally catastrophic, and often times fatal to those involved.

I feel that the current system of State licensing of welding inspectors is realistic and workable although there are several areas in the existing regulations where modifications are desirable. I will not elaborate here. My primary concern is that if the Board is not reconstituted the existing regulations will have no statutory basis and in essence we will have no State regulation. If the Legislature should not choose to inact HB 595 then the existing regulations should be adopted in the statues by reference. The problem with this alternative is that there would be no convenient forum readily available for modifying and improving existing regulations.

Other alternatives such as the creation of a WELDING BUREAU would be a step in the opposite direction since it would create a new layer of government regulation with the strong probabiiity of bureaucratic bungling and regulatory abuse. I don't think we need, nor can we afford, a super "watchdog agency" monitoring every "Joe Dokes" welding operation that takes place in Alaska. It is my opinion that the Welding Board represents a low budget, high talent organization and is the logical body to give direction, provide guidance and disseminate information to the welding industry in Alaska. In fact, I believe Alaska is far ahead of those states who have not adopted welding standards. At least we have a uniform statewide standard to quide the welding fraternity and not a maze of conflicting and varying standards that exist between many of the cities and counties of our sister states.

It is rather obvious that a serious technological gap presently exists in Alaska between the engineer or the designer and the person who is actually performing the welding operation. To be certain there are good designers and good welders but few professional structural engineers are knowledgeable about the technical and practical aspects of welding. By the same token few welders have knowledge of the engineering technology associated with the design of welded structures. The certified welding inspector fulfills this technological gap. Although there are not nearly enough of these technicians available considerable progress has been made in recent years simply because of the Boards adoption of the American Welding Society Certified Welding Inspector program. As I see it, non-continuation of the board would constitute a general de-emphasizing of the importance of welding and weld quality in Alaska and would constitute a step backward rather than a step forward.

It has been suggested that industry is capable of self regulation. This may be true in some instances but it certainly is not universal. Even the largest companies with well managed quality control programs have their share of problems involving weld deficiencies. The Alyeska pipeline project was no exception.

The problem is that the small fabricator and construction firm does not normally possess, not can he afford, the luxury of quality assurance personnel. Here is where the public need exists. As a long time employee of the Department of Transportation and Public Facilities I can personally attest to numerous instances of weld failure and poor weld quality in public structures. In fact, the Department has recently been involved in litigation on two major projects over poor weld quality accomplished by supposedly knowledgeable contractors. Some of the weldments produced were so bad that they simply defy explanation. Bear in mind that these structures were designed by professional engineers and welded by certified welders. Had it not been for the presence of a Department of Transportation and Public Facilities certified welding inspector on one project and early structural failure on the other who knows what the future implications might have been.

Another major problem with this whole business of welding and weld quality is the general lack of understanding of the process by the average man on the street. To him, the welder is a magical type who, with his electric wand, joins solid steel together to the dismay of all concerned! The consumer is not normally able to identify a good weld from a bad weld but pay the same price for both. If a welded trailer hitch fails and kills someone in the car behind whose fault is it, or if the marquee falls on your head who do you sue, the designer, the store owner, the contractor who built the building or the welder? Obviously, it makes little difference to the injured party or the survivors of the deceased. They only know that if the welds had held it would not have happened. The point I am trying to

make is that some vehicle is needed for setting the standards of weld quality in the state. In my opinion the Board of Welding Examiners fullfills this requirement.

In summary, I strongly support the retention of the Board and recommend that the committee endorse HB 595. The system and regulations are workable, cost efficient, non bureaucratic and essential to the public welfare.

Thank you for the opportunity to testify.

Sincerely,

Don D. Statter
C.W.I.

cc: Vice Chairman, Bernard Bylsma
Richard Randolph
Terry Gardiner
Brian Rogers

Staff Analysis of testimony and documents presented.

Overview: The fundamental question of regulation and licensing is whether the licensing and/or regulation process is necessary to protect the public from serious and likely harm. In the case of an already existing Board or Commission the question on a viable alternative to the Board or present licensing practice should be considered.

Public Need: The Board of Welding Examiners received an audit by the Division of Legislative Audit on June 8, 1979, and a follow-up audit on November 24, 1980. Both audits reached the same conclusion: "In our opinion, there is not a sufficient public need for continuing either the Board or State licensing of welding personnel."

Public testimony has been critical of the performance of the Board and questions the need of the licensing of welding personnel by the State of Alaska. As the legislative audit (June 8, 1979, p9) points out, "that only one other state to date requires licensing of WI's." Further, there have been questions raised about conflicts of interest by certain of the Board members, and that the sole reason for the continuance of the Board is for their personal financial gain.

Analysis of Arguments: Perhaps it would be easiest to keep this report short to refer to Mr. Lockman's letter of January 25, 1982 (exhibit #1) and address each of his question and concerns.

First is "some vital areas which control the public's safety as it applies to welding." Since the Board has adopted the AWS QC1-78 (Exhibit #2) as the basis of testing and regulation perhaps it should be noted what these Standards state. "1.2 This Standard is intended to supplement any requirements of an employer, code, standard or specification and shall not be construed as a preemption of the employer's responsibility for the work or for the performance of such work. It would appear to be in the Public Interest for the liability

and responsibility of welding problems accrue to the responsible employer and not to the State.

Next, the questions that Mr. Lockman asks, "If the Licensed Welding Inspector is abolished,". Perhaps it would be more accurate to say, if the Board of Welding Examiners is abolished.

"1. Who will certify the welders for Alaska work?" Who certifies the welders for Alaska work now? The Board requires a $50 examination fee for the welder inspector applicant. This fee is paid directly to the American Welding Society who administers, grades and certifies the test. In addition, the applicant must take an all position welding qualification test in at least one welding process. This is one of the areas that the conflict of interest has been raised. These tests are given by licensed Welding Inspectors or Certified Test Labs. The Board itself does not witness the test and has no knowledge if the individual whose application they review has, in fact, ever taken a test or is the same individual whose application they are certifying as a licensed Welding Inspector.

"3. How do we safeguard against false welder certification papers?" The real question is, How is that safeguard being provided now? The AWS QC1 program, as administered, seems to be providing the sole protection that is being afforded. There is no physical control by the Board over the physical test being administered by the licensed Welding Inspectors. Elimination of the Board and adoption of the AWS QC1 standards would not change what is being done at the present time, except that it would be less expensive for the employers and the Public.

"4. Can a welder come into Alaska without proving his ability and take a job welding?" Under the current Board regulations there is no requirement for an individual to have ever been in Alaska to be certified as a Welder or a Welding Inspector. The only figures available are found in the Legislative Audit of June 8, 1979 (p21) and show that 45% of the licensed Welding Inspectors are out-of-state residents. From the regulations of the Board, the requirement is that

an individual be AWS QC1 certified and have paid the necessary fees to a licensed Alaska Welding Inspector. Exhibit #3, Sunday Times of 2/28/82 would seem to indicate that it would be easier for residents of Denver to become certified as welders and welding inspectors than it would be for Alaska residents who do not live in Anchorage.

This practice raises a policy question of whether or not the license is or could be used as a means to restrict entry of qualified individuals into the market. If there would be another large scale project, like the gas line, would it be desirable to restrict the licensing of Alaska Welding Inspectors to some facilities, such as the one in Denver? If so, which areas and who should be chosen? The Alyeska letter of April 12, 1977 (Exhibit #4) raises this and some other questions.

Further considerations. It would be easy to go point by point through all of the materials that have been presented but that would miss the main aspect. The fundamental questions raised by the Legislative Audit have not been addressed. The Public Need has not been demonstrated. If the Legislative Audits are to be given credence, then attention should be directed to their recommendation that "Welder qualification certificates can be required by statute and, if desired, the AWS certification program for WI's could be adopted by reference." In fact, except for the requirement of a test by a licensed Alaska Welding Inspector, this is the procedure that is being followed today.

Under any set of facts, the procedure adopted should not be structured in a manner that it be construed as a preemption of the employer's responsibility for the work or for the performance of such work.

Final Note. There seems to be some question over the validity on some of the testimony and "public input". The advertisement of 2/21/82 (Exhibit #5) purported to be by, or sanctioned by the American Welding Society was repudiated by the American Welding Society and should not be construed as indicative of their position Exhibit #6). Likewise the letter of January 29, 1982 (Exhibit #7) has been viewed by the American Welding Society as a breach of their position on legislative matters

(Exhibit #9) and a possible breach their ethical code (Exhibit #8). The unsolicited testimony, input from the public and the Legislative Audits would appear to indicate that there is a rational to adopt the codes and the standards by reference.

January 29, 1982

Testing Institute of Alaska, Inc.
2114 Railroad Avenue
Anchorage, Alaska 99501

Attention: Donald M. Lockman, Chairman
State Board of Welding Examiners

Subject: State Board of Welding Examiners and State Licensing of Welding Inspectors Future Existence

Dear Sir:

I recently learned of the possibility of terminating the State Board of Welding Examiners and thereafter doing away with the licensing of welding inspectors in the state of Alaska.

High integrity and the proper qualifications of a welding inspector are essential for maintaining the guidelines of codes and specifications on construction projects.

During the past ten years I have been involved in numerous major construction projects in Alaska and in the continental United States. During this time I have witnessed the lack of enthusiasm, neglect, and carelessness of the inexperienced inspector. Also, I have seen and experienced the pride of knowledge and confidence surrounding a highly qualified inspector, and the pride of a job well done.

I am an AWS certified inspector now and plan to have my Alaska license within the next few months. In order to accomplish this goal I have put forth considerable time, effort and expense as have all others who reach this goal.

I believe the continuation of the State Board of Welding Inspectors is essential in order to maintain the proper qualifications and professionalism needed in the quality control field to insure the high standards you now have in the state of Alaska.

Sincerely,

Melvin L. Vosburg

Melvin L. Vosburg

MLV:ps

January 27, 1982

Testing Institute of Alaska, Inc.
2114 Railroad Avenue
Anchorage, Alaska 99501

Attention: Donald M. Lockman, Chairman
State Board of Welding Examiners

Subject: State Board of Welding Examiners and State Licensing of Welding Inspectors Future Existence

Dear Sir:

Over the past sixteen years I have been involved in numerous major construction projects throughout Mexico, Alaska, and the continental United States. I have observed activities of construction people on almost every project which has bordered on criminal neglect. Many times their lack of knowledge of their profession, due to inadequate training is to blame, often they are caught up in the Construction Company's "let's get this job done" euphoria, and most tragic of all, many sell their integrity for a few quick dollars.

The average inspector has no idea how many pipeline and pipeline related deaths occur each year, and the millions of dollars wasted yearly due to lackadaisical inspection. A pipeline explosion in Baytown, Texas two years ago revealed a weld with no bead, latticed with defects, which had had in process and final visual inspection by a qualified welding inspector, radiography performed by a qualified Non-destructive Technician, and accepted by both. Three people died in this explosion.

To become certified by the State of Alaska one must take considerable time, effort, and expense to meet the qualifications. The Alaskan State Welding Board, and the enforcement of its regulations, guarantees to a much greater degree, that its members will conduct themselves with the professionalism and integrity that will ensure that the above-mentioned tragedies happen less and less.

My hope is that each and every state adopts such a visionary program as the State of Alaska.

Very truly yours,

William C Biddy

William C. Biddy

WCB:ps

1

Subject:- "State Board of Welding Examiners and State Licensing of Welding Inspectors future existence."

118 Cedar Street
Bakersfield, California
93304

Dec. 8, 1981.

Mr Don Lockman
2132- Railroad Avenue
Anchorage, Alaska, 99501.

Dear Don,

It disturbs me to understand that Alaska is toying with the idea of the elimination of your "State Board of Welding Examinators and the State Licensing of Welding Inspectors.

Quality in welding and its designs is something I feel very strongly about. In my Art criticisms regarding welds done properly. On the other hand you will see welds done & just get by visually and internally be "slop". This upset me. Usually its because someone does not care enough to be there and over see the job, and you end up with a potential calamity after it is put to use, or a continual problem until all the deficiencies are corrected in time. This causes dissatisfaction time lost and money to all parties.

A good example of this was when I purchased

One of America's top line luxury Automible, and for one 6 month I had to do the inspection of this car. It had a variety of problems from trim falling off the outside & inside of the car, moulding around the rear glass on out side of the car, you could put your fingers in, and a starter that was faulty and left us out in the country to walk home.

I learn now why Detroit is having problems with slump in sales, and the increase in car sales made over seas. I asked a man at a car rental, "what car give you the best maintenance free and less break down" - he said, "Toyota"!! This made me mad, because here we in America once lead the world in the production & quality in car through all makes. Why the change? Quality, Inspection, and not caring what comes off the assembly line. The owner knows will find it, and we sold ourselves down the road.

For the past 53 years I have been studying & working in the welding business, and since 1941 doing welding inspection related ; the production and the explanation of oil, on and offshore facilities

There is one thing that stands paramount in my mind. Welding gets sloppy, when a company, or any official body having construction or fabrication being preformed,

fails to have welding inspectors, who are qualified be present at the pre-job meeting, go over the specifications and see they are in order for the material to be used, and that the shop or contractor has his house in order according to his shop manual along with qualified welders and shop personnel. Then when the work begins, to have these inspectors on the job during the progressing of welding phases.

I hope this is the path that Alaska will go and keep your "State Board of Welding of Welding Examiners" and "State Licensing of Welding Inspectors." When I was Chief Inspector of the Prudhoe Bay Facility on the North Slope, I attented a few of your meetings. They were very good.

Having knowledgable men in the welding field working with management in your constructing and fabricating facilities, following through the work cycle, I feel is essential to produce a good product or structure, or what ever it may be.

I had some pictures I took of a tank-truck used to haul hydrocarbons, and it was taken to a repair shop for a crack that had developed due to a support saddle reinforcement pad that had cut square rather than the 180° radius cut

like now is used in this type welament. The welder knew the tank had been steamed and free of gas - (it was not purged w/ CO_2) and unbeknown to him a earlyer repair was made inside with a patch and the patch was square cut and it had developed a crack at the corner of the patch. — When the welder started to weld the outside of the reinforced area, he heard a hissing sound. He dropped the arc stinger leads and ran. Yelling a warning. The tank exploded, tearing the roof off and both doors to this steel reinforced building.

The tank fragments flew in many directions and what was left was a complete loss.

The conclusion being if a qualified inspector had checked the inside and seen the internal patch, and the patch was made with radius corners (this crack propagated filling it with the gases which was ignited by the arc caused this accident) he could have recomended the patch to be drilled, purged and then make the repair in a correct method.

No one was hurt, but to look at the truck and the building, its hard to believe.

Now I hope your State officals understands the complications, and the problems it will cause, if they don't continue to keep your "State Board of Welding Examiners & State Licensing of Welding Inspectors." I for one hope they don't eliminate you all -

Thank you for letting me voice my opinion -

Yours truly Jim Walters

Weld Qualifier
Inspector #AA0067

January 17,1982

Honorable Terry Martin, Chairman,
House Labor & Commerce Committee:
Pouch V, Interdepartmental Mail Stop 3100
Juneau, Alaska. 99811

The last four years have been a time of advancement in integrity and safety for the welding industry and programs in Alaska. Standards have been selected and utilized by those Alaskans who have a deep and sincere concern for others as well as themselves.

Advancement, efficiency, and sucess belong to those who are willing to set high standards and live by them. The remaining segment of the welding society; those who are satisfied to exist as flotsam and jetsam or hanger-ons, may not desire to adhere to a set of demanding standards but, will nonethe-less be benefited by the results of those who do.

My desire is to see the State Board of Welding Examiners and State Licensing of Welding Inspectors continued as it is to day.

Thanking you kindly I remain,

Yours truly,

Carl P. Snyder

Carl Snyder
Welding Engineer,
Sr. Construction Eng.
Atlantic Richfield Corp.
Kuparuk Project

January 16, 1982

Honorable Terry Martin,
Pouch V, Juneau, AK. 99811
Interdepartmental Mail Stop 3100

House Bill #595
" An Act continuing the existence of the Board of Welding Examiners; and providing for an effective date."

The Alaska State Board of Welding Examiners, since its inception during the " Pipeline Days", has been performing an exceptional job of protecting the environmental interests and promoting the safety of the people of our State.

To insure quality and integrity, all structural, pipe, and pressure vessel welding must conform to the specifications of nationally accepted welding codes; all welders must qualify to the specifications of tested welding procedures; and State Licensed Welding Inspectors must inspect this work for conformance to job specifications and appropriate welding codes.

A prodigious amount of construction - dams, docks, refineries, pipelines and facilities, buildings, boilers, etc. - is either already in progress or in the planning and engineering stages.

Alaska is a leader in the United States in demanding quality and integrity in a field directly affecting public and environmental safety. Other states are following our example. I ask that you vote in favor of House Bill #595.

Sincerely,

James R. Jonas

James R. Jonas
3430 Hiland Drive
Anchorage, AK, 99504

January 18, 1982

Honorable Terry Martin
House Labor & Commerce Committee
Interdepartmental Mail Stop 3100
Pouch V, Juneau, Ak 99811

I have been involved in the welding industry since 1961. During this time I have been employed as; a welder, welding inspector, quality control inspector and a quality assurance engineer.

The board, currently in operation, consists of competent individuals, familiar with the industries needs and requirements.

Alaska is a leader in the United States in demanding quality and integrity. I am proud to be an Alaskan and feel it is a neccessity we retain the Board of Welding Examiners.

I ask that you vote in favor of House Bill No. 595

Respectfully Yours,

G.F. "Skeet" Smith
Quality Assurance Eng.
SRA 1572I
Anchorage, AK 99507

ARCO Oil and Gas Company
General Engineering
Kuparuk Project
Post Office Box 6105
Anchorage, Alaska 99502
Telephone 907 659 2821

January 3, 1982

House Labor & Commerce Committee:
Pouch V, Interdepartmental Mail stop 3100
Juneau, Alaska. 99811

Subject: House Bill # 595 "An Act continuing the existence of the Board of Welding Examiners; and providing for an effective date."

Attention: Honorable Terry Martin, Chairman,

For Feb

If House Bill #595 is not passed, during this session, the Board of Welding Examiners will cease to exist in June 1982. If this board is allowed to expire, the entire construction industry will suffer a severe set-back.

Since the new regulations (12 AAC 72) became effective in August, 1978, weld quality has improved immeasurably. This regulation met with state-wide industry acceptance primarily because of the project quality guaranteed by the better qualified technician performing the work.

The additional requirement for welding inspectors to become licensed by the state so enhanced the overall quality of major construction projects that many companies (including the major oil companies) who had established quality control groups made acquiring this license mandatory for employment or promotion.

These regulations have become a nation-wide standard with Alaska as the leading state in demanding quality in construction and integrity in inspectors. With other states following our lead we should be fine-tuning our regulations to become even better, not eliminating what has taken so long to formulate and have industry recognize and accept.

No one needs to remind Alaskans of the unnecessary cost incurred in building the Trans Alaska Pipeline. One of the major causes of the great expense was excessive weld repairs caused by unqualified welders and inspectors. In many cases these inspectors had never been involved in or around construction prior to this project, and knew absolutly nothing of welding or inspection.

On May 26, 1981, Representitives Brown and Anderson submitted House Bill No. 595 in the Legislature of the State of Alaska, Twelfth Legislature - First Session. This bill was tabled in the House.

If this bill is not enacted by the legislature during the present session, the Alaska Board of Welding Examiners will no longer exist. What people don't realize is; when the board ceases to exist, so does regulation requiring welders to be certified and weld inspectors to be licensed. As a manager, directly involved with welding and inspection, on major oil company construction projects, I sincerely feel the continuation of this board and regulation is essential for quality welding in Alaska.

Your support in re-establishing the professional and vocational regulations, as defined in 12 AAC 72, and continuing the existance of the Board of Welding Examiners as defind in State Statute AS 08.99 and House Bill 595, is sincerely appreciated.

Very Truly Yours,

Ken Lomax

Kenneth C. Lomax
Senior Quality Assurance Coordinator

KCL/bee

cc: Donald M. Lockman, Chairman
State Board of Welding Examiners

MSG 82-00005731 PRTY 1 02/03/82 17:35:54 ORIG: LA00 IN= 0011 OUT= 005
FROM: JEAN, ANCH INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: POM PAGE 000

TO: REPRESENTATIVES BYLSMA, GARDINER, MARTIN, RANDOLPH AND ROGERS

FROM: PHILLIP HUGHES
7800 DEBARR, SP 128
ANCHORAGE 99504 (H) 337-7218

Mary - schedule to Bill next week please

IT SEEMS TO ME THAT WE SHOULD HAVE BEEN INFORMED OF THE LAST HEARING OF HB 595 THIS DEFINITELY AFFECTS MY WORK AND FUTURE AS A WELDING INSPECTOR. IT ALSO AFFECTS THE PUBLIC WITH THE SAFETY OF STRUCTURES BEING BUILT. I ALSO FEEL THE ENVIRONMENTAL GROUPS MAY BE INTERESTED IN THIS AND IF NOTIFIED YOU MAY HAVE MORE INPUT INTO THIS NEXT HEARING.

MSG 02-00005709 PRTY 1 02/03/82 16:48:11 ORIG: LA00 IN= 0009 OUT= 0077
FROM: JEAN, ANCH. TO: JUNEAU INFO
TARGET: LJH2 SUBJ: FOM

TO REPRESENTATIVE BYL SNA, GARDINER, MARTEN, RANDOLPH AND ROGERS

FROM: MRS. RICHARD HOWE (FOR RICHARD HOWE) Dist. 13
2201 EAST 4TH, SP 151
ANCHORAGE 99504 (H) 333-2225

[illegible] (HB 557) [illegible] THE LIFE OF THE
[illegible] AS A MEMBER OF THE AMERICAN
WELDING SOCIETY AND AN INSTRUCTOR IN WELDING, CERTIFIED BY THE
STATE OF ALASKA, THE NEED FOR HIGHER QUALITY WELDING TO PROMOTE
[illegible] IS BEYOND QUESTION. THE SAFETY OF THE WORK PLACE
[illegible] ENHANCED BY THE PASSAGE OF THIS BILL.

Union Chemicals Division

Union Oil Company of California
P.O. Box 575, Kenai, Alaska 99611

January 27, 1982

Representative Terry Martin
Chairman Labor & Commerce Comittee
Pouch V, Mail Stop 3100
Juneau, Alaska 99811

Dear Representative Martin:

I would like to request your support of Pending House Bill 595 for an Act Entitled: "An Act Continuing The Existence of the Board of Welding Examiners; and Providing for an Effective Date."

The existing welding regulations (12 AAC 72) were adopted in 1978 and have proven to be a reasonably comprehensive program that industry can live with. Union Chemicals Division has spent considerable time and money training and licensing welding inspectors and qualifying welders to comply with these regulations.

My company has found that the existing regulations are quite workable and have been very effective in increasing the competency and general level of knowledge of both welders and quality control people in the field.

I would not want to see this effort wasted and have the State start over with some different program. It would be far better and more economical to keep the existing program and attempt to correct the minor deficiencies that presently exist.

I think you will find that some "special interest" groups are always opposed to any given regulatory program and I believe this is the case with the small, very vocal group submitting negative comments regarding the Board of Welding Examiners. Virtually all of the negative comments that I have received have come from individuals or companies that were unable to comply with the regulations because of lack of competency. I believe that industry as a whole supports the existing regulations.

It is my understanding that some "special interest" groups would like to see the Board of Welding Examiners terminated and replaced by a "Welding Bureau" patterned after the Canadian Welding Bureau as evidenced by Senate Bill 121 submitted by senator Bill Sumner in 1979. I also understand there is ongoing

discussion in Juneau at this time along these lines.

My company does not support a "Welding Bureau" concept and feels it would, in all likelyhood, be a burdensome, expensive and unworkable concept.

We request your support of House Bill 595.

Thank you,

Union Chemicals Division
Union Oil Company of California

George Fox

G. A. Fox
Engineering Supt.

GAF:ksh

3971 Eastwood Loop
Anchorage, AK 99504
February 5, 1982

House, Labor & Commerce Committee
Chairman: Terry Martin
Pouch V, Juneau, AK 99811
(Inter Departmental Mail Stop 3100)

It is my ~~understanding~~ that there is a bill presently before the House (HB595) that is to reestablish the state board of welding examiners and the regulations governing welders qualifications.

It is my desire as a welder that HB595 be passed. My reasons for this are, as a welder, I realize the value in proper certification and qualification of welders and certainly the value of them to be properly licensed.

The welding quality in the state of Alaska has improved considerably since these laws went into effect in 1978. If this board is allowed to expire, welding quality within the state will suffer severely. I have personal knowledge of people that weld in small welding and fabrication shops that are not certified but yet they weld items that affect us in every day life such as trailer hitches, cranes, walkways, support beams, hand rails, guard rails & etc.

Your support of HB595 will be sincerely and deeply appreciated.

Sincerely,

Robert C. Donnell Jr.

Robert C. Donnell Jr.
Welding Technician
ARCO Alaska Inc.

c.c.: Bernard Blysma
Richard Randolph
Brian Rodgers
Terry Gardiner

February 8, 1982

Legislative House Labor
and Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

ATTN: Chairman Terry Martin

Dear Mr. Martin:

This letter is to let you know that I totally support the continuation of the State Board of Welding Examiners.

I feel it is of great importance to the people of our state that we continue to strive toward safety and excellance in the welding field. The continuation of the State's policy of licensing welding inspectors is the only way to carry on our record of excellance and safety. Without the state licensing of welding inspectors we will no longer be assured of the unbiased and high quality of welding inspection we now have within our State.

Yours truly,

Dave K. Wiman

Parsons Constructors Inc.
100 W. Walnut Street

Mailing address
P.O. Box 7036
Pasadena, California 91109

February 9, 1982

Chairman Terry Martin
Legislative House Labor and Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Martin:

It has come to our attention that the Alaska House Labor Committee is currently deciding on a House Bill that would eliminate the State of Alaska Board of Welding Examiners and accordingly the State licensing of welding inspectors. We urge the Committee to decide in favor of continuing the services of the State Board of Welding Examiners.

For years, industry has recognized the requirement for testing and certifying welding procedures and welders. But, not until the past few years has the weakest link in the welded product chain been fortified by the testing and licensing or certifying of welding inspectors. It seems illogical to verify the adequacy of a welding procedure, test the skill of a welder, yet allow an individual of unproven competency to make the ultimate decision as to acceptability of a weld. It is akin to passing traffic laws for safe driving, licensing drivers and then employing law enforcement officers of unknown training and experience.

On a national level, industry has adopted a self-proposed examination and certification program for structural steel welding inspectors. This act in itself should be sufficient to convince the Committee of industry's recognition of this "weak link". Their self-imposed requirement of welding inspector certification offers indirect support for the continuance of the State of Alaska Board of Welding Examiners.

Sincerely,

PARSONS CONSTRUCTORS INC.

K. H. Fredianelli

K. H. Fredianelli
Manager of Quality Control

KHF:mh
cc: Vice Chairman, Bernard Bylsma
Richard Randolph
Terry Gardiner
Brian Rogers

Charles N. Paulus
401 South Kentucky #37
East Wenatchee, Washington 98801

February 8, 1982

Legislative House Labor & Commerce
Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Martin:

I am convinced that a high level of quality is required in a number of specialized fields. Specifically welding inspection as well as welders themselves.

It is my opinion that people would prefer assurance that functions as those stated above are being performed by individuals with the ability and experience currently required by the State of Alaska.

Very truly yours,

Charles N. Paulus
Welding Inspector AA0179

MSG 82-00007995 PRTY 1 02/12/82 17:12:11 ORIG: LA00 IN= 0019 OUT= 00

FROM: JEAN, ANCH INFO TO: POM, JUNEAU INFO

TARGET: LJH2 SUBJ: POM PAGE 00

TO: REPRESENTATIVE MARTIN, CHAIRMAN, LABOR AND COMMERCE

FROM: GEORGE F. SMITH
SRA 1572 I
ANCHORAGE 99507 (H) 345-3479

THE WELDING BOARD CURRENTLY IN EXISTENCE CONSISTS OF COMPETENT INDIVIDUALS FAMILIAR WITH THE INDUSTRIES NEEDS AND REQUIREMENTS. ALASKA IS A LEADER IN THE UNITED STATES IN DEMANDING QUALITY AND INTEGRITY IN WELDING FIELD. I ASK THAT YOU VOTE IN FAVOR OF HB 595.

MSG 82-00007037 PRTY 1 02/09/82 15:16:52 ORIG: LA00 IN= 0012 OUT= 0121
FROM: JEAN, ANCH INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: POM PAGE 0013

TO: REPRESENTATIVE MARTIN

FROM: HAZEL ELMAN
SR 2 BX 8170, EKLUTNA LAKE RD
CHUGIAK 99567 (H) 688-3234

RE: HB 595

I AM IN FAVOR OF RE-ESTABLISHING THE STATE BOARD OF WELDING EXAMINERS.

MSG 82-00007965 PRTY 1 02/12/82 15:15:38 ORIG: LA00 IN= 0013 OUT= 0054
FROM: JEAN, ANCH INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: POM PAGE 0003

TO: REPRESENTATIVES MARTIN, BYLSMA, GARDINER, RANDOLPH AND ROGERS

FROM: ROBERT T. WISE
ALASKA ST WELDING INSPECTOR, LC #0061
5301 TRENA ST
ANCHORAGE 99507 (H) 349-2125

I STRONGLY SOLICIT YOUR SUPPORT IN PASSING HB-595 REESTABLISHING THE STATE BOARD OF WELDING EXAMINERS. THE ONLY WAY WE CAN PROTECT THE PUBLIC AGAINST THE DISASTERS CAUSED BY INADEQUATE WELDING AND INSPECTION IS TO BE SURE THAT WELDERS AND INSPECTORS ARE CERTIFIED BY MERIT AND NOT BY POLITICS.

January 18, 1982

Labor & Commerce and Finance Committee
Legislature of the State of Alaska
Twelfth Legislature - Second Session

The State of Alaska Board of Welding Examiners will cease to exist in June, 1982, in accordance with current Sunset requirements.

The members of the board would like to re-cap some of the goals and accomplishments of the past few years and give an opinion of what will happen if the board ceases to exist.

In 1976, members of the board observed that regulations were being largely ignored by the industry. A review of the regulations governing welders and weld inspection revealed them to be unworkable. In 1976/77, a new set of regulations (12AAC72) were formalized. For the most part, this new regulation met with statewide industry acceptance. There was little opposition noted during the public hearings, held in 1977 and 1978.

Several hundred manhours were spent writing these regulations. This time was, of course, spent at the individual board member's own expense. Each board member considered the time well worth the effort, once the statutes and regulations became effective August 21, 1978.

These regulations became a nationwide standard, with at least two other states adopting similar regulations. Most large construction companies, as they became aware of the new regulations, started having their welders certified in accordance with approved guidelines. Until this time, most welders considered themselves "certified" which was a term without meaning. Once the welders learned they would have to certify, or re-certify, to prove their proficiency, they obtained additional training as required to meet the various welding codes used in Alaska.

The additional requirement of licensed welding inspectors so enhanced the overall quality of major construction projects that many companies (including the major oil companies) who had established quality control groups made the acquisition of this license mandatory for employment or promotion. Alyeska Pipeline Service Company felt this program was important enough to set up an extensive (and expensive) welding inspector training program for their inspectors. Industry in the "lower 48" has started to follow the example set in Alaska for certifying welders via welding inspectors. This standard has considerably increased the level of expertise in weld inspection.

As you know, one of the major reasons for expensive repair work on the Trans-Alaska Pipeline was due to inadequate and/or incompetent weld inspection. This one item caused millions of dollars of additional expense to the consumer.

The high weld reject rate and lack of knowledgeable, qualified welding inspectors on this project was one of the main reasons the State of Alaska elected to regulate welders and inspectors in the first place. With the forthcoming construction of the natural gas pipeline, the same problems will arise if there is no regulation to govern them. Welders will be qualified incorrectly (or not at all), and welding inspection will be done by the "brother-in-law" system or by individuals the contractors believe will cause the least amount of weld repairs. This possible situation is not an exaggeration; these things did occur during the construction of the Trans-Alaska Pipeline and will occur on the gas line if not closely governed.

As with any regulation or law, there are "special interest" groups that may either benefit or be adversely affected by the law. This analogy certainly applies here. There is little doubt that the three or four testing inspection laboratories in Alaska derive a certain amount of business because of the regulations. However, if these labs were not available locally, the work would simply be provided by "lower 48" companies.

This board has found that most individuals who are opposed to the regulations either can't pass the professional examination (or certification) or have a contrary special interest. One special interest group is working to set up a separate State organization for personal benefit called a Welding Bureau. This was suggested in Senate Bill No. 121, submitted by Senator Bill Summner in 1979.

What is wrong with this?

Industry's opposition to the present regulation has been extremely light. In fact, most negative feedback from the industry involves suggested revisions to the regulations, rather than opposition to the regulation itself. We agree that it does need revision. The proposed changes will make it easier for industry to comply with the regulations.

During the public Sunset hearings, many individuals from within the industry testified in favor of continuing the board and its regulations. Of all the testimonies submitted, only two were negative. Neither individual was licensed as an inspector, and both worked for the State in educational areas. It is hard to understand why a professionsl board was allowed to be Sunsetted when almost all the public input was positive. The board believed then, and still does, that it exists as a board to protect the public. We satisfied both the public and industry but, apparently did not satisfy the members of the Sunset committees.

What about Budgets and Board.

A significant result of present regulation that the legislative audit did not and could not cover is the fact that the overall welding quality in the State has taked a significant step forward since the enactment of the welding inspector regulation. Better welding quality translates directly into economic and safety benefits for the public.

There are many welding projects throughout the State that have been brought to a safe standard by the conscientious inspection of licensed welding inspectors. These cases do not reach the public's awareness because they are not given the publicity that a catastrophic failure would create. The public benefits are all around us in our everyday use of welded products and facilities.

Our point is this: Industry has accepted this regulation as an important tool for controlling quality. To let the board, and subsequently the regulation, cease to exist at a time when industry is interested in (and receptive to) a governing regulation, is certainly not in the public's best interest.

Your consideration of re-establishing the professional and vocational regulations, as defined in 12AAC72, and continuing the existance of the Board of Welding Examiners, as defined in State Statute AS 08.99 and House Bill No. 595, is sincerely solicited.

This is a unanimous opinion from the board.

Respectfully Submitted,

Donald M. Lockman
Chairman
State Board of Welding Examiners

PENINSULA INSTITUTE OF WELDING TECHNOLOGY

WELDING TRAINING & WELDER CERTIFICATION
AWS CERTIFIED
ALASKA STATE WELDING INSPECTOR LIC. NO. AA0100

P.O. BOX 907
KENAI, ALASKA 99611
(907) 776-5292

JANUARY 25,1982

CHAIRMAN TERRY MARTIN

LEGISLATIVE HOUSE LABOR & COMMERCE COMMITTEE
TWELTH ALASKA STATE LEGISLATURE
POUCH V
JUNEAU, ALASKA 99811

Dear Sir:

It has come to our attention that this important piece of Legislative Business has been put on the back burner of importance by the last Legislature. As was brought to everyone's attention by the construction of the Oil Pipeline, a serious lacking of qualified Alaskan Welding Inspectors was apparent. With the possibility of pending construction of the gas pipeline, and other major construction projects, the deletion of this legislation would be of no benefit to the State of Alaska, and in fact a tremendous disservice to Alaska and Alaskans.

It is our opinion that the State Board of Welding Examiners and State licensing of welding inspectors has been effective and has done a valuable service to the citizens of the State of Alaska by increasing the quality of welders and quality of construction. We also support the necessity of the Board of Welding Examiners as they are the only means of policing the regulations.

Licensing Welding Inspectors in our opinion is the only feasible way to protect the public without increasing the bureaucracy.

As you know, if HB 595 is not acted upon before June 1982 the Board and licensing will be terminated and the State will have no guidelines for welding quality in Alaska and this would be another serious disservice to the Alaskan public.

Enclosed are several documents containing information pertaining to this issue:

1. An overview of the sunset process.
2. A copy of HB #595 currently in the Labor and Commerce Committee.
3. A probable successful route for HB #595.

With your support, this legislation can be inacted between the beginning of the new legislative term in January and the June of 1982 deadline, if it is moved properly through the various committees to the floor.

At your February meeting we implore you to act in favor of retaining the Board and licensing as it presently exists.

Sincerely,

HARRY F. BARNES

RANDOLPH L. BARNES

CC A.P. ADAMS (REP.)
J.G. FULLER (REP.)
H. MALONE (REP.)
P.M. O'CONNELL (REP.)
D. BENNETT (SEN.)
M.E. DANKWORTH (SEN.)
D.E. GILMAN (SEN.)
T. KELLY (SEN.)
B. MULCAHY (SEN.)
J. HAMMOND (GOV.)

OVERVIEW : SUNSET REVIEW PROCESS

State law requires that licensing boards justify their existance approximately every five years.

The sunset review process involves the following basic steps.

1- A termination date is set by statute for an existing board.

2- A performance audit of the board is conducted by the Division of Legislative Audit during the calendar year prior to the termination date.

3- During the session immediately preceding the termination date the legislature sets up a committee* to hold hearings and make recommendations to the legislature on the board under review. At these hearings the Department of Commerce and Economic Development and the interested public give testimony.

4- Based on the hearing testimony, the findings of the performance audit and any other factors that the legislature wishes to consider, a decision is made to :

A) eliminate the licensing process,
B) modify the licensing process, or
C) continue the licensing process unchanged.

The fundamental questions that underlie the sunset review process are :

1- Is the licensing process necessary to protect the public from serious and likely harm? What alternatives to the present licensing process exist?

2- Is the board necessary to the licensing process? Is board licensing the most effective way to protect the public? Is board licensing the most economical way of protecting the public? Is board licensing the most desireable way to protect the public?

Other less fundamental, but often equally important, questions are raised during the sunset review process, usually by the performance audit. These questions usually include :

1- How efficiently has the board been operating?

2- How responsive has the board been to the public?

3- Has the board been unnecessarily restricting entry into the profession?

4- How conscientious has the board been in meeting its statutory and other obligations?

* committee of reference

PROBABLE SUCCESSFUL ROUTE OF HB 595

1- HB 595 was introduced on 5/26/81 and referred to the Labor and Commerce Committee.

2- If the House Labor and Commerce Committee approves HB595 as is, it will be referred to the House Finance Committee.

3- If the House Finance Committee approves it as is, it will be sent to the House rules Committee for calendaring for a vote on the floor of the House.

4- If the full House approves the bill, it will be sent to the Senate for its consideration.

5- It will be referred to the Senate Labor and Commerce Committee for consideration.

6- If Senate Labor and Commerce Committee approves it, it will be sent to the Senate Finance Committee for consideration.

7- If the Senate Finance Committee approves it, it will be sent to the Senate Rules Committee for calendaring for a floor vote in the Senate.

8- If the Senate approves it as it was sent over from the House, it will be sent to the Governor for signature or veto. If the bill has been changed in the Senate from the form and content it was approved originally in the House, it would then be sent back to House for its concurrance in any changes prior to going to the Governor for his consideration.

TO: REPRESENTATIVE MARTIN, CHAIRMAN HOUSE LABOR AND COMMERCE COMM.

FROM: DOUGLAS L. LOREN, P.E.
3230 WESTMAR CIRCLE
ANCHORAGE 99504 (H) 274-0994

I SUPPORT HB 595. THE STATE BOARD OF WELDING EXAMINERS SHOULD NOT BE ALLOWED TO BE ABOLISHED BY SUNSET LEGISLATION. PUBLIC SAFETY DICTATES THAT ADEQUATE MINIMUM QUALIFICATIONS BE REQUIRED FOR CERTIFICATION OF WELDERS AND FOR WELDMENT INSPECTORS.

Letter of
Board of Welding Examiner

February 8, 1982

Legislative House Labor
and Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

ATTN: Chairman Terry Martin

Dear Mr. Martin:

This letter is to let you know that I totally support the continuation of the State Board of Welding Examiners.

I feel it is of great importance to the people of our state that we continue to strive toward safety and excellance in the welding field. The continuation of the State's policy of licensing welding inspectors is the only way to carry on our record of excellance and safety. Without the state licensing of welding inspectors we will no longer be assured of the unbiased and high quality of welding inspection we now have within our State.

Yours truly,

Robert S Cederberg

February 8, 1982

Legislative House Labor
and Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

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Yours truly,

John Skamarocius

February 8, 1982

Legislative House Labor
and Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

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Yours truly,

Dennis Skamarocius

February 8, 1982

Legislative House Labor
and Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

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Yours truly,

Lyn C. DeCamillo

February 8, 1982

Legislative House Labor
and Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

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Yours truly,

Lance Erskin

February 8, 1982

Legislative House Labor
and Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Ala[illegible] 99811

ATTN: Chairman Terry Martin

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Yours truly,

Annie M Nelson

1823 Sunrise Drive
Anchorage, Alaska 99504
February 11, 1982

Representative Terry Martin, Chairman
Legislative House Labor & Commerce Committee
Twelfth ALaska State Legislature
Pouch V
Juneau, ALaska 99811

HB 595

Comment on State Board of Welding Examiners

I was the first resident licensed Welding Engineer in Alaska. I consulted and wrote welding procedure when Haines to Fairbanks pipeline was laid, wrote successful procedures and tested welders for Elmendorf hospital welding after 2 months of failure by contractors to meet national strength tests.

I organized the Alaska Section of the American Welding Society and a sub-section in Kenai. Greatly concerned about the weld quality we were getting and the hanky-panky used by transient and local contractors, I spent thousands of dollars conferring with American Welding Society officials, the Canadian Welding Board (a business sponsored program to assure qualified weldors, foremen, procedures and inspection), Australian Welding Society, and met with Hawaiin officials. I organized the drive for the State Welding Board and was first chairman, also attended all meetings until the pipeline was started. I organized the 2-year-degree Materials Science Department at Anchorage Community College covering metals, plastics, joining methods, destructive and non-destructive metals testing. I set up the welding department with the best radiographic system north of Sacramento and tested some 1,000 welders during the years I ran the only qualified test lab in Alaska.

The system that has now evolved does not at all equal that of Canada, Australia or England in my judgment. Furthermore manual and semi-automatic welding has been substantially eliminated on high technology production. New aircraft replace metal by plastics. Welding is largely automated in manufacturing in Japan and other advanced technology areas. In Boston I saw machines used by Westinghouse, GE and Raytheon that automatically made 200 welds per second.

I saw robotic welding in Clinton, Massachusetts some

weeks ago that had only two middle age women in a giant clean room watching signal lights. Materials are stocked on the top floor, manufactured in enclosed machines on the second floor, and bundled or packaged on a lower floor. That company, with plants in Taiwan, Hong Kong, Australia, Europe, and South America will be 100 per cent robotized world wide in seven years. Turbine engine welding is essentially eliminated or robotized in the U.S.

Some manual welding will continue but quality of most welding is determined before the arc is started. Inspection by humans has never guaranteed quality and doesn't now. There are grievous flaws in procedure, inspection, and quality. (For example on the new Arco building) under present law.

Quality control must be built in, not inspected in. I've seen inspectors "trained" from scratch and certified under present Alaska law in six weeks, and I am convinced by what I see and by what reports I get from some of the finest men out in the field that the system we ended up with hasn't assured welding quality.

Our original intent to improve quality by incentives to private enterprise as some other countries do has turned into larger government.

With deepest regret, after all the selfless efforts and thousands of unpaid hours put in by many on the program, I now feel that it is not really worth the cost and the delays it causes.

Howard Long PE

Howard Long

REPRESENTATIVE TERRY MARTIN 16 FEB 82
CHAIRMAN LEGISLATIVE HOUSE LABOR AND COMMERCE
COMMITTEE

DEAR MR. MARTIN,

AS A CERTIFIED WELDOR AND SECTION CHIEF FOR AIRCRAFT AND MISSLE WELDING AT ELMENDORF AFB DOING ALL CERTIFIED WELD REPAIR ON ALL MILITARY AIRCRAFT IN ALASKA I CAN ATTEST TO THE FACT THAT THE STATE OF ALASKA HAS A RESPONSIBILITY TO ITS PEOPLE TO PROVIDE A STRINGENT GOVERNING BODY TO REGULATE STANDARDS AND PROCEDURES TO CERTIFY WELDORS IN THIS STATE. MENTAL AND CABLE FRACTURES ALONE SHOULD MANDATE THE REESTABLISHMENT OF THE STATE BOARD OF WELDING EXAMINERS.
I THANK YOU FOR YOUR DILIGENT, RESPONSIVE CONSIDERATION IN THIS MATTER.
IF I MAY BE OF HELP IN THIS MATTER PLEASE FEEL FREE TO CONTACT ME.

SINCERELY,

Rex J. Close

REX J. CLOSE
5601 COLLEGE DR.
ANCH. AK. 99504

HOME 333-8881
WORK 552-5425

DATE: January 25, 1982

TO: All State Licensed Welding Inspectors

FROM: Donald M. Lockman, Chairman
State of Alaska Board of Welding Examiners

SUBJECT: State Board of Welding Examiners and State Licensing of Welding Inspectors Future Existance.

On January 20, 1982 a committee meeting was held in Juneau by the House Labor and Commerce Committee headed by Chairman, Terry Martin and attended by Vice Chairman Bylsam and Committee members Randolph, Rogers and Gardiner. Mr. Ken Lomax and myself were present at the meeting and the outcome was as follows:

1. In talking with Representative Anderson, he illustrated that correspondence received in his office was negative which opposed continuing the board. However, he did not have but a few letters in receipt. He was projected a positive direction by Mr. Lomax and myself and decided to evaluate future letters before making a decision on HB #595.

2. Two persons in attendance were Mr. Louis Russo and Mr. Erv Long of Arctic Foundations who testified against the Board and painted a very detrimental picture of welding inspection not being needed by licensed individuals.

3. The Labor and Commerce Committee had correspondence which appeared to address a need for a Welding Bureau and possibly licensing of welders being controlled out of the State Department of Labor.

4. There were various letters opposing the Board from several companies associated with Mr. Russo and references of opposition to the Board from the Department of Labor.

5. There was a telephone campaign in Anchorage to companies to call Juneau to oppose the Board. A few called the Testing Institute to find out what they were supposed to be opposed to.

As you see, a few that holler the loudest can be heard the most. It appears at this point there will be no future need for welding inspectors in Alaska or if so, they will be from the brother-in-law system.

We did persuade the Committee to meet again in February so a more responsive opinion could be made. However, if the people who are in favor of the Board don't correspond with this Committee, the outcome will be the same.

If you believe in quality welding in Alaska, then you must tell this committee either in person or by letter. This is your last chance to keep a quality standard of welding for the protection of the public. If this committee decides to support the bill it will probably clear the other committees also, but if this Committee decides against the board, we will all probably function under a welding bureau.

Mail your letters to:

Original letter to: Chairman Terry Martin

Copies to: Vice Chairman, Bernard Bylsma
Richard Randolph
Terry Gardiner
Brian Rogers

Legislative House Labor & Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

AMERICAN WELDING SOCIETY

January 29, 1982

AWS Member:

There is a House Bill (HB 595) in Juneau in the Legislative House Labor & Commerce Committee to reestablish the State Board of Welding Examiners which is being abolished by the Sunset Legislation. If this bill is <u>not</u> passed, there will be no regulations in Alaska for the certification of welders or inspection of weldments. If the licensed Welding Inspector is abolished;

1. Who will certify the welders in Alaska for Alaska work?
2. A welder will be able to come into Alaska without proving his or her ability and take an Alaska job.
3. How would we safeguard against false welder certification papers?
4. Who will be the responsible persons to inspect welds?
5. Is it in the public's best interest to <u>not</u> test the knowledge of a Welding Inspector?

There is no question about the need for a welder to be certified, the question is always (1) Certified for what application? (2) Certified by who?

We have today a proven mechanism to safeguard the Alaskan public against bad welding. To abolish this mechanism or trade it for some other that may not work or damage the quality of future projects is certainly <u>not</u> in the public's best interest.

The American Welding Society's total existance is to create better welding for the public's safety.

The Executive Board of the AWS met 1-29-82 and is soliciting your support in passage of HB 595. This support must be heard before 2-20-82 in Juneau before the next committee meeting.

You can call 278-3668, the State Information Center and at no cost, in 50 words or less have a message transmitted to the House Labor & Commerce Committee. Or, you can write to:

Representative Terry Martin, Chairman
Legislative House Labor & Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Action on your part is required to keep Alaska safe, don't just let the other guy do it, he may not.

Sincerely,

Donald M. Lockman
Chairman

February 11, 1982
P.O. Box 178
Chugiak, Alaska 99567

Representative Terry Martin, Chairman
Legislative House Labor & Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

In reference to your consideration to abolish or reestablish the Board of Welding Examiners, I feel it is necessary to consider the possibility of negligence in areas of welding inspection by persons who have not given proper proof of their inspector qualifications. I feel the only authorative body in this area is the Board of Welding Examiners.

By abolishing the Board of Welding Examiners the eventuallity of loss in lives and property by inadequate welding inspection can not be overlooked.

I feel it is imperative to reestablish the Board to allow no leeway for incompetence or abuse.

Sincerely,

William R. Holt

William R. Holt

cc: Rep. Bernard Bylsma
Rep. Richard Randolph
Rep. Brian Rogers
Rep. Terry Gardiner

HB 595

TONY MORALES
1785 FORTUNA AVE.
PACIFIC BEACH, CA.
92109

CHAIRMAN TERRY MARTIN
LEG. HOUSE LABOR & COMMERCE COM.
12TH ALASKA STATE LEG.
POUCH V
JUNEAU, ALASKA 99811

DEAR CHAIRMAN,

I AM WRITING TO YOU IN RESPONSE TO YOUR MEETINGS CONCERNING THE STATE BOARD OF WELDING EXAMINERS. I DON'T VOICE MY OPINION TOO OFTEN, BUT THIS CAUSE, AND THE STATE OF ALASKA ARE SOMETHING I FEEL VERY STRONGLY ABOUT. I FEEL I SHOULD DO EVERYTHING I CAN TO CHANGE YOUR OPINION OF DISCONTINUING THE WELDING EXAMINERS BOARD. I HOPE THIS LETTER IS NOT TOO LATE.

BY TRADE I AM AN N.D.E. TECHNICIAN (A RELATED INSPECTION FIELD), Q.A., Q.C. INSPECTOR. I HAVE WORKED IN ALASKA ON THE NORTH SLOPE PROJECTS BOTH AS AN N.D.E. TECH. AND A LICENSED WELDING INSPECTOR. ALASKA IS A GREAT PLACE TO BE ABLE TO WORK. WHEN I'M NOT IN ALASKA, I WORK IN THE STATE OF WASHINGTON. WORKING ON THE W.P.P.S.S. NUCLEAR PROJECTS. AS YOU ARE AWARE, ALASKA PROBABLY DRAWS MOST OF IT'S "EXTRA" WORK FORCE FROM WASHINGTON.

OVER THE PAST THREE YEARS I'VE BEEN ABLE TO BE PART OF THE WELDING FIELD HERE IN WASHINGTON. IN MY EXPERIENCES AS AN INSPECTOR, I'VE FOUND IT TO

BE TRUE THAT THERE IS A COMPARITIVELY FEWER NUMBER OF CAPABLE INSPECTORS THAN THERE ARE PEOPLE IN THE INSPECTION FIELD. I WOULD LIKE TO SEE ONLY BEST WORKING IN ALASKA. ESPECIALLY IN SUCH A DRASTIC WORKING-LIVING CHANGE AS THE NORTH SLOPE IS.

THE WELDING INSPECTION BUSINESS IS A RELATIVELY EASY FIELD TO GET INTO, ESPECIALLY IN A NON-UNION AREA. A PERSON CAN BE TRAINED AT WILL, AND MANIPULATED TOWARDS THE JOB. IF HE IS TRAINED WELL, THAT IS GOOD, BUT NOT ENOUGH. IN THE UNIONS (PIPEFITTERS LOCAL 598) THE APPRENTICESHIP PROGRAM IS GETTING BETTER ALL THE TIME. THE JOURNEYMAN INSPECTORS COME FROM ALL AREAS AND ALL BACKGROUNDS. MANY JUST BARELY MAKING IT. MANY WITH PUMPED UP CREDENTIALS. MANY SHOW A LACK OF AMBITION AND NO INITIATIVE.

I BELIEVE THAT ALASKA IS TRUELY THE LAST FRONTIER. IT IS MEANT FOR THE YOUNG, AMBITIOUS, THE HARDY, AND THE SURVIVORS. IF WE ARE GOING TO DEVELOPE WITH MODERN TECHNOLOGY, LET'S DO IT RIGHT! LETS <u>DON'T</u> DO WHAT WE'VE DONE TO THE NUCLEAR FIELD.

WE NEED THE ELEMENTARY FOUNDATION, THE STEPPING STONE TO PROFESSIONALISM. WE NEED A GROUP, THE COMMITTEE, TO AT LEAST HAVE A MECHANISM TO SCREEN AND WEED OUT THE UNDESIRABLES. TO TAKE ONLY PEOPLE THAT HAVE PROVED TO THE PROFESSION

THAT THEY HAVE THE BASIC KNOWLEDGE, AND THE ASSERTIVENESS TO PERFORM IN A PROFESSIONAL MANNER. BY PASSING WHAT IS NOW REQUIRED BY THE BOARD IS A VERY GOOD TEST OF PROFESSIONALISM AND CHARACTER.

WE DON'T NEED THE SUPERVISOR FATHER SENDING FOR HIS COLLEGE KID SON, TAKING HIS TESTS FOR HIM ON THE JOB, THEN SENDING HIM OUT IN THE FIELD AT THE EQUIVALENT RATE OF A THIRD YEAR APPRENTICE. OR, A CONSTRUCTION COMPANY OWNER SENDING HIS LOCAL OKLAHOMA BUDDIES UP TO ALASKA FOR PAYMENT FOR BUILDING SOME BARNS ON HIS OKLA. HORSE RANCH.

AS FOR MYSELF, I PLAN TO MOVE TO ANCHORAGE, AS SOON AS I FIND A SEMI-PERMANENT JOB.

SINCERELY,

Tony Morales

February 22, 1982

Mr. Terry Martin
Chairman, Legislative House
Labor and Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Martin:

Persuant to the continuation of the State Board of Welding Examiners, I forward my approval and support of the Board.

I have been a State of Alaska Welding Inspection since the summer of 1978, and I do support now as ~~I did prior to testing~~ and obtaining my American Welding Society Nation Welding Inspectors Certificate and State of Alaska Welding Inspector's License, the present system for assuring that those that are presently licensed by the State of Alsaka have passed a minimum requirement of five (5) years welding related experience and the A.W.S. C.W.I. examination. Although I do agree that there may be a need for some minor language changes to the present State Board of Welding Examiners Regulations, I feel they are quite adequate.

My present position is North Slope Fabrication Supervisor for Sohio Alaska Petroleum Company and my most recent prior position was the Quality Control Manager for Morrison-Knudsen on the Arco Alaska, Kapurak project. Both of these positions, as others I have held. have brought me to a front line position where welding quality is of prime concern.

My observations have proven that persons licensed under the present State of Alaska welding inspector's licensing system are far more experienced and qualified than others that may have acquired jobs as Welding Inspectors via osmosis or other appointed or brother-in-law systems.

Granted, true welding engineers (8 years schooling) have excellent qualifications. They are few and far between. While other engineers may possess excellent qualifications also, they have little or no welding knowledge. I have backed this statement many times while working in this field, as many engineers have come to myself and other Alaska licensed Welding Inspectors for assistance and direction in welding related matters.

Many of those persons opposing the present system may find the present requirements and testing to be too much for their welding related knowledge and would like to see the Board abolished and an appointment system enacted.

I thank you for your efforts in this matter.

Truly yours

Bruce D. Weisman
P.O. Box 4-1643
Anchorage, Alaska 99509

BW/bjk

Copies to: Vice Chairman, Bernard Bylsma
Richard Randolph
Terry Gardiner
Brian Rogers

Legislative House Labor and Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

January 26, 1982

Representative Terry Martin
Chairman, Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Martin:

I was just notified that the sunset law on the Alaska Welding Board is due to run out, and that it is possible the board may be eliminated. This would be a mistake in my judgment.

In 1974 I became Inspection Supervisor for Brown & Root Construction Company working for British Petroleum Company, North Slope, Alaska. At the peak of activities I had 32 inspectors either on the slope or on R&R. Out of 32 I could only count on ten (10%) percent for acceptable knowledge and integrity; the other 90% were company "good old boys", I was not allowed to fire or hire as per company policy . After the implementation of licensing, about 20 of the "good old boys" were unable to qualify and were slowly removed from inspection.

The licensing of inspectors, by the board guidelines, demonstrates a certain level off proficiency and knowledge. The trend of licensed inspectors is not to buckle under to company pressure for production; thereby increasing the quality, and decreasing the chances of product failure.

Sincerely,

James W. Harris

James W. Harris
P.O. Box 956
Soldotna, Alaska 99669

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811

P. O. BOX 9
KENAI, ALASKA 99611

REPRESENTATIVE HUGH MALONE

February 18, 1982

Representative Terry Martin, Chair
Labor & Commerce Committee
Behrends, Room 211

Dear Representative Martin,

I should like to know your schedule for HB 595, "An Act continuing the existance of the Board of Welding Examiners;" This bill is very important to many people on the Peninsula.

Sincerely,

Representative Hugh Malone

cc: Penisula Institute of Welding Technology
Union Oil Company of California
Representative Ramona Barnes

2/23/82 - called Malones office & left them packet for 3-2-82.

February 8, 1982

Legislative House Labor
and Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

ATTN: Chairman Terry Martin

Dear Mr. Martin:

This letter is to let you know that I totally support the continuation of the State Board of Welding Examiners.

I feel it is of great importance to the people of our state that we continue to strive toward safety and excellance in the welding field. The continuation of the State's policy of licensing welding inspectors is the only way to carry on our record of excellance and safety. Without the state licensing of welding inspectors we will no longer be assured of the unbiased and high quality of welding inspection we now have within our State.

Yours truly,

Bob McDonald
2205 Boniface
Sp. 37A
99504

TELEGRAM

ALASCOM, INC.
PHONE: 586-6442
JUNEAU, AK 99802

#

02189 NL ANCHORAGE AK 90 02-10 1532 AST

PMS REP TERRY MARTIN

JUNEAU 1124

REQUEST YOUR SUPPORT FOR HB595. ALASKA IS A HEAVY INDUSTRIALIZED PETROLEUM STATE. COMMON SENSE DICTATES AND PUBLIC SAFETY DEMANDS STRINGENT WELDER CERTIFICATION AND WELDMENT INSPECTION. QUALITY CONTROL FOR WELDING IS EQUALLY IMPORTANT IN THE OIL INDUSTRY AS IT IS IN THE NUCLEAR FIELD. THIS WAS PROVEN BY THE FACT EVERY WELD ON THE ALYESKA 48 INCH MAINLINE WAS X-RAYED AND VISUALLY INSPECTED. THOSE SEEKING TO ABOLISH THE STATE BOARD OF EXAMINERS ARE WELDERS AND CONTRACTORS UNWILLING, UNQUALIFIED OR BOTH TO OPERATE UNDER STRICT CODES AND INSPECTION.

LEE METCALF, BUSINESS MANAGER LOCAL 367

PLUMBERS AND STEAMFITTERS

Arctic Alaska Drilling Company
200 NORTH "C" STREET
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 276-5464

February 24, 1982

The Committee Chairman
Representative Terry Martin
Legislative House Labor & Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Subject: Welding Regulation Hearing
February 26, 1982

Gentlemen;

We are writing in response to the paid advertisement on Sunday, February 21, 1982, in regards to Legislative House Bill #595.

Arctic Alaska Drilling Company is an Oil & Gas Well Drilling Contractor in Alaska. We hire welders to help us assemble, repair, and maintain our Drilling Rigs. We hire only Certified Welders. It is our policy to do our own quality control with people who are highly skilled in the welding industry. We are now bulding Rig #7, and to date we have not experienced any welding failure of any type, in our considerable years of operation.

This Bill #595 appears to be another Regulatory Commission that will need to be funded by the consumer, as business never pays for anything. At this day and time when Government is trying to control spending and help the people trying to cut costs, we feel this bill should not be passed.

Very truly yours

ARCTIC ALASKA DRILLING COMPANY

Roy H. Richardson
President and General Manager

GAS;clg

Enclosure: Advertisement of 2/21/82

LENNOX
PS
MOORE MECHANICAL INC.
536 E. 48TH AVE. · ANCHORAGE, ALASKA 99503 · (907) 276-7103

MOORE MECHANICAL, INC.
5001 Eagle
Anchorage, AK 99503
(907) 276-7103
NEW ADDRESS

February 25, 1982

The Honorable Terry Martin, Chairman
House Labor and Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Martin:

I have examined and carefully considered House Bill 595 -- State licensing of welding inspectors -- and respectfully urge you to vote against passage.

In this highly competitive industry, a welder's performance must be measured by his company to assure not only quality, but also compliance with Federal, State and Municipality codes and standards already in existence. Whether that inspector is licensed by the State is of little consequence as his performance will be dictated by his own integrity and the integrity of his employer.

The public will gain little protection against shoddy work by the licensing of welding inspectors. Rather, the public will ultimately be protected by the unhindered workings of the free marketplace in that companies or individuals offering an inferior product will be forced out of business.

Thank you for your time and consideration.

Very truly yours,

Charles F. Moore
President

CFM/bd

cc: House Finance Committee - Chairman Albert P. Adams
House Judiciary Committee - Chairman Romona L. Barnes
Senate Finance Committee - Co-Chairman Don Bennett
Senate Judiciary Committee - Chairman Patrick M. Rodey
Senate Labor & Commerce Committee - Chairman Robert Mulcaby
Senate Rules Committee - Chairman Tim Kelly

MSG 82-00010386 PRTY 1 02/25/82 16:21:59 ORIG: LA00 IN= 0016 OUT= 00
FROM: JEAN, ANCH INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: POM
PAGE 00

TO: REPRESENTATIVE MARTIN

HB 595

FROM: THOMAS J. MARTIN
1107 W 53RD AVE
ANCHORAGE 99502 (H) 279-2368

QUALITY IN WELDING DOES NOT COME THROUGH INSPECTION ALONE. QUALITY BEGINS ON THE DRAWING BOARD AND IT IS AN ENGINEERING FUNCTION. QUALITY IS PRODUCED BY QUALIFIED SUPERVISION WHEN WELDMENTS ARE MADE. ONE CANNOT INSPECT QUALITY INTO WELDMENTS, IT'S TOO LATE THEN. INSPECTION MERELY PROVES THAT WHAT WENT ON BEFORE WAS CORRECT. HB 595 PLACES THE CART BEFORE THE HORSE AND IS WHOLLY INADEQUATE FOR GOOD WELDING.

Speaker of the House
[redacted] Dav. J. Hammond
Lt. Dav. Terry Miller
Prest. of the Senate
Sen. Bob Mulcahy.

Dear Mr. Speaker. [Dav. Ham; etc
separate letters

I wish to confer to you that the House Labor & Commerce Committee has review the Board of Weldings Examiners and has voted to sunset this Board. This has come as a surprise to most of us who in our first hearing felt the Board could be extended. However during the past month considerable public response has come to the Committee in opposition to extention. it the reported

required by AS 44.66.050(d) Attach for your review the important correspondences that explicitly discribe the concerns of professional and lay Alaskans if the Welding Board were extented.

It is our firm conviction that the Welding Board serves no public service.

Yours very truly

Rep Terry Marten - Chairman

Rep Bernon Bayless

Rep Dean Rendolph

Rep Brian Porter

Rep Terry Gardener

Please.

P.S. Review Div. of legislature audit control number 08-21-1004R
[redacted]. Inquire.

Lee / Lovell

A FOLLOW-UP REVIEW OF THE BOARD OF WELDING EXAMINERS (originally released June 8, 1979)

November 24, 1980

Audit Control Number
08-21-1004-R

Commissioner, Department of Commerce and Economic Development	Charles Webber
Deputy Commissioner, Department of Commerce and Economic Development	Pete Jeans

Members of the
Board of Welding Examiners

Chairman	Donald Lockman
Member	Phillip B. Davis
Member	Don Delk
Member	George Fox
Member	Peter Millar
Member	J.C. Wingfield
Member	Vacant

LEGISLATIVE INFORMATION OFFICE
1021 W. 6th Ave.
Anchorage, Alaska 99501

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU, ALASKA 99811

November 24, 1980

Members of the
Legislative Budget and Audit Committee:

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes, the attached report is submitted for your review.

A FOLLOW-UP REVIEW
OF THE
BOARD OF WELDING EXAMINERS
(originally released June 8, 1979)

November 24, 1980

Gerald L. Wilkerson

Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE OF THE REVIEW

In accordance with the provisions of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), a follow-up review of the Board of Welding Examiners was conducted to determine whether the recommendations presented in the report entitled, A Performance Review of the Board of Welding Examiners, June 8, 1979, have been implemented, and, if not, whether those recommendations are still pertinent.

ORGANIZATION AND FUNCTION

The Board of Welding Examiners was established by the 1968 Session Laws of Alaska. It is organized under the Department of Commerce and Economic Development which provides administrative and investigative support through the Division of Occupational Licensing.

The Board consists of seven members with extensive experience in welding who are appointed by the Governor for staggered five-year terms. At least three members must be engineers, i.e., with engineering degrees or registration as an engineer and at least five years engineering experience.

The functions of the Board are addressed in AS 08.99. Among the powers and duties cited, the statute directs the Board to: promulgate rules and regulations regarding the certification of welders; examine, certify and renew certification; define tests and certification methods; report annually to the Legislature and Governor.

Under regulations which became effective in August, 1978, the Board of Welding Examiners is licensing "welding inspectors" (WI). Among the functions of the WI are testing weldments and issuing welder qualification certificates. Such certificates are required under the regulations for welders performing operations in which weldment failure would be hazardous to life or property.

Requirements for WI licensure are based on the American Welding Society (AWS) program for certification of WI's. The written examination required for licensure is administered by AWS. In addition to other requirements for AWS certification, an applicant for State WI licensure must have passed a welder qualification test, demonstrating practical skills.

REPORT CONCLUSION

Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting these practices are not within the scope of this review but require legislative consideration. In debating these issues, the legislative oversight committees should consider the findings and alternatives presented in this report in reaching their decisions.

Report Conclusion

In our opinion, there is not a sufficient public need for continuing either the Board or State licensing of welding personnel.

Most consumers (e.g., engineers, construction and pipeline companies) of welding services possess adequate knowledge to properly evaluate the qualifications of those offering the service. To assist in identifying qualifications, the American Welding Society administers a certification program for welding inspectors, the only classification of welding personnel being licensed by the State. If it is determined that State regulation of welding is desirable, less restrictive alternatives--such as statutory requirements for welder, qualification certificates--are viable (see Prior Audit Recommendation No. 1).

In the event that the Board is reestablished by the Legislature, certain changes should be implemented in order for the Board to more effectively serve the public.

The Board has made some progress in the implementation of our prior audit recommendations. Specifically, they now review applications prior to licensing, have adopted goals and objectives, and have prepared an annual report (See Prior Audit Recommendations No. 2 and No. 6).

The Board has proposed changes to regulations and statutes in response to some of our prior recommendations. However, the regulations have not been adopted nor have the statutes passed (See Prior Audit Recommendations No. 3, No. 4, and No. 5).

The Board has also proposed regulations which would expand their jurisdiction over compensated welding operations that involve economic loss. The Board has not defined "economic loss" nor has it defined other terms which need clarification (See Prior Audit Recommendation No. 5).

Other problems noted in our prior report have not been rectified. For example, application forms have not been revised, the terms and sources of nominations for Board membership has not changed and a Board vacancy has not been filled (See Prior Audit Recommendations No. 2 and No. 3).

PRIOR AUDIT RECOMMENDATIONS

Prior Audit Recommendation No. 1

We recommend that the Board of Welding Examiners be allowed to terminate, and that the State licensing of welding personnel be discontinued.

In determining whether there is a continued public need for the Board of Welding Examiners, several factors should be considered.

The primary goal of regulating occupations is to protect the public. Licensing is desirable when:

1. The unlicensed practice of an occupation poses a serious risk to the life, safety, health, or economic well-being of a relatively large number of consumers.

2. The consumers of a service are at a disadvantage in evaluating the qualifications of a provider.

3. There is evidence of abuse by providers of the service to which the consumer has inadequate recourse through the general law.

Because of its relationship to the integrity of a structure, inferior welding has the potential of resulting in physical, economic, or environmental harm. However, we believe the potential has a public impact only in cases of large-scale projects, such as public structures, commercial buildings, or ventures like the pipeline.

Persons responsible for the construction of such projects, who are actually the "consumers" of welding services, can be expected to have the experience and knowledge needed to evaluate the qualifications of welding personnel. This is especially true now that the American Welding Society (AWS) certified Welding Inspectors (WI) program provides a means of identifying qualified inspectors. Furthermore, the AWS program includes a code of ethics and procedures for handling consumer complaints.

It should be noted that if an interstate gas pipeline is built, construction activities would be under the jurisdiction of the Federal Power Commission. The State Board's authority to impose welding regulations over such a pipeline is doubtful.

Also noteworthy is: (a) AWS's lack of support for State licensure of welding personnel, and (b) that only one other state to date requires licensing of WI's.

We found no evidence that State licensing of WI's affords significant additional protection to consumers. Furthermore, of the few complaints filed with State agencies against the welding occupation, only one alleged inferior welding practices, the remainder concerned unlicensed practice of the occupation or problems encountered in obtaining a license.

If, as a result of the "sunset" process, the Legislature determines that regulation of welding is needed, less restrictive alternatives are, in our opinion, viable. Welder qualification certificates can be required by statute and, if desired, the AWS certification program for WI's could be adopted by reference.

While we recognize the time and effort contributed by Board members, we do not believe that a sufficient public need exists for continuing the present licensing and regulatory structure.

Legislative Audit's Current Position

Chapter 153 of the 1980 Session Laws of the State of Alaska extended the date of termination of the Board until June 30, 1981.

In our opinion, there is not a sufficient public need for continuing either the Board or State licensing of welding personnel.

However, in the event that the Board is reestablished, we recommend the following changes be made in its operation.

Prior Audit Recommendation No. 2

The Board should assume a more active role in the licensing process.

During our test of licensing files we noted the following:

1. Application forms do not request all the information necessary to determine if requirements for licensure have been met. There is no provision for documenting qualifications for initial licensure (as defined in 12 AAC 72.065(a)(1-8), except through the submission of AWS QC-1 certificate. Applicants for renewal are not asked to provide evidence of the required visual examination. Consequently, none of the licenses renewed in 1979 documented that this requirement had been met.

2. At the direction of the Board, the licensing examiner was issuing licenses to applicants prior to a review of qualifications by the Board. In August 1978, the Board began licensing "welding inspectors" and discontinued licensing "weld qualifiers". The change produced a certain degree of confusion on the part of the licensees, as well as the examiner, regarding the qualifications for licensure. As a result, licenses were issued to 4 (out of 48 tested) applicants who did not submit adequate proof of meeting the qualifications of a welding inspector.

AS 08.01.070(6) requires licensing boards to pass on the qualifications of applicants for licensure. As evidenced by the above described findings, current review procedures are not effective. As a result, the public is not being protected from unqualified practitioners, which is the primary objective of occupational licensing. We therefore recommend that no license be issued until the Board has thoroughly reviewed the qualifications of an applicant and has determined that all requirements for licensure or renewal have been met.

Legislative Audit's Current Position

The Board now reviews applications prior to the issuance of a license. However, the application form still does not request all the information necessary to determine if requirements for licensure have been met. In addition, the Board is not requiring a visual examination. The Board has proposed regulations that would eliminate the requirement for an eye examination.

We recommend the Board revise the application form to require the information necessary to determine if requirements for licensure have been met.

Prior Audit Recommendation No. 3

To ensure adequate representation of the regulated occupation and the general public: (a) the composition, terms, and sources of nomination for Board membership should be reviewed and amended; (b) the Office of the Governor should make appointments in compliance with statutory requirements and in a timely manner.

As provided in AS 08.99.010-050, the Board of Welding Examiners consists of seven members with extensive welding experience, three of whom must be engineers. Members are appointed by the Governor for staggered five-year terms from nominations submitted by the Alaska Chapter of the American Welding Society and the Alaska Society of Professional Engineers.

Board Composition and Nominations

Over 20% of the licensed welding inspectors as well as one in five Board members responding to Legislative Audit questionnaires felt that the statutory requirements do not ensure adequate representation of the occupation. Their comments included opinions that the present Board consists of too many persons involved with test labs and that more than one member from the same firm should not serve concurrent. It was suggested that the Board should represent the various areas of the occupation: engineers, test labs, construction, fabrication, and petrochemicals.

Furthermore, it was expressed that nominations should be accepted from the entire industry rather than two societies to which many qualified, interested persons are not known.

In addition to statute changes in Board membership suggested by licensees, in our opinion the Board should include at least one lay member who has no direct financial interest in the regulated occupation. Although lay members lack technical expertise, they can and should contribute to policy formulation and enforcement decisions. The importance of a representative of the primary interest group, the public, should definitely be addressed.

Terms of Board members

Responses to licensee questionnaires also pointed to a significant opinion that Board member terms should be: (1) shorter (54% of those responding) and (2) limited to no more than two consecutive terms (80% of those responding). The reason most frequently expressed was to create a more responsive, active Board.

Size of the Board

In addition, we believe that the Board is unnecessarily large when compared with other State boards and considering it currently licenses only 50 persons.[1] We recommend a reduction in size to five members to increase operating efficiency and coordination with the Division of Occupational Licensing (OL) and to reduce associated travel costs.

Appointments

Our examinations of records in the Office of the Governor and the Division of Occupational Licensing showed that since 1973 the Board has had between three and eight properly appointed members at a given time. In fact, it met the requirement for seven members for only nine months during

---

[1] As of November 1980, about 100 persons were licensed.

the period reviewed. Of the "current" board, we finally determined--after receiving much conflicting information--that three terms expired in December 1978. In addition, only two of the seven members of the most recent board are engineers, as defined in the statutes.

In conclusion, we recommend that the Board seek changes in the statutes which will result in improved representation and efficiency of operation. Furthermore, as recommended in our October 30, 1978 performance review of OL, we urge the Office of the Governor to make more timely appointments to the occupational boards to ensure compliance with statutory requirements.

Legislative Audit's Current Position

The Board has not submitted the necessary statutory changes to implement our recommendations except for a proposed statute change that would add a public member to the board.

The Board now has three engineers; however, the Governor still has not appointed a replacement for a vacancy that occurred in the Spring of 1980.

We again recommend that the Board seek changes in the statutes which will result in improved representation and efficiency of operation.

Prior Audit Recommendation No. 4

The Board should propose revisions to the statutes in order to clarify: (a) the intended powers and duties of the Board; (b) how welding regulations are to be enforced.

A. Authority for the Board of Welding Examiners is found in AS 08.99, which was last amended in 1970. Since that time, changes in Board membership, activities, and regulations have occurred. As a result, several subsections of AS 08.99.080(a) no longer pertain to operations of the Board.

1. § 6 requires the Board to approve fees for welder certification tests. The Board no longer engages in this activity. However, this section was cited as the authority for charging fees for licensing welding inspectors.

2. § 10 states that the Board shall approve test facilities. The revised regulations omit this activity and instead address licensing of welding inspectors.

3. § 9 requires the Board to designate reporting procedures necessary to certify compliance with quality standards. No reporting methods are addressed in the regulations.

B. Statutes provide for the enforcement of welding regulations by both the Department of Labor (AS 08.99.080(b) and the Department of Commerce and Economic Development (AS 08.01.087). The dual assignment of enforcement responsibility has resulted in confusion. The assignment of investigative duties needs clarification so that regulations are adequately enforced, and consumer complaints are properly handled.

Legislative Audit's Current Position

The Board has requested the Division of Occupational Licensing to submit legislation to clarify the power and duties of the Board. In addition, the Board requested the Division to submit legislation to consolidate enforcement activity in the Department of Commerce and Economic Development. However, this legislation has been withdrawn because of opposition by the Department.

Prior Audit Recommendation No. 5

The Board should continue its efforts in revising administrative regulations.

One of the primary activities of the Board over the past several years was the substantial revision of 12 AAC 72, the administrative regulations governing the occupation of welding in Alaska. The changes became effective August 21, 1978.

In the course of our review, we noted several areas of 12 AAC 72 which merit further consideration and possibly amendment.

1. Requirements for welder qualification (12 AAC 72.015) and welding inspector licensure (12 AAC 72.055) apply to all compensated welding operations in the State "in which weldment failure would involve hazard to life or property". The applicability of the regulations needs clarification to simplify interpretation and to make their enforcement manageable.

2. 12 AAC 72.045 requires "continuous employment" - a process (without interruption of more than 90

consecutive days) as a condition of maintaining a current welder qualification certificate. We believe this is unduly restrictive because:

a. The regulations also require that a certificate be current under the code or job specifications under which it was issued.

b. A welder qualified in several processes may be assigned by his employer to only one process for several months. Before he could be assigned to another process, additional time and expense would be required for retesting.

c. The limited construction season in Alaska causes many welders to be without work for more than 90-day periods.

3. 12 AAC 72.105 requires an annual renewal of welding inspector licenses. This conflicts with AS 08.01.100 which requires biennial renewal of occupational licenses. It also creates additional administrative effort for both the Division of Occupational Licensing and the licensee, with no demonstrable benefit to the public.

4. 12 AAC 72.085 provides for quarterly examinations for welding inspector license. The provision, which exceeds the regular semi-annual administration of the exam by the American Welding Society (AWS), was included to give sufficient opportunity to become licensed under the revised regulations. While we concur with the Board's reasoning, we feel they should review this policy in light of increased costs and the relatively small number (an average of 9) who take the exam each quarter.

In reviewing questionnaire responses from licensed WI's, we noted concern regarding the interpretation, acceptance, and enforceability of the regulations. Doubts concerning the enforceability were likewise expressed by Board members who responded to a separate questionnaire: three believed they could not be enforced, especially among small operators; two said they could be enforced if State funding for investigation was adequate.

We believe that the cited opinions of members of the occupation support our contention that additional revisions to the regulations are needed to make them clear, reasonable, and within the scope of the Board's purpose.

Legislative Audit's Current Position

The Board has proposed regulations to delete the continuous employment requirement and to have renewals based upon the expiration of an individual's AWS QC-1 certificate (3 years). The Board has decided to continue with the present four examinations per year. Furthermore, the Board has not clarified hazards to life or property and has proposed a regulation that would broaden the scope of their authority to include all compensated welding operations which involve "economic loss".

In our opinion, the addition of the proposed regulation on economic loss would substantially restrict the practice of welding without a corresponding benefit to the public. In addition, the Board still needs to clarify the meaning of "hazard to life or property" in order to simplify interpretation and to make their enforcement manageable.

Prior Audit Recommendation No. 6

With the assistance of the Division of Occupational Licensing, the Board should develop procedures for defining its objectives and reporting its performance to the Governor and the Legislature.

As part of the "sunset" process of determining whether there is a continued public need for its existence, each Board must identify formal objectives. Where practical, these objectives should be quantifiable so that the Board's performance can be measured.

The budget process is the vehicle by which State agencies usually identify goals and objectives. While OL prepares such documents on a division-wide basis, objectives and measurements have not been developed for individual boards (see our October 30, 1978 performance review of (OL).

Furthermore, although required by AS 08.99.080(a)(8), the Board has not been submitting annual reports to the Governor and the Legislature. We recommend such reports be prepared and contain, at a minimum, the following information:

1. Board's purpose and objectives.
2. Operating receipts and expenditures.
3. Participation by Board members.
4. Changes in statutes and regulations.
5. Significant activities and concerns.

The process of identifying objectives and reporting performance not only allows outside parties to evaluate the need for the Board, it also provides an important tool for the Board to evaluate itself and adjust its priorities for the most effective use of its resources.

Legislative Audit's Current Position

The Board has prepared an annual report for Fiscal Year 1980 and has developed goals and objectives for Fiscal Year 1981.

ARCO Oil and Gas Company
Prudhoe Facilities Project Group
3201 "C" Street, Suite 560
Anchorage, Alaska 99503
Telephone 907 276 3868

March 6, 1982 AS-13778

The Honorable Terry Martin (R)
House of Representatives
Alaska State Capitol
Pouch V
Juneau, Alaska 99811

Dear Mr. Martin:

Subject: Alaska Senate Bill 757, Act Concerning the Continuance of Board of Welding Examiners.

With the impending vote on the Alaska Senate Bill 757, which calls for the continuance of the Board of Welding Examiners, I wish to voice my views on this bill. I currently hold an Alaska State Welding Inspector's license and have actively been involved in the welding field for thirteen years, with seven of the thirteen years spent on the North Slope working for the petroleum industry.

I am in favor of the continuance of the Alaska Board of Welding Examiners as set forth by the State of Alaska, Regulation 12AAC72. The main argument for continuing the Board is:

The present regulation, 12AAC72, as it is currently structured, allows private industry, through the selection of appointed members by the Governor, to enforce and carry out guidelines set down in the State Welding Regulations. This approach is:

1. Cost effective to the State due to the fact that policing to assure compliance, is borne by current revenues from licensing fees. On the other hand, if the Welding Board were abolished, it is likely that the Department of Labor would be empowered to enforce state welding regulations. Thus, additional "Qualified" Department of Labor welding inspection personnel would have to be employed to assure statutory compliance. This would require additional state revenues to operate at a time when state budgetary cuts are necessary.

2. Historically, the more qualified welding personnel have been employed in the private sector due to economics. Therefore, it is questionable whether a state board or bureau under the Department of Labor could operate more effectively than the currently appointed board.

ARCO Oil and Gas Company is a Division of Atlantic Richfield Company

3. Private Industry, especially the petroleum industry, must meet several code requirements and parameters (A.P.I., A.N.S.I., ASME) as it relates to welder qualifications and welding inspector qualifications during construction as well as maintenance operations. Here, again, these codes are the result of the public sector and industry in the adoption and their enforcement.

4. Lastly, the public who are intimately involved in the welding field take a professional approach in assuring that proper welding practices, code requirements, company specifications, and State and Federal regulations are adherred to.

The State of Alaska Board of Welding Examiners has done a thorough job in creating and adopting the current regulations, and to abolish this existing board and set up a State regulated and operated bureau or board, would serve no useful purpose.

Thank you for your time and consideration on this matter.

Sincerely,

David H. Derrer

David H. Derrer
Quality Assurance Engineer

DHD:yms

cc: Dave Harbour - Government Relations, Juneau
Bev Ward - Government Relations, Juneau

ARCO Oil and Gas Company
Prudhoe Facilities Project Group
3201 "C" Street, Suite 560
Anchorage, Alaska 99503
Telephone 907 276 3868

March 7, 1982

AS-13797

Representative Terry Martin
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

SUBJECT: Alaska Senate Bill 757, an Act Concerning the Continuance of the Board of Welding Examiners

Dear Representative Martin:

The purpose of this letter is to express ARCO Oil and Gas, Prudhoe Facilities Project Group's position regarding Senate Bill 757.

We support the passage of this bill for the following reasons:

1. The Welding Board is comprised of members of private industry. Private industry therefore plays an active role in formulating and enforcing welding regulations through this Board.

2. Killing of Alaska State Senate Bill 757 would likely move jurisdiction of enforcement of welding qualification regulations to the Department of Labor. This, in turn, would create the need for added personnel in the department to carry out the duties of the current Welding Board and private industry. This would impose additional financial drains from State revenues and duplicate more than adequate industry efforts.

3. The movement of control to the Department of Labor would require the hiring of highly competent, highly qualified individuals within the Department of Labor to enforce the welding regulations. The hiring of these individuals would further deplete the supply of these highly qualified persons from the private sector.

In summary, ARCO supports the passage of Alaska State Bill 757. The Bill's passage would maintain the current Board of Welding Examiners. It would preclude the need for assumption of welding regulations by the Department of Labor and reduce costs that would be incurred by the State. Further, it would serve to reduce competition with the current competent private petroleum industry and construction contractors.

Thank you for your time and consideration in considering our opinion to this very important matter.

Quality Assurance & Safety Director

Construction Support Director

Administration & Planning Director

Resident Construction Manager

ARCO Oil and Gas Company
Prudhoe Facilities Project Group
3201 "C" Street, Suite 560
Anchorage, Alaska 99503
Telephone 907 276 3868

March 7, 1982

AS-13779

Representative Terry Martin
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

SUBJECT: Alaska State Bill 757 - Concerning the Continuance of the Board of Welding Examiners

Dear Representative Martin:

In reference to the above mentioned legislation, I am writing to voice my views and concerns. With over 14 years experience in the industrial construction and oil & gas industry of which the last 7 have been with the Prudhoe Facilities Project, I feel a need to address this issue. I presently hold an Alaska Welding Inspectors License and basically agree with the concept of this program and the laws that govern it. However, being directly involved with welding and piping inspection as my primary responsibility, I do not entirely agree with the acceptance criteria for persons applying for licensing approval, along with appointees of the Board itself. The basic concept of the Welding Board, made up of members of the industry, is a good one; the majority members of most design code committees are representatives of the industry they are policing.

The integrity of the facilities that industry is constructing is dependent upon it's own ability to police itself. In light of the fact that the State is facing a probable increase in major construction projects where critical welding could be a volatile area of concern, to abolish the Board now would be a mistake.

The obvious alternative for monitoring this activity would be for the State to establish a welding board or bureau under the Department of Labor. The citizenry of the State of Alaska are far more attuned toward a decrease in government bureaucracy than to create another taxing organization.

The simple economics of the issue show that there is no way that government can compete with private industry to attract the most qualified personnel. For the State to get into the business of policing the welding industry other than in specific areas, I think would be a practical and economic failure.

With some changes to policy and conditions of appointment, the Welding Board as it is now could be our least costly and most effective vehicle to guard against any major distractions like those that plagued the Alyeska Pipeline project.

Thank you for your time and consideration of these views.

Sincerely,

John P. Rosen
Quality Assurance
Acting for ARCO Alaska, Inc.

cc: D. F. Harbour - Government Relations
B. Ward - Government Relations

April 4, 1982

Terry Martin, Chairman
House Labor and Commerce Committee
State Capitol, Pouch V,
Juneau, Alaska 99811

Subject: House Bill 595...Continuation of State Welding Board

Mr. Martin:

It has recently been brought to my attention the means being used to kill the Welding Board, is to hold it in your committee and not let it go to the floor of the house. This is simply a political ploy for you to get off the hook and not have to commit yourself on something that may be a little controversial, and cause you some political discomfort, Well I intend to make it known to as many of the voters of this state, and the voters of your particular district what is going on and what is at stake here.

It is my opinion that with the current Welding Board the legislature has laid the ground work for a safer more physically sound and ecologically safe future for this state. I was under the impression that we had learned by the mistakes and errors of the older states and that it was our intentions to keep clear of the same pitfalls. The newspapers report incidents daily of storage tanks and waste tanks that have been buried and sprung leaks contaminating surrounding areas for miles affecting drinking water ruining the soil for a long time. This is something we can control it may be impossible to completely stop, but it can be affectively reduced. The Welding Board is just one tool at our disposal. There are other ways and means to work at this but why stop something that is already in place and working, let's make it more affective let's put some teeth in it.

In the next few years the state is going to realize a large building boom. The outside interests with their money wells dried up are already converging on this state. They see this as a opportunity to make some fast money. It isn't to their particular interest to really give a damn how well built their structures are, because they hope by the time anything happens they will be long gone. It remains up to us, and the state legislature in particular, to see to it the standards of our building industry are kept high.

If you are able to kill this the way you seem to plan to do, what do we have left?

1. We will have a building industry without any set standards for welding quality. The standards will be left up to the goodness of the individual builders.

2. The only control will be if the individual designer requests or requires certain standards.

3. You will open the door for unrestricted building without any standardized testing and certification.

4. Here we are in a state that is highly active with earthquakes and we have members of our legislatures that don't care enough to pass a bill out of committee. You don't even have the courage of your convictions to come out against it, because you couldn't probably honestly justify them.

Since I started writing this I have found you are now sitting on S.B. 757, which has made it through to the House. If this bill is totaly stopped because of not getting out of your committee I promise I will do everything I can to get you out of office. This is a promise since you are affecting my future and I feel the future of safe construction for this state. I could have a lot more respect for y ur opinion if I felt you had one, but this way of handling it is no opinion. You have held this up for one year, it seems that some legislatures want it as the Senate Bill got through.

Sincerely,

Philip R. Hughes

Philip R. Hughes
7800 DeBarr Rd. Space 128
Anchorage, Alaska 99504

HB595

4211 Cope #3
Anchorage, AK 99503

February 1, 1982

Representative Terry Martin, Chairman
Legislative House Labor & Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, AK 99811;

Dear Representative Martin and Committee members:

Regarding the upcoming Sunset Legislation on the abolition of the Board of Welding Examiners, I would like to make a few comments. I am a State licensed welding inspector, and am very much affected by the actions of the board. I urge you to vote in favor of continuing the Welding Board for several reasons, including:

1. It protects the public. Welded construction is utilized in virtually every public building, bridge, and other structure. Without a reasonable amount of control on welding operations, serious flaws could occur that would needlessly endanger lives.

2. It protects the Alaskan inspector. Although some of my colleages groan about having to file for licenses, etc., I feel the Board is to all our advantage. It assures that qualified Alaskans get a fair shot at jobs in industry, and maintains a minimum standard of competence among its licensees.

3. It provides tighter control over who is allowed to perform a welding operation in Alaska. Many people who presume themselves to be good welders are in fact not, and many can and do perform work that endangers lives. By requiring any person who performs a welding operation to pass an applicable welding performance test, as administered by a State approved inspector, better control is maintained over the quality of welded construction within our state.

Now, granted, the Board of Welding Examiners is not perfect, nor can it hope to please all of the people involved with welding in the state. And, although I sense there may be some friction between several prominent members of the Alaskan welding community, I feel these problems should be resolved from within. So, with your vote to extend the existence of the Welding Board, you shall also be voting for the overall safety of the general public.

Sincerely yours,

John D. Phillips

John D. Phillips
Certified Welding Inspector

Ken Tomaj –
Letters comes from Industry

* Liability of welders –?
Union evaluation of membership. –

Louis Rousseau – opposed –
In opposition to req. of boys an inspector

Erwin Long – Manufacturer of Pressure Velves.
Geotechnical Engineering – –
Cannot depend on State Certified Welders.
V A welding students better qualified.

3201 Montclaire Ct.
Anchorage, AK 99503
February 23, 1982

The Honorable Terry Martin, Chairman
Labor and Commerce Committee
State House of Representatives
State Capitol
Pouch B
Juneau, Alaska 99811

Sir:

Regarding HB No. 595, continuing the Board of Welding Examiners: Let the sun set on it.

As a past chairman of the Board (1975-1976, during the pipeline boom), I never understood how it served to protect the life, safety and welfare of the public. I still don't believe that it does. In fact, it doesn't even ensure that a small number of welding technicians will be provided the lucrative livelihood which seems to be promised by the regulations promulgated by its members.

Civil engineers and architects, owners of structures, and contractors generally are cognizant of the need for inspection during construction. The American Welding Society has developed an excellent procedure for qualifying welding examiners, and there are several excellent firms offering such services in Alaska. I'm not convinced that we would even need a statute requiring this AWS qualification because I doubt if any engineer or architect would risk his reputation by hiring an examiner of lesser competence. (Incidentally, virtually all welding design and welding is accomplished through the use of AWS specifications.) With far less inspection than is exercised nowadays, the buildings in Anchorage survived the '64 earthquake to a remarkable degree.

Strangely enough, there is no Board regulating concrete construction, a structural system of greater complexity than steel, and definitely more prone to deficiencies in material, mixing, construction and, yes, even design. This observation also applies to lumber construction, and especially to locally manufactured wooden trusses now widely used in buildings.

My concern about the very existence of this Board is not a sudden whim; I enclose (without its enclosures) a copy of a letter I sent to the Board during 1977, receipt of which was not even acknowledged.

In closing, as a professional engineer with 27+ years experience in Alaska, including the design of welded, steel structures, I see no useful purpose in the Board of Welding Examiners. I recommend that it be discontinued.

Very truly yours,

John L. Cerutti

John L. Cerutti, P.E.
Alaska License No. 820-E

cc: Members of the Committee
Speaker of the House, Joe L. Hayes, P.E.
Senator Arliss Sturgulewski

c/o General Delivery
Valdez, Alaska 99686

January 28, 1977

Board of Welding Examiners
Dept. of Commerce & Economic Development
State of Alaska
Pouch D
Juneau, Alaska 99811

Gentlemen:

I have reviewed your proposed amendments for Professional and Vocational Regulations, Chapter #72, Board of Welding Examiners. Some of the changes are excellent and others are of dubious worth.

12 AAC 72.01 . certificate required. This is fine in theory. In actuality, it will prove to be a monstrous nightmare and will cost the State far more than it's worth. To administer the paper work required will take a fair-sized staff -- probably three staffs because if this were centered in Juneau, it couldn't keep up with the welders. Note that the public is fed up with the ever increasing costs of government and that Gov. Hammond seems to be trying to keep the State payroll from expanding.

In the past I have held that the safety of the public can be assured just as well by requiring that all welding be done under the supervision of a qualified welder or a welder qualifier (as you now designate as a licensed welding inspector?). I reiterate that this procedure will be just as effective and I believe that it can be administered by the Board and the Division of Occupational Licensing without the addition of any personnel.

12 AAC 72.045 ... maintaining current ... "(2) the welder has been continuously employed on the welding process for which he is qualified". Doesn't this contradict all codes which permit a period of unemployment, especially API 1104 which, as I recall, extended the period from 90 days to a year?

12 AAC 72.055 Welding inspector license required. "A person may not ... inspect a welding operation ... unless he or she holds a current, valid welding inspector license."

I am enclosing a Xerox copy of the Alaska Statute covering licensing of architects, engineers and land surveyors, and I call your attention to Sec. 08.48.341(8) wherein registered professional engineers are empowered to practice a broad range of work, including "... and professional observation structures," and "... design ...,"

Your amendment is illegal as it applies to professional engineers because your Board doesn't have the authority to promulgate changes in any statute, especially in ones which are of no concern to you.

Furthermore, even if this requirement were enforceable on an engineer, it would be a peculiar creature of law; an engineer, in designing a structure, decides how its parts will be fastened together; if welding is the method selected, he then chooses the welding process and whatever changes he may wish to incorporate; he approves, or may even specify the welding procedure; and finally he approves the completed work -- he may, if he is satisfied that he has sufficient knowledge, elect to conduct all inspection of the welding himself, or he may retain a qualified person to perform such work. Note that when an engineer accepts work, it is his reputation and financial futures which are at stake. In another sense, the engineer would be put in the position of being forced to rely upon another party, which party would have virtually no liability in the event of a structural failure.

12 AAC 72.065 Requirement for welding inspector license. "(1) be a high school graduate ... etc." So long as a person is capable of reading and understanding whatever is necessary to ply his trade, what is the purpose of this extremely demeaning requirement?

The Board should not administer tests that it composes.

12 AAC 72.115 Duties and responsibilities of a welding inspector. "(18) be obligated to act with complete integrity in professional matters ..."As I recall, I saw an advertisement in the Anchorage Times, several months ago, wherein a Welding Institute stated that in addition to weld testing, it offered "engineering services". I call the Board's attention to Sec. 08.48.281; prohibit practice, of the same engineering statute cited earlier. I suggest that the Board look into this because it is an absolute violation of the law if that firm is not properly incorporated as an engineering corporation. A Xerox copy of this article is enclosed. See also Sec. 08.48.321, also copied and enclosed.

Very truly yours,

John L. Cerutti, P.E.
Alaska 820E

Enclosures

cc: Board of Architects, Engineers and
Land Surveyors
Alaska Society of Professional Engineers
Rep. Joe L. Hayes, P.E.

Chapter 99. Board of Welding Examiners.

Section
10. Creation and membership of board
20. Term of office
30. Source of appointments
40. Removal from office
50. Qualifications of board members
60. Meetings
70. Quorum
80. Powers and duties of the board
90. Applicability of Administrative Procedure Act
100. Expenses
110. Codes
120. Penalty

Sec. 08.99.010. Creation and membership of board. There is created the Board of Welding Examiners, consisting of seven members appointed by the governor. (§ 1 ch 151 SLA 1968)

Sec. 08.99.020. Term of office. Board members serve a term of five years. However, of the members first appointed, one shall be appointed for a term of one year, one for two years, one for three years, one for four years, and three for terms of five years. (§ 1 ch 151 SLA 1968)

Sec. 08.99.030. Source of appointments. The governor shall appoint board members from a list of persons prepared by the Alaska Chapter of the American Welding Society and the Alaska Society of Professional Engineers and submitted at least 30 days before the expiration of a term and not more than 60 days after a vacancy occurs in an unexpired term. The list shall contain not less than two recommended candidates for each appointment. The governor shall make appointments within 30 days after receiving the list. (§ 1 ch 151 SLA 1968; am § 1 ch 151 SLA 1970)

Sec. 08.99.040. Removal from office. Each member holds office at the pleasure of the governor notwithstanding the member's term. (§ 1 ch 151 SLA 1968)

Sec. 08.99.050. Qualifications of board members. Each member of the board shall be a citizen of the United States and a resident of the state. At least three members shall be persons with engineering degrees or registration as an engineer and each engineer member shall have at least five years engineering experience. All members shall have extensive experience in welding. (§ 1 ch 151 SLA 1968; am § 2 ch 151 SLA 1970)

Sec. 08.99.060. Meetings. The board shall meet at least once a year. (§ 1 ch 151 SLA 1968)

Sec. 08.99.070. Quorum. A majority of the board constitutes a quorum. (§ 1 ch 151 SLA 1968)

Sec. 08.99.080. Powers and duties of the board. (a) The board shall

(1) establish and promulgate rules and regulations concerning certification of welders in the state;

(2) establish and define certification tests as they apply to various types and categories of work designations for the state;

(3) work with federal and private agencies and specifying engineers to establish uniform testing and certifying methods for all welders throughout the state;

(4) work with federal agencies and the agencies of other states to establish reciprocal agreements;

(5) set up criteria and define experience and documentary requirements which may be accepted in lieu of physical certification tests in the state;

(6) set the fees for the welder certification tests;

(7) examine, certify, and renew the certification of qualified applicants;

(8) keep a record of its proceedings, and submit annual reports to the governor and the legislature;

(9) promulgate regulations concerning the quality of welds and qualifications of welders required in specific areas of industry and construction and designate reporting procedures necessary to certify compliance with these quality standards;

(10) designate and approve persons qualified to administer welding tests, and designate and approve shops, laboratories, or other establishments qualified for testing coupons and weldments.

(b) The board may request technical personnel from the Department of Labor for the purpose of reviewing and analyzing reports and may request field inspection by the department for the purpose of assuring compliance with, and enforcement of the regulations, rules and orders promulgated under §§ 10 — 110 of this chapter. (§ 1 ch 151 SLA 1968; am §§ 3 — 5 ch 151 SLA 1970)

Sec. 08.99.090. Applicability of Administrative Procedure Act. The board shall comply with the Administrative Procedure Act (AS 44.62). (§ 1 ch 151 SLA 1968)

Sec. 08.99.100. Expenses. Members of the board are entitled to the per diem and travel expenses allowed by law. (§ 1 ch 151 SLA 1968)

Sec. 08.99.110. Codes. The United States of America Standards Institute Codes listed below are established as the piping codes for the state:

(1) B 31.1.0 — 1967 power piping;

(2) B 31.2 — 1968 fuel gas piping;

(3) B 31.8 — 1968 gas transmission and distribution piping system;

(4) B 31.3 — 1966 petroleum refining piping;

(5) B 31.4 — 1966 and B 31.4a — 1968 liquid petroleum transportation piping systems. (§ 6 ch 151 SLA 1970)

Revisor's note (1970). — For copies of the codes referred to in AS 08.99.110, write to the U.S.A. Standards Institute, Dept. PB 31, 10 East 40th Street, New York, New York 10016.

Sec. 08.99.120. Penalty. A person who violates a regulation adopted under §§ 10 — 110 of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $500. (§ 7 ch 151 SLA 1970)

Board or Commission	Appointee	Term

BOARD OF WELDING EXAMINERS
AS 08 99 - 7 members; 5 year term; serves at the pleasure of the Governor.

Peter Millar — December 16, 1984
4047 Kingston Drive
Anchorage, Alaska 99504
333-4016 (work)

Donald Lockman (chariman) — December 16, 1981
~~8235 Endicott Street~~
~~Anchorage, Alaska 99502~~ 2114 Railroad Ave Anchorage, AK. 99501
344-6771 (home)
276-3440 (work)

Don Delk — December 16, 1985
SRA Box 372-C
Anchorage, Alaska 99507
344-6760 (home)
752-5108 (work)

Philip Davis — December 16, 1983
986 North Coppet Street
Fairbanks, Alaska 99701
452-3310 (home)
452-7954 (work)

J.C. Wingfield — December 16, 1983
495 Sprucewood Road
Fairbanks, Alaska 99701
479-6508 (home)
479-6222 or 479-4154 (work)

Goerge A. Fox — December 16, 1983
Union Chemical Division
Box 575
Kenai, Alaska 99611
766-8121 (work)

Kenneth C. Lomax — December 16, 1985
Arco Oil & Gas Company
General Engineering
P.O. Box 6015
Anchorage, Alaska 99502
659-2821 (work)

6230 Dunbar Lane Anch 99504

WELDING INSPECTORS LICENSED FOR 1981 - 1982

#0058
John H. Balch
945 W. "J"
Jenks, Ok. 74037

#0100
Harry F. Barnes
P. O. Box 907
Kenai, Ak. 99611

#0157
Robert O. Beadles III
3021 Davis Road
Fairbanks, Ak. 99701

#0171
Larry G. Bell
244 Ave., Lobeiro #3
San Clemente, Ca 92672

#0158
Bobby J. Bennett
P. O. Box 551
New Roads, La. 70760

#0186
Richard J. Bickle
9410 Kylie Circle
Anchorage, Ak. 99502

#0140
William C. Biddy
6300 Cypress Paint Dr.
Monroe, La 71203

#0163
Robert J. Boucher
Star Route Potomac
Bonner, Mt. 59823

#0194
Eugene H. Bradburn
1463 Rimrock
Richland, Wa 99352

#0113
William G. Brister
3021 Placer Circle
Eagle River, Ak. 99577

#0073
John E. Burns
P. O. Box 3-355
Anchorage, Ak. 99501

#0195
John E. Burns
6917 Old Seward Hwy
Anchorage, Ak. 99502

#0087
Gene P. Capra
5029 Midway Road
Duluth, MN 55811

#0137
Delbert G. Cederberg
2730 East 50th Ave.
Anchorage, Ak. 99507

#0148
Roger D. Chaline
331 North Washington Place
Kennewick, Wa 99336

#0134
George E. Chaney
519 E. 8th Place
Kennewick, Wa 99336

#0198
Jon C. Chittenden
P. O. Box 10-301
Anchorage, Ak. 99511

#0092
Dennis W. Clark
23707 Via Lupona
Valencia, Ca 91355

#0172
John L. Cooley
5283 Willamette
Boise, Idaho 83705

#0103
Eldon L. Criswell, Jr.
366 Cherry St.
Anchorage, Ak. 99504

#0197
Vallie E. Cruse
SR Box 30653
Fairbanks, Ak. 99701

#0153
Darrell Frank Davis
44 Oak Meadows Rd.
Oakville, Wa 98568

#0166
Paul E. Dean
c/o Morris-Knudson
Pouch H Deadhorse
Fairbanks, Ak. 99701

#0014
Don Delk
Box 372-C SRA
Anchorage, Ak. 99507

#0156
Robert P. DeLong
303 Gage Blvd.#205
Richland, Wa 99352

#0102
David H. Derrer
1012 Potlatch Circle
Anchorage, Ak. 99503

#0182
Richard J. Dewey
306 Bernard
Richland, Wa 99352

#0165
Otis D. Dickinson
P. O. Box 5
Prescott, Wa 99348

#0056
Thomas R. Dillon
P. O. Box 242-A Rt. #3
Sapulpa, Ok. 74066

#0121
Lyle W. Dunston
1835 Laura Circle
Anchorage, Ak. 99504

#0119
Michael E. Ellingboe
5029 Chess Drive
Anchorage, Ak. 99504

#0131
Benny James England
6686 East Harvey Avenue
Terisno, Ca 93727

#0090
Elton T. English
5803 Pinewilde Drive
Houston, Tx. 77066

#0142
Kenneth H. Ferdianelli
523 W. Olive
Monravia, Ca 91016

#0076
Jack Fields
40 Adeline Drive
Walnut Creek, Ca 94596

#0169
Danny L. Finstad
P. O. Box 110
Portland, Tx. 78374

#0185
Michael L. Fleming
1630 Cherry Lane
Richland, Wa 99352

#0133
Leroy Fountain
3505 Magnolia Drive
Alameda, Ca 94501

#0072
George A. Fox
Box 575
Kenai, Ak. 99611

#0109
Ulisis Franco
Fluor Alaska
P. O. Box 74530
Fairbanks, Ak. 99701

#0085
Ronald C. Garrett
General Delivery
Talkeetna, Ak. 99676

#0065
Howard S. Goche
P. O. Box 221
Eagle River, Ak. 99577

#0147
Melvin J. Gotham
2120 Duportail St. #3
Richland, Wa 99352

#0099
Kenneth A. Grayson
22 Carriage Drive
Entfield, Ct. 06082

#0175
Roger N. Grenier
Morrison-Knudson Co.
P. O. Box MK
Tullahoma, Tenn. 37388

#0178
Thomas W. Halecki
1727 W. 17th

#0112
James W. Harris
Box 956
Soldotna, Ak. 99669

#0189
Rolf Helle
3116 Madison Way
Anchorage, Ak. 99504

#0057
Albert C. Hines
3071 Riverview Drive
Fairbanks, Ak. 99701

#0173
John F. Hofman
2525 Garvin Ave.
Richmond, Ca 94804

#0145
William R. Holt
5436 Darbrandt St. #3
Anchorage, Ak. 99502

#0086
John W. Hopp
1623 Harney Street
Omaha, Nebraska 68102

#0070
Kent D. Huey
SRA Box 304-H
Anchorage, Ak. 99507

#0128
Edward M. Hunt
Rt. 1, Box 90
Ingleside, Tx. 78362

#0177
David L. Ingram
Q S I P. O. Box 3330
Omaha, Nebraska 68103

#0184
John Jameson
601 W. 32nd #7A
Anchorage, Ak. 99503

#0193
Samuel D. Jennings
5023 18th St. N.
Apt. 80
Phoenix, Ar. 85016

#0149
James R. Jonas
Star Rt. Box 1340
Anchor Point, Ak. 99556

#0190
Danny L. Keck
P. O. Box 61003
Fairbanks, Ak. 99701

#0187
James I. Kingrea
S. R. 10363
Fairbanks, Ak. 99701

#0176
Neil J. Lawler
Box 3525 Route #3
Kennewick, Wa 99336

#0123
Dan F. Linger
c/o Sohio Petroleum Co.
Pouch 6-612
Anchorage, Ak. 99502

#0122
Michael I. Linger
867 E. Douglas Road
Bellingham, Wa 98225

#0025
Donald M. Lockman
8235 Endicott St.
Anchorage, Ak. 99502

#0055
K. C. Lomax
6230 Dunbar Lane
Anchorage, Ak. 99504

#0095
Paul W. Lott
P. O. Box 74598
Fairbanks, Ak. 99707

#0196
Alfred L. Lowenberg
P. O. Box 56228
Houston, Tx. 77027

#0146
Joseph E. Madden
312 Sautter Dr.
Corapalis, Pa. 15108

#0067
John N. Malters
118 Cedar Street
Bakersfield, Ca 93304

#0152
Larry B. Marecek
4430 39th Ave. N. E.
Salem, Oregon 97303

#0084
Mark C. Narmes
2845 Iroquais Ave.
Long Beach, Ca 90815

#0008
Thomas Martin
1107 W. 53rd
Anchorage, Ak. 99502

#C154
Michael L. Mead
201 Douglas
Richland, Wa 99352

#0059
Billie M. Middleton
33115 - 33 Ave. S. W.
Federal Way, Wa 98003

#0001
Peter Millar
4047 Kingston Drive
Anchorage, Ak. 99504

#0018
Ben A. Miskimens
1239 S. Heuen Drive.
Tacoma, Wa 98405

#0107
Julius J. Mispagel
P. O. Box 2804
Fairbanks, Ak. 99707

#0117
Paul R. Molino
Box 454
Girdwood, Ak. 99587

#0125
Claude H. Morris, Jr.
P. O. Box 546
Girdwood, Ak. 99587

#0139
John F. Murphy, III
1835 S. Bragaw, MS 557
Anchorage, Ak. 99512

#0064
Paul J. McBrayer
RFD #3 Box 795
Broken Arrow, Ak. 74012

#0143

Jonathan D. McGraw
5106 El Sigundo Blvd.
Hawthorne, Ca 90250

#0088
Chas. H. Nickolson
1176 Putnam Drive
Chapin, S. C. 29036

#0115
Frank E. Noble
Box 703
Sterling, Ak. 99672

#0089
Douglas A. Olson
Box 8284 NCB
Kenai, Ak. 99611

#0054
William Parish
Rt. 2 Box 144
Madill, Ok. 73446

#0079
Gerald H. Park
SRA 1621-H
Anchorage, Ak. 99507

#0179
Charles N. Paulus
401 South Kentucky #37
East Wenatchee, Wa 98801

#0108
Jay M. Petty
RT 1 P. O. Box 201
Elgin, Ar. 85611

#0062
Tim K. Pine
Box 608
Anchorage, Ak. 99510

#0164
Clair C. Randall
1310 W. State
Boise, Idaho 83702

#0038
Thomas C. Reed
P. O. Box 12585
Houston, Tx. 77017

#0127
John H. Reiner
10608-25th S. W.
Seattle, Wa 98146

#0191
Diego D. Resendez
905 Muldoon Rd. Sp A-71
Anchorage, Ak. 99504

#0114
John P. Rosen
SRA Box 303
Anchorage, Ak. 99507

#0053
Lawrence Russell
816 Betty Street
Fairbanks, Ak. 99701

#0118
Eugene J. Sazama
P. O. Box 562
Soldotna, Ak. 99669

#0130
James A. Schooley, Jr.
P. O. Box 6105 c/o Arco Kuparuk
Anchorage, Ak. 99502

#0012
Glenn E. Seeber
Star Rt.
Janesville, Ca 96114

#0183
Larry L. Shull
Star Rt. 1 Box 1205
Kenai, Ak. 99611

#0180
Frank J. Silva
34661 Calcutta Drive
Fremont, Ca 94536

#0110
John Skamarocius
6430 E. 8th Ave.
Anchorage, Ak. 99504

#0098
George F. Smith
P. O. Box 1572-I
Anchorage, Ak. 99507

#0066
Carl R. Snyder
8621 E. 17th
Anchorage, Ak. 99504

#0188
Donald L. Spahr
5571 Kennyhill Dr.
Anchorage, Ak. 99504

#0168
Larry A. Sportsman
3837 Linda Vista Lane
Colorado Springs, Co. 80907

#0151
Jeffrey D. Stadheim
P. O. Box 575
Kenai, Ak. 99611

#0105
Herman D. Standridge
1600 Allo Ave. Lot #211
Marrero, La 70072

#0136
Delmar M. Stephens
22 Menosse Court
Vallejo, Ca 94590

#0159
Gregory R. Swank
c/o Arco Kuparuk
P. O. Box 6105
Anchorage, Ak. 99502

#0120
Allen Thibodeaux
RT 1 Box 249
Gibson, La 70356

#0150
Norman W. Thornton
1509 Mt. Frazier Drive
San Jose, Ca 95127

#0138
Joel W. Traxler
Box 2296
Sitka, Ak. 99835

#0170
David L. Vance
3153 Ithaca Avenue
Boise, Idaho 83709

#0174
Paul R. Van Niel
P. O. Box 5005
Fremont, Ca 94538

#0192
John W. Van Norman, Jr.
1321 Edinburgh Ct.
Concord, Ca 94518

#0162
Jerry R. Voight
P. O. Box 1233
Valdez, Ak. 99686

#0135
Walter W. Voight
Box 1233
Valdez, Ak. 99686

#0081
Fred L. Walker
P. O. Box 115
Lufkin, Tx. 75901

#0106
Randy S. Ward
7440 Old Harbor Rd.
Anchorage, Ak. 99504

#0144
Stuart E. Wasson
1555 Nelchina #1
Anchorage, Ak. 99501

#0075
Bruce D. Weisman
P. O. Box 4-1643
Anchorage, Ak. 99509

#0061
Robert T. Wise
5301 Trena Street
Anchorage, Ak. 99507

WELDING INSPECTORS LICENSED FOR

1981-1982

#0124
Charles R. Brashears
6427 Hillcroft #1010
Houston, Texas 77081

#0199
Gordon B. James
3342 W. Monte Vista Road
Phoenix, Arizona 85009

#0202
Ralph M. Montgomery
P. O. Box 1173
Chinook, Montana 59523

#0200
Anthony M. Morales
1785 Fortuna Ave.
Pacific Beach, Ca 92109

#0132
Samuel I. Rogers
#45-7800 Debarr
Anchorage, Ak. 99504

#0071
Don D. Statter
3651 McGinnis Dr.
Juneau, Ak. 99801

#0201
Nolan D. Stucki
Rt 6 Box 270
Idaho Falls, Idaho 83401

#0203
John D. Ward
Box 977
Wasilla, Ak. 99687

#0155
Robert M. Weber
4334 Spenard Road #6
Anchorage, Ak. 99503

STATE OF ALASKA
Department of Commerce and Economic Development
Division of Occupational Licensing
Pouch D
Juneau, Alaska 99811-0800

BOARD OF WELDING EXAMINERS APPLICATION FOR STATE WELDING INSPECTORS LICENSE

THIS APPLICATION MUST BE COMPLETED IN FULL/TYPE IN INK ALL INFORMATION.

12 AAC 72.055. WELDING INSPECTOR LICENSE REQUIRED. A person may not test a welder for the purpose of issuing a welder qualification certificate or inspect a welding operation in the state in which weldment failure would involve hazard to life or property unless he or she holds a current valid welding inspector license.

Name _____
Last First M.I.

Residence Address _____
City State Zip

Mailing Address _____
City State Zip

Date of Birth _____ Social Security No. _____

Phone Number: ( ) _____

In support of my application, I am submitting the following credentials to the Board of Welding Examiners:

ORIGINAL APPLICATION $50.00

1. Copy of AWS QCI Certificate attached: ☐ Yes ☐ No
2. Proof of ALL Position Welding Qualification attached: ☐ Yes ☐ No

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BIENNIAL RENEWAL APPLICATION $50.00

1. Copy of AWS QCI Certificate attached: ☐ Yes ☐ No

   OR

2. Proof of ALL Position Welding Qualification attached: ☐ Yes ☐ No

   AND

3. Evidence of employment as a Welding Inspector attached: ☐ Yes ☐ No

   Certificate (License) Number _____

I hereby certify that the above information is true and complete to the best of my knowledge.

_____
Applicant's Signature

SUBSCRIBED AND SWORN TO BEFORE ME, A NOTARY PUBLIC, IN AND FOR THE STATE OF _____ THIS _____ DAY OF _____, 19 _____

_____
Notary Public
My commission expires: _____

(A witness may sign in lieu of a Notary Public or U.S. Postmaster in areas where neither are available. A witness will include his or her address and indicate that neither a Notary Public nor U.S. Postmaster are available.)

Witness: _____

Address: _____

CHAPTER 72. BOARD OF WELDING EXAMINERS

Article
1. Codes (12 AAC 72.005–12 AAC 72.010)
2. Welders (12 AAC 72.015–12 AAC 72.045)
3. Welding Inspectors (12 AAC 72.050–12 AAC 72.125)
4. General Provisions (12 AAC 72.899–12 AAC 72.900)

ARTICLE 1. CODES

Section
5. Rating for welders
10. (Repealed)

12 AAC 72.005. RATING FOR WELDERS. Ratings for welders shall be governed by the code requirements in the job specifications. In the absence of code requirements, welders shall be certified in accordance with the applicable American Welding Society Code. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1),(2) and (9)

12 AAC 72.010. CERTIFICATE REQUIRED. Repealed 8/21/78.

ARTICLE 2. WELDERS

Section
15. Welder qualification certificate required
20. (Repealed)
25. Requirements for welder qualification certificate
30. (Repealed)
35. Welder qualification certificate issued
40. (Repealed)
45. Requirements for maintaining a current welder qualification certificate

12 AAC 72.015. WELDER QUALIFICATION CERTIFICATE REQUIRED. A person may not perform a welding operation in the state for compensation, in which the failure of the weldment would involve hazard to life or property or cause economic loss, unless he or she holds a current, valid welder qualification certificate in the appropriate rating. (Eff. 8/21/78, Reg. 67; am 12/10/81, Reg. 80)

Authority: AS 08.99.080(a)(1),(2),(5) and (9)

12 AAC 72.020. DURATION AND RENEWAL. Repealed 8/21/78.

12 AAC 72.025. REQUIREMENTS FOR WELDER QUALIFICATION CERTIFICATE. (a) Testing of welders shall be done under the direct supervision of a licensed welding inspector.

(b) An applicant for a welder qualification certificate or a company desiring to have a welder qualified shall

(1) submit to the welding inspector the welding procedure specifications or the welding performance specifications, or both when indicated, for the appropriate rating; and

(2) complete the welding test for the appropriate rating according to the terms of the welding procedure specifications or the welding performance specifications, or both when indicated.

(c) Prequalified procedure specifications may be used for test administration according to applicable codes. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1),(2),(5) and (9)

12 AAC 72.030. TEST SELECTION. Repealed 8/21/78.

12 AAC 72.035. WELDER QUALIFICATION CERTIFICATE ISSUED. The welding inspector shall issue the welding qualification certificate in the appropriate rating to the applicant or company upon the applicant's successful completion of the examination. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1),(7) and (10)

12 AAC 72.040. QUALIFICATION. Repealed 8/21/78.

12 AAC 72.045. REQUIREMENTS FOR MAINTAINING A CURRENT WELDER QUALIFICATION CERTIFICATE. (a) A welder qualification certificate is valid if it is kept current in compliance with the code under

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which it is issued unless stated otherwise in the job specification.

(b) The expiration or revocation of one rating does not affect any remaining rating. (Eff. 8/21/78, Reg. 67; am 12/10/81, Reg. 80)

Authority: AS 08.99.080(a)(1),(5) and (10)

ARTICLE 3.
WELDING INSPECTORS

Section

50. (Repealed)
55. Welding inspector license required
60. (Repealed)
65. Requirements for welding inspector license
70. (Repealed)
75. Application for welding inspector license
80. (Repealed)
85. Examination for welding inspector license
90. (Repealed)
95. Welding inspector license issued
105. Welding inspector license expiration and renewal
115. Duties and responsibilities of welding inspector
125. Prohibited conduct of welding inspector

12 AAC 72.050. TEST FACILITIES. Repealed 8/21/78.

12 AAC 72.055. WELDING INSPECTOR LICENSE REQUIRED. A person may not test a welder for the purpose of issuing a welder qualification certificate or inspect a welding operation in the state in which weldment failure would involve hazard to life or property or cause economic loss, unless he or she holds a current, valid welding inspector license. (Eff. 8/21/78, Reg. 67; am 12/10/81, Reg. 80)

Authority: AS 08.99.080(a)(7) and (10)

12 AAC 72.060. WELD QUALIFIER. Repealed 8/21/78.

12 AAC 72.065. REQUIREMENTS FOR WELDING INSPECTOR LICENSE. (a) An applicant for a welding inspector license must

(1) be a high school graduate or hold a state or military approved high school equivalency diploma;

(2) have not less than five years' experience at the technical level in an occupational function that directly involved

(A) design experience such as preparation of plans and drawings for weldment construction according to a code, standard or specification;

(B) construction experience such as actual construction or fabrication and erection of weldments in accordance with a code, standard, specification or drawing;

(C) maintenance experience such as detection and measurement of weld inadequacies or discontinuities in accordance with specified procedures; and

(D) repair experience such as repair or replacement of welds that were determined inadequate or defective by reference to a code, standard, specification or drawing;

(3) be familiar with and understand the fundamentals of shielded metal arc welding, stud arc welding, submerged arc welding, flux cored arc welding, gas metal arc welding, gas tungsten arc welding, electroslag welding, oxyfuel gas welding, brazing, thermal cutting and mechanical cutting;

(4) be capable of writing clear and concise reports and maintaining records;

(5) pass an eye examination to prove natural or corrected near distance acuity for reading J-1 letters at a distance of not less than 12 inches on Jaeger's standard test type chart for near vision, or equivalent test, and natural or corrected far distance acuity of 20/40 as evidenced by a written, signed statement from a physician or an optometrist;

(6) pass a closed-book test on welding inspection fundamentals such as welding processes, nondestructive testing methods, and interpretation;

(7) pass an open-book test on general code or standard requirements such as fabrication tolerances and preheat requirements;

(8) pass a demonstration of competency in

the use of tools, gauges, and instruments pertaining to weld inspection; and

(9) submit evidence of having previously passed an all position welding qualification test in at least one welding process.

(b) The requirements of (a)(1)–(8) of this section will be waived for an applicant possessing a current welding inspector certificate issued by the American Welding Society in accordance with AWS QC 1-78, "Standard for Qualification and Certification of Welding Inspectors."

(c) An applicant may substitute up to two years of post-high-school education for two years of the five-year experience relevant to any of the functions covered by (a)(2) of this section and approved by the board. (Eff. 8/21/78, Reg. 67; am 7/22/79, Reg. 71)

Authority: AS 08.99.080(a)(5) and (10)

12 AAC 72.070. TEST FEES. Repealed 8/21/78.

12 AAC 72.075. APPLICATION FOR WELDING INSPECTOR LICENSE. Application for a welding inspector license must be made to the department on a form provided by the department and must be accompanied by a fee of $50. (Eff. 8/21/78, Reg. 67; am 12/10/81, Reg. 80)

Authority: AS 08.99.080(a)(6) and (10)

12 AAC 72.080. CODES. Repealed 8/21/78.

12 AAC 72.085. EXAMINATION FOR WELDING INSPECTOR LICENSE. Examinations for welding inspector licenses will be conducted four times a year. Additional examinations may be conducted if the applicant furnishes all necessary facilities and pays all expenses incurred by the examiners. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1),(2), (7) and (10)

12 AAC 71.090. DEFINITIONS. Repealed 8/21/78.

12 AAC 72.095. WELDING INSPECTOR LICENSE ISSUED. The department will issue a welding inspector license to an applicant who meets the requirements of 12 AAC 72.065. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(7) and (10)

12 AAC 72.105. WELDING INSPECTOR LICENSE EXPIRATION AND RENEWAL. (a) A welding inspector license is valid until March 1 of each even-numbered year unless revoked for reasons stated in 12 AAC 72.125 or unless the license lapses under (d) of this section.

(b) Application for renewal of a welding inspector license must be made to the department on a form provided by the department no later than March 1 of each even-numbered year and must be accompanied by a fee of $50.

(c) An application for renewal of a welding inspector license must contain

(1) proof of a current welding inspector certificate issued by the American Welding Society as specified in 12 AAC 72.065(b); or

(2) evidence of compliance with the requirement of 12 AAC 72.065(a)(5); and

(3) evidence of employment as a welding inspector in the form of

(A) a signed statement of an employer;

(B) payroll records indicating the position held; or

(C) affidavits of two fellow employees attesting to employment activity of the applicant.

(d) A license issued to a welding inspector on the basis of American Welding Society QCI certification under 12 AAC 72.065(b), or renewed on that basis under (c)(1) of this section, lapses 60 days after the date of expiration of the inspector's American Welding Society certification unless, before the 60th day, the inspector provides proof to the department of renewal of that certification.

(e) Application for renewal of a welding inspector license that has lapsed for any reason is considered a new application. (Eff. 8/21/78, Reg. 67; am 12/10/81, Reg. 80)

Authority: AS 08.99.080(1)(7) and (10)

12 AAC 72.115. DUTIES AND RESPONSIBILITIES OF A WELDING INSPECTOR. (a) A welding inspector shall, when applicable

(1) keep the department advised of his current address for the mailing of renewal notices;

(2) verify that the work inspected conforms to the requirements of the applicable codes, standards and job specifications;

(3) verify that the base materials and consumable welding materials conform to the specification requirements and that the specified welding filler metals are used on each base metal or combination of base metals;

(4) verify that the welding equipment to be used for the work is that which is specified in the welding procedure and has the capability to produce the specified welds;

(5) verify that the welding procedures are as specified, and are qualified and available to the welders for reference;

(6) verify that the welders have been properly qualified in accordance with the applicable codes and standards and that their qualification authorizes them to use the welding procedures specified for the work;

(7) observe the qualification tests when qualifying welders;

(8) verify that only specified and properly qualified welding procedures are used for the work;

(9) verify that the joint preparation and fit-up meets the requirements of the welding procedure and drawings;

(10) verify that the specified filler metals are used and that the filler metals are maintained in proper condition for use as specified;

(11) observe the technique and performance of each welder;

(12) examine the work for conformance to the requirements of the applicable codes, standards, specifications and drawings;

(13) identify the work inspected with specified marking methods or appropriate records;

(14) perform the necessary visual inspections;

(15) verify that the required visual and other nondestructive examinations have been performed by qualified personnel in the specified manner and review the resulting information to assure that the results are complete;

(16) perform nondestructive examinations that are specified, if he or she is qualified in accordance with the specified requirements;

(17) prepare clear and concise reports and keep necessary records of the welding procedure, the welding procedure qualifications, the welder qualifications, the control of welding materials and the results of inspections and tests;

(18) act with complete integrity in professional matters and be forthright and candid to the board or its representative on matters pertaining to this standard;

(19) to preserve the health and well-being of the public by performing the duties required of weld inspection in a conscientious and impartial manner to the full extent of his or her responsibilities and qualifications;

(20) undertake and perform assignments only when qualified by training, experience, and capability;

(21) be objective, thorough and factual in any written report, statement or testimony of the work and include all relevant or pertinent information in such communiques or testimonials;

(22) sign only for work that he or she has inspected, or for work over which he or she has personal knowledge through direct technical control; and

(23) conscientiously avoid conflict of interests with the employer or client and disclose any business association, interests, or circumstances that might be so considered.

(b) If there is evidence that the welder's work does not conform to the requirements of the applicable code, standard or specification, the welding inspector may require requalification of the welder. The welding inspector shall require a requalification of a welder if that person's qualification is not current by the requirements of the applicable codes, standards or specifications.

(c) If the welding inspector is to perform nondestructive examinations other than visual, and there are no specified qualification requirements, he or she must be qualified and certified in accordance with the Recommended Practice No. SNT-TC-1A, "Personnel Qualification and Certification for Nondestructive Testing," June 1975. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(7),(9) and (10)

12 AAC 72.125. PROHIBITED CONDUCT OF WELDING INSPECTOR. (a) A welding inspector licensed under this chapter is prohibited from performing acts including

(1) signing a blank welder-qualification certificate;

(2) issuing a welding qualification certificate to a welder not tested under his or her direct supervision;

(3) delegating his or her responsibility in testing of welders;

(4) paying, soliciting, or offering, directly or indirectly, any bribe or commission for professional employment with the exception of the usual commission required by employment agencies;

(5) falsifying, exaggerating, or indulging in the misrepresentation of personal academic and professional qualifications, past assignments, accomplishments, and responsibilities or those of his or her associates;

(6) issuing statements, criticisms, or arguments on weld inspection matters connected with public policy which are solicited or paid for by an interested party or parties, without first identifying the party and the speaker and disclosing any possible pecuniary interest;

(7) expressing an opinion on a weld inspection subject unless it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence pertinent to the subject and upon honest conviction of the accuracy and propriety of the statement;

(8) accepting compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties or their authorized agents;

(9) soliciting or accepting gratuities, directly or indirectly, from any party or parties dealing with the client or employer in connection with the welding inspector's work; and

(10) associating with or knowingly participating in a fraudulent or dishonest venture.

(b) The board will suspend, refuse renewal of or revoke the welding inspector's license, place the license holder on probation, or reprimand the holder, if he or she is found to have engaged in prohibited conduct. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(7),(9) and (10)

ARTICLE 4.
GENERAL PROVISIONS

Section
899. Weld qualifier license
900. Definitions

12 AAC 72.899. WELD QUALIFIER LICENSE. A weld qualifier license issued under the authority of this chapter as it existed between August 2, 1973 and the effective date of this section is valid until six months after the effective date of this section and may not be renewed. (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(7)

12 AAC 72.900. DEFINITIONS. (a) In this chapter

(1) "appropriate rating" means that rating which is required by the specific code designated in the job specifications; when there is no job specification or a specific code is not designated in the job specification, appropriate rating is not less than the all-position certification issued in accordance with the current edition of the American Welding Society Code;

(2) "board" means the Board of Welding Examiners;

(3) "code" means nationally recognized welding, nondestructive testing or engineering principles or rules published as guides or requirements or both by societies or agencies charged with establishing such guidelines;

(4) "continuous employment" means employment without interruption of more than 90 consecutive days unless otherwise specified in the code under which the certificate is being renewed;

(5) "coupon" means a piece of metal cut and sectioned for testing;

(6) "cutting process" means a process in which the severing or removing of metals is effected;

(7) "department" means the Department of Commerce and Economic Development;

(8) "direct supervision" means being physically present at the work site and in personal charge of the work being performed;

(9) "job specifications" means the written document setting out the specific construction standards to be adhered to for the project;

(10) "rating" means a particular skill level in the art of welding;

(11) "responsibility" means being accountable to the board or its agents or both for one's action relating to the requirements of this chapter;

(12) "standards" means minimum acceptable guidelines established by societies or agencies or both charged with the responsibility for promulgating such guidelines;

(13) "technical level" means a level of work in welding using mathematics and science such as would require at least two years of post-high-school study at an accredited engineering school or technical institute or equivalent study;

(14) "valid" means having legal force and properly executed and binding under the law and is in compliance with the appropriate code, standard or specification;

(15) "weld testing methods" means the destructive or nondestructive means of evaluating the integrity of the weld metal or heat affected zone of the base material or both;

(16) "welder" means welder, welding operator and tacker;

(17) "welding" means the metal joining process used in making welds;

(18) "welding inspector" means a person meeting the requirements of secs. 55 – 125 of this chapter;

(19) "welding performance specification" means a document required before testing, setting the criteria for demonstration of a welder's ability to produce welds meeting prescribed standards;

(20) "welding procedure" means a written document specifying the essential variables as listed in the appropriate welding or engineering code or both;

(21) "welding procedure specification" means a document required before welding on any structure, specifying the parameters and requirements which control the quality of the welding for that structure;

(22) "welding process" means the method of application of heat or filler metal or both to complete the joining process;

(23) "welding qualification certificate" means a certificate issued under the authority of the board by a licensed welding inspector to a person verifying that he or she has successfully performed one or more of the specific welding tests required for a certification to a particular welding or engineering code;

(24) "weldment" means an assembly whose component parts are joined by welding.

(b) Terms not defined in this section shall be construed in accordance with American Welding Society A3.0-76, "Terms and Definitions." (Eff. 8/21/78, Reg. 67)

Authority: AS 08.99.080(a)(1) and (9)

Testimony of Harry Treager
Before the Senate Labor and Commerce Committees
On February 26, 1982

Thank you for the opportunity to comment on SB 757, "An act continuing the existence of the Board of Welding Examiners; and providing for an effective date." The Department of Commerce and Economic Development has reviewed the present system of licensing welding inspectors and would like to make the following recommendations and observations for the consideration of the committee.

The Department finds that the present system of licensing welding inspectors is a reasonable and economical way of protecting the public by reducing the likelihood of the serious harm that normally results from weldment failures. While the department endorses the present approach to providing public protection, it feels that the system can be streamlined. The following specific recommendations address how the the licensing process should be continued.

Recommendation No. 1: Continue the licensing of welding inspectors with the same duties and responsibilities that exist under the present statutes and regulations.

Welding inspectors have two main areas of responsibility: the certification of welders and the inspection of welds.

IN CERTIFYING A WELDER THE WELDING INSPECTORS DETERMINE WHETHER A SPECIFIC WELDER HAS THE TECHNICAL SKILLS TO PERFORM A SPECIFIC WELDING JOB IN ACCORDANCE WITH APPLICABLE CODES AND STANDARDS. IT IS NECESSARY THAT WELDERS BE PROPERLY QUALIFIED FOR SPECIFIC JOBS BECAUSE:

1. WELDING PROCEDURES VARY FROM JOB TO JOB IN ACCORDANCE WITH HOW CODE REQUIREMENTS APPLY TO THE SPECIFIC JOB; AND

2. WELDERS ARE OFTEN WILLING TO PERFORM JOBS FOR WHICH THEY ARE NOT QUALIFIED, IN PART BECAUSE THEY MAY NOT KNOW THE LIMITATIONS OF THEIR OWN SPECIFIC SKILLS.

IT IS IN THE PUBLIC INTEREST THAT WELDERS BE PROPERLY QUALIFIED BECAUSE WELDMENTS THAT FAIL DO SO BECAUSE THEY ARE NOT FABRICATED ACCORDING TO THE PROPER PROCEDURE.

ACCORDING TO ADVICE FROM THE BOARD, IT IS IMPRACTICAL TO LICENSE WELDERS DIRECTLY BECAUSE PROCEDURES VARY SO MUCH FROM JOB TO JOB. LICENSING WELDERS FOR GENERAL SKILL LEVEL WOULD NOT WORK BECAUSE THE NECESSARY REQUIREMENTS FOR SPECIFIC JOBS VARY SO GREATLY AS MENTIONED ABOVE. LICENSING WELDERS FOR SPECIFIC PROCEDURES WOULD RESULT IN BUREAUCRATIC GROWTH AND A VERY UNWIELDY SYSTEM OF PAPERWORK.

FURTHERMORE, IN MOST INSTANCES WELDERS SHOULD BE QUALIFIED TO SPECIFIC PROCEDURES IMMEDIATELY PRIOR TO THE JOB TO ASSURE THAT THE REQUIRED SKILL LEVEL IS STILL PRESENT. IF THE SKILLS ARE RUSTY, A SMALL AMOUNT OF REMEDIAL TRAINING CAN USUALLY MAKE THE BASICALLY COMPETENT WELDER QUALIFIED TO THE SPECIFIC PROCEDURE. IT IS DEFINITELY IN THE PUBLIC INTEREST THAT THIS REMEDIAL WORK OCCUR PRIOR TO THE ACTUAL WORK INTENDED FOR PUBLIC USE.

THE SECOND MAJOR RESPONSIBILITY OF WELDING INSPECTORS IS THE INSPECTION OF WELDS TC ASSURE THAT THEY ARE PROPERLY FABRICATED ACCORDING TO PROCEDURE. A NUMBER OF POINTS OF CLARIFICATION NEED TO BE MADE HERE TO AVOID THE CONFUSION THAT OFTEN ARISES WITH RESPECT TO WELDING INSPECTION.

THE PRESENT SYSTEM THAT WE ARE RECOMMENDING BE CONTINUED DOES NOT REQUIRE THAT ALL WELDS IN THE STATE BE INSPECTED. IT WOULD BE UNREALISTIC TO REQUIRE THAT ALL WELDS BE INSPECTED. THE PRESENT LICENSING APPROACH PROVIDES FOR A MINIMAL LEVEL OF PUBLIC PROTECTION THROUGH THE STATUTORY REQUIREMENT THAT ALL WELDERS BE PROPERLY CERTIFIED.

IF INSPECTIONS OF WELDS ARE CALLED FOR BY CONTRACTUAL AGREEMENT BETWEEN THE CLIENT AN THE PROVIDER OF WELDING SERVICES, THE PRESENT STATUTE REQUIRES THAT A LICENSED WELDING INSPECTOR MUST PERFORM THE INSPECTIONS. THIS PROTECTS THE PUBLIC AND THE PURCHASER OF THE WELDING INSPECTION

SERVICES BY ASSURING THAT THE WELDING INSPECTOR IS A QUALIFIED AND COMPETENT INDIVIDUAL REQUIRED BY LAW TO MEET CERTAIN ETHICAL AND PERFORMANCE STANDARDS IN THE EXECUTION OF HIS RESPONSIBILITIES.

CONTRARY TO THE POSITION TAKEN BY THE DIVISION OF LEGISLATIVE AUDIT IN THEIR REPORTS, THE PURCHASERS OF WELDING SERVICES ARE NOT NORMALLY CAPABLE OF JUDGING THE QUALIFICATIONS OF WELDERS AND WELDING INSPECTORS. THIS IS ESPECIALLY SO WHEN THE PURCHASER OF THE SERVICES IS A SMALL COMPANY WITH NO QUALITY CONTROL PROCEDURES OR WHEN THE PURCHASER IS INEXPERIENCED BECAUSE OF AN OCCASIONAL NEED TO PURCHASE SUCH SERVICES.

THIS SYSTEM OF REGULATION PLACES THE MAJOR SHARE OF THE ENFORCEMENT RESPONSIBILITIES ON PRIVATE INDUSTRY RATHER THAN ON GOVERNMENT, THEREBY ELIMINATING A POTENTIALLY EXPENSIVE BUREAUCRATIC LAYER OF GOVERNMENT INSPECTORS.

THE PRINCIPAL WEAKNESSES OF THE WELDING INSPECTOR SYSTEM ARE IN THE AREAS OF ENFORCEMENT AND INVESTIGATIONS. THERE ARE NO REALISTIC WAYS OF IDENTIFYING ABUSES BY WELDING INSPECTORS IN CERTIFYING OF A WELDER OR IN THE INSPECTION OF WELDS. WELDING INSPECTORS ARE AT LEAST TWICE REMOVED FROM THE RESPONSIBILITY FOR THE CONSEQUENCES OF WELDMENT FAILURE (THE WELDER AND THE CONTRACTOR). IN OTHER WORDS, THERE IS NO ENFORCEMENT SYSTEM RELATING THE WELDING INSPECTOR'S PERFORMANCE TO ACTUAL EVENTS OF DAMAGE TO THE PUBLIC.

RECOMMENDATION NO. 2: SUNSET THE BOARD OF WELDING EXAMINERS AND TRANSFER LICENSING RESPONSIBILITIES TO THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT.

AT PRESENT THERE ARE TWO PRIMARY REQUIREMENTS FOR LICENSURE AS A WELDING INSPECTOR. TO RECEIVE A LICENSE AN APPLICANT MUST POSSESS A CURRENT AWS QC1 CERTIFICATE AND PRESENT DOCUMENTATION OF ALL POSITION WELDING QUALIFICATION IN ONE WELDING PROCESS.

IN ALL INSTANCES A LICENSE EXAMINER CAN CORRECTLY EVALUATE THE AWS-QC1 DOCUMENTATION. IN MOST INSTANCES, WITH THE PROPER TRAINING, A LICENSE EXAMINER CAN EVALUATE CORRECTLY THE ALL POSITION WELDING DOCUMENTATION. IN THE PAST, THE BOARD DELEGATED TO THE LICENSE EXAMINER RESPONSIBILITY FOR THE COMPLETE REVIEW AND APPROVAL OF ROUTINE APPLICATIONS. ONLY IN CASES WHERE THE ALL POSITION WELDING QUALIFICATION DOCUMENTATION WAS ATYPICAL IN FORM OR CONTENT WAS THE APPLICATION SENT TO THE BOARD FOR EVALUATION PRIOR TO THE ISSUANCE OF A LICENSE. THIS PROCEDURE WAS STOPPED IN DEFERENCE TO CRITICISM BY THE DIVISION OF LEGISLATIVE AUDIT IN THEIR 1979 REPORT.

IF THE BOARD OF WELDING EXAMINERS IS SUNSETTED, THE DEPARTMENT COULD LICENSE WELDING INSPECTORS BASED ON THE PRESENT CRITERIA OR BASED SOLELY ON PROOF OF AWS CERTIFICATION. IN EITHER CASE THE DEPARTMENT WOULD MAINTAIN A REGISTRY OF WELDING INSPECTORS AND PROVIDE INVESTIGATIVE AND ENFORCEMENT

SERVICES. IN EITHER CASE, THERE WOULD BE A SIGNIFICANT REDUCTION IN THE COST OF LICENSING. TRAVEL AND PER DIEM FOR BOARD MEETINGS WOULD BE ELIMINATED; FOR FY '82 THIS REPRESENTS APPROXIMATELY $4,500.

THERE WOULD ALSO BE A REDUCTION IN STAFF TIME SPENT ON THE LICENSURE PROCESS AND LICENSES WOULD BE ISSUED MORE RAPIDLY. AT PRESENT WE ESTIMATE THAT OVER A TWO YEAR PERIOD (THE RENEWAL CYCLE) A LICENSE EXAMINER SPENDS ABOUT 15% OF HIS/HER TIME ON WELDING BOARD ACTIVITIES, INCLUDING PREPARING FOR AND STAFFING BOARD MEETINGS, PROCESSING NEW AND RENEWAL APPLICATIONS, ANSWERING INQUIRIES, FILLING OUT REPORTS, ETC. UNDER DIRECT LICENSURE BY THE DEPARTMENT, WE ESTIMATE THAT A LICENSE EXAMINER WOULD SPEND APPROXIMATELY 5% OF HIS/HER TIME ON THE PROCESSING OF WELDING APPLICATIONS. FOR FY '82 THIS WOULD REPRESENT A SAVINGS OF APPROXIMATELY $2,800.00 IN SALARY AND BENEFITS.

IT SHOULD ALSO BE NOTED THAT ACTIVITY IN THIS LICENSING AREA MAY BE INCREASING. IN THE PAST TWO MONTHS THERE HAS BEEN A SLIGHT INCREASE IN THE NUMBER OF NEW APPLICATIONS RECEIVED AS WELL AS AN INCREASE IN TELEPHONE REQUESTS FOR APPLICATIONS FROM THE LOWER FORTY-EIGHT STATES.

THE DEPARTMENT FEELS THAT THE GREATEST BENEFIT FROM DIRECT LICENSURE BY THE DEPARTMENT WOULD BE IN THE REDUCTION IN TIME NECESSARY FOR AN APPLICANT TO BE LICENSED. AT PRESENT IT TAKES APPROXIMATELY THREE WEEKS TO A MONTH FOR A

DECISION TO BE MADE ON A ROUTINE APPLICATION. UNDER DIRECT DEPARTMENT LICENSING A ROUTINE APPLICATION COULD BE PROCESSED THE SAME DAY AND WOULD REQUIRE ONE HALF HOUR PROCESSING TIME.

IF ALL POSITION WELDING DOCUMENTATION WERE RETAINED AS A REQUIREMENT FOR LICENSURE SOME MECHANISM WOULD NEED TO BE SET UP TO ASSIST THE LICENSE EXAMINER TO MAKE A DETERMINATION IN THE CASE OF ATYPICAL ALL POSITION WELDING DOCUMENTATION. THIS FUNCTION COULD BE ACCOMPLISHED BY A THREE MEMBER ADVISORY BOARD. SUCH A BOARD COULD NOT ONLY ADVISE ON ATYPICAL APPLICATIONS BY ALSO PROVIDE GENERAL POLICY ADVICE TO THE DEPARTMENT ON WELDING MATTERS AND ASSIST IN THE INVESTIGATION PROCESS. THE EXPENSE FOR SUCH A BOARD WOULD BE MINIMAL ($1,000 - $1,500 A YEAR).

A FEW COMMENTS ARE IN ORDER ON THE REQUIREMENT FOR ALL POSITION WELDING QUALIFICATION IN ONE PROCESS. IN ORDER TO RECEIVE AN AWS QC1 CERTIFICATE, THE AMERICAN WELDING SOCIETY REQUIRES THAT AN INDIVIDUAL HAVE FIVE YEARS OF EXPERIENCE IN THE WELDING FIELD. THIS EXPERIENCE MAY <u>NOT</u> INVOLVE ANY PRACTICAL EXPERIENCE IN WELDING. IT IS THE PRESENT BOARD'S FEELING THAT THE ALL POSITION WELDING QUALIFICATION REQUIREMENT IS REASONABLE, NECESSARY AND DESIRABLE. THE DEPARTMENT DOES NOT HAVE A POSITION ON THIS REQUIREMENT AND WOULD URGE THE COMMITTEE TO ENCOURAGE COMMENTS FROM MEMBERS OF THE INDUSTRY ON THIS SUBJECT.

RECOMMENDATION NO. 3: REVISE THE EXISTING STATUTES SO THAT THEY ARE CLEAR AND SUCCINCT.

THE DEPARTMENT WOULD JUST LIKE TO UNDERSCORE THE NEED FOR STATUTE REVISION. THE DEPARTMENT ENDORSES THE DIVISION OF LEGISLATIVE AUDIT'S RECOMMENDATIONS IN THIS AREA. IF THE PRESENT SYSTEM OF WELDER CERTIFICATION AND WELD INSPECTION IS RETAINED, THE DEPARTMENT WOULD RECOMMEND THAT AS 08.99.080 BE APPROPRIATELY REVISED TO DIRECTLY REFLECT THIS APPROACH. SIMILARLY ALL REFERENCES TO OBSOLETE LICENSING FUNCTIONS SHOULD BE PURGED FROM THE STATUTES, FOR EXAMPLE: THE SETTING OF FEES FOR WELDER CERTIFICATION TESTS AND APPROVAL. SINCE THE NEED FOR STATUTORY REVISION APPEARS TO BE EXTENSIVE AND SINCE THE PRESENT LICENSING PROCESS MAY CHANGE SUBSTANTIALLY, THE DEPARTMENT WOULD AT THIS TIME LIKE TO INDICATE ITS WILLINGNESS TO WORK WITH THE COMMITTEE AND ITS STAFF ON THESE REVISIONS IN ANY WAY THAT YOU FEEL IS NECESSARY AND APPROPRIATE.

IN CLOSING, I WOULD LIKE TO NOTE THAT THE PRESENT BOARD HAS AN EXCELLENT RECORD OF LICENSING QUALIFIED APPLICANTS WHO FOLLOW THE EXISTING PROCEDURES. THERE ARE PRESENTLY 219 WELDING INSPECTORS LICENSED BY THE BOARD, 136 OF WHICH ARE CURRENTLY IN ACTIVE STATUS. THIS IS SUBSTANTIALLY MORE THAN IS REPORTED IN EITHER OF THE DIVISION OF LEGISLATIVE AUDIT'S REPORTS AND REFLECTS, WE BELIEVE, THE BOARD'S EFFORTS TO LICENSE QUALIFIED PEOPLE.

In FY '81 the Board generated $2,495 in licensing fees and spent $2,593 on travel and per diem for Board members and licensing examiner staff support at meetings.

Thank you.

January 27, 1982

Testing Institute of Alaska, Inc.
2114 Railroad Avenue
Anchorage, Alaska 99501

Attention: Donald M. Lockman, Chairman
State Board of Welding Examiners

Subject: State Board of Welding Examiners and State Licensing of Welding Inspectors Future Existence

Dear Sir:

I have been a Quality Assurance/Quality Control Inspector for five years and in the welding field for eight years. I have worked to reach a high standard of excellence in the field of welding inspection.

Over the past few years I have been involved with several major projects. PeMex pipeline of Mexico, the Louisiana Offshore Oil Port and the Sour Gas Line in the Agean Sea. On these projects, there have been several occasions where unqualified inspectors have made decisioins which were incomprehensible to a knowledgeable inspector with integrity. The Louisiana Offshore Oil Port is a good example. Faulty and incompetent inspection cost around 5.5 million dollars to correct.

Alaska's high standard for welding inspectors is by far the most stringent in the United States at the present time. I hope that these standards are maintained, not only for the safety of the people of Alaska, but for the beautiful fragile scenery.

In closing, it is my wish that the lower forty-eight also encompass the same standards as the State of Alaska. Until the industry itself takes note of its own warnings, the governing bodies of the individual states themselves must ensure there are no more Kansas City, Hyatt Regency disasters.

Very truly yours,

F. M. Bennett

FMB:ps

January 27, 1982

Testing Institute of Alaska, Inc.
2114 Railroad Avenue
Anchorage, Alaska 99501

Attention: Donald M. Lockman, Chairman
State Board of Welding Examiners

Subject: State Board of Welding Examiners and State Licensing of Welding Inspectors Future Existence

Dear Sir:

Over the past sixteen years I have been involved in numerous major construction projects throughout Mexico, Alaska, and the continental United States. I have observed activities of construction people on almost every project which has bordered on criminal neglect. Many times their lack of knowledge of their profession, due to inadequate training is to blame, often they are caught up in the Construction Company's ,"let's get this job done" euphoria, and most tragic of all, many sell their integrity for a few quick dollars.

The average inspector has no idea how many pipeline and pipeline related deaths occur each year, and the millions of dollars wasted yearly due to lackadaisical inspection. A pipeline explosion in Baytown, Texas two years ago revealed a weld with no bead, latticed with defects, which had had in process and final visual inspection by a qualified welding inspector, radiography performed by a qualified Non-destructive Technician, and accepted by both. Three people died in this explosion.

To become certified by the State of Alaska one must take considerable time, effort, and expense to meet the qualifications. The Alaskan State Welding Board, and the enforcement of its regulations, guarantees to a much greater degree, that its members will conduct themselves with the professionalism and integrity that will ensure that the above-mentioned tragedies happen less and less.

My hope is that each and every state adopts such a visionary program as the State of Alaska.

Very truly yours,

William C. Biddy

William C. Biddy

WCB:ps

ARCO Oil and Gas Company
General Engineering
Kuparuk Project
Post Office Box 6105
Anchorage, Alaska 99502
Telephone 907 659 2821

January 3, 1982

Pouch V, Interdepartmental Mail stop 3100
Juneau, Alaska. 99811

Subject: House Bill # 595 "An Act continuing the existence of the Board of Welding Examiners; and providing for an effective date."

Attention: Honorable Terry Martin

If House Bill #595 is not passed, during this session, the Board of Welding Examiners will cease to exist in June 1982. If this board is allowed to expire, the entire construction industry will suffer a severe set-back.

Since the new regulations (12 AAC 72) became effective in August, 1978, weld quality has improved immeasurably. This regulation met with state-wide industry acceptance primarily because of the project quality guaranteed by the better qualified technician performing the work.

The additional requirement for welding inspectors to become licensed by the state so enhanced the overall quality of major construction projects that many companies(including the major oil companies) who had established quality control groups made acquiring this license mandatory for employment or promotion.

These regulations have become a nation-wide standard with Alaska as the leading state in demanding quality in construction and integrity in inspectors. With other states following our lead we should be fine-tuning our regulations to become even better, not eliminating what has taken so long to formulate and have industry recognize and accept.

No one needs to remind Alaskans of the unnecessary cost incurred in building the Trans Alaska Pipeline. One of the major causes of the great expense was excessive weld repairs caused by unqualified welders and inspectors. In many cases these inspectors had never been involved in or around construction prior to this project, and knew absolutly nothing of welding or inspection.

On May 26, 1981, Representitives Brown and Anderson submitted House Bill No. 595 in the Legislature of the State of Alaska, Twelfth Legislature - First Session. This bill was tabled in the House.

If this bill is not enacted by the legislature during the present session, the Alaska Board of Welding Examiners will no longer exist. What people don't realize is; when the board ceases to exist, so does regulation requiring welders to be certified and weld inspectors to be licensed. As a manager, directly involved with welding and inspection, on major oil company construction projects, I sincerely feel the continuation of this board and regulation is essential for quality welding in Alaska.

Your support in re-establishing the professional and vocational regulations, as defined in 12 AAC 72, and continuing the existance of the Board of Welding Examiners as defind in State Statute AS 08.99 and House Bill 595, is sincerely appreciated.

Very Truly Yours,

Ken Lomax

Kenneth C. Lomax
Senior Quality Assurance Coordinator

KCL/bee

cc: Donald M. Lockman, Chairman
State Board of Welding Examiners

HB595

N.D.E. CONSULTANTS

Chairman Terry Martin
Legislative House Labor & Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Feb. 3, 1982

Dear Sir:

I have been licensed in the State of Alaska both as a Welder Qualifier and Welding Inspector since 1976 and feel that even tho the Welding Board has it short coming (lack of enforcement money and personnel) It should be continued and that State Licensing should remain a requirement.

If this program is to continue , I feel that the State should provide a better method to police the companies working in the state.

Sincerly yours

L. Russell

Lawrence Russell
License # AA-0053

Copies to : Vice Chairman, Bernard Bylsma
Richard Randolph
Terry Gardiner
Brian Rogers
Don Lockman

816 Betty Street • Fairbanks, Alaska 99701 • Phone: (907) 452-8958

DATE: February 2, 1982

TO: Chairman Terry Martin
Legislative House Labor & Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

A.C.H.

FROM: Albert C. Hines
Alaska State Welding Inspector
License No. 0057

SUBJECT: State Board of Welding Examiners and State Licensing of Welding Inspectors Future Existance

As an Alaska State Licensed Welding Inspector, American Welding Society Welding Inspector, member of United Association Local 375 and a welder foreman on pipeline construction at Prudhoe Bay, I feel we need our State Welding Board and we need our licensed welding inspectors. Please do what you can to retain these two functions.

I have worked pipeline construction for 29 years and I believe we need qualified welding inspectors as Alaska is taking over the lead of all the states in pipeline construction.

I also believe the State should spend some money for the Board to help police companies to check the credentials of welding inspectors. We can not afford an oil spill due to a defective weld.

Thank you.

Albert C. Hines

cc: Vice Chairman, Bernard Bylsma
Richard Randolph
Terry Gardiner
Brian Rogers

Albert C. Hines
3071 Riverview Drive
Fairbanks, Alaska 99701

Phone: (907) 456-7865

Omaha Public Power District

1623 HARNEY ■ OMAHA, NEBRASKA 68102 ■ TELEPHONE 536-4000 AREA CODE 402

February 1, 1982

Ser: 82-QAC-2

Mr. Terry Martin, Chairman
Legislative House Labor & Commerce Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Martin:

I am writing to express my concern over the possibility of ending the State Licensed Welding Inspection Program.

I have been in the welding field 25 years and in the inspection field 8 years, and there is no equal to this program.

The certification is the industry standard; and, with the future proposed pipe lines in the state, it should contribute considerably to the quality of that program.

I strongly hope that the State takes a long, hard look at this program because it is the best in the industry and one I feel the rest of the states will use as a pattern for programs of the future.

Sincerely yours,

John W Hopp

John W. Hopp
Quality Assurance Mechanical Inspector

JWH:cb

cc: Vice Chairman, Bernard Bylsma
Richard Randolph
Terry Gardiner
Brian Rogers

EMPLOYMENT WITH EQUAL OPPORTUNITY
MALE/FEMALE

AS08.99.080 DOCUMENT= 1 OF 1 PAGE = 1 OF 3
HEADINGS TITLE 8.
Business and Professions.
CHAPTER 99.
Board of Welding Examiners.
CITATION Sec. 08.99.080.
CATCH LINE
POWERS AND DUTIES OF THE BOARD.
TEXT (a) The board shall
(1) establish and promulgate rules and regulations concerning certification of welders in the state;
(2) establish and define certification tests as they apply to various types and categories of work done in or for the state;
(3) work with federal and private agencies and specifying engineers to establish uniform testing and certifying methods for all welders throughout the state;
(4) work with federal agencies and the agencies of other states to establish reciprocity agreements;
(5) set up criteria and define experience and documentary requirements which may be accepted in lieu of

AS08.99.080 DOCUMENT= 1 OF 1 PAGE = 2 OF 3
physical certification tests in the state;
(6) set the fees for the welder certification tests;
(7) examine, certify, and renew the certification of qualified applicants;
(8) keep a record of its proceedings, and submit annual reports to the governor and the legislature;
(9) promulgate regulations concerning the quality of welds and qualifications of welders required in specific areas of industry and construction and designate reporting procedures necessary to certify compliance with these quality standards;
(10) designate and approve persons qualified to administer welding tests, and designate and approve shops, laboratories, or other establishments qualified for testing coupons and weldments.
(b) The board may request technical personnel from the Department of Labor for the purpose of reviewing and analyzing reports and may request field inspection by the department for the purpose of assuring compliance with, and enforcement of the regulations, rules and orders promulgated under secs. 10 - 110 of

AS08.99.080 DOCUMENT= 1 OF 1 PAGE = 3 OF 3
this chapter.
HISTORY (Sec. 1 ch 151 SLA 1968; am secs. 3 - 5 ch 151 SLA 1970)
R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

HB 595

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
January 20, 1982
1:10 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph
Rep. Gardiner
Rep. Rogers

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 146 — Re payment procedures/public contracts

HB 595 — An act continuing the existence of the Board of Welding Examiners; and providing for an effective date.

WITNESS REGISTER

Representative Brown
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-3744
Position Statement: Gave background on both bills.

Nick Cotti, Management Analyst
Division of Occupational Licensing
Department of Commerce & Economic Development
Juneau, Alaska 99811
465-2534
Position Statement: Supported HB 595.

Donald Lockman
Testing Institute of Alaska and
State Board of Welding Examiners
Anchorage, Alaska
276-3440
Position Statement: Supported HB 595.

Ken Lomax
ARCO Oil and Gas Company
Anchorage, Alaska
338-1271
Position Statement: Supported HB 595.

Louie Rousseau
Welding Application-Methods

Anchorage, Alaska
272-3543
Position Statement: Opposed HB 595.

Erwin Long
Arctic Foundations, Inc.
Anchorage, Alaska
276-5575
Position Statement: Opposed HB 595.

PREVIOUS ACTION

HB 146	Referred to committee 3/11/81; no previous action. No action taken by committee this date.
HB 595	Referred to committee 5/26/81; no previous action. No action taken by committee this date.

ACTION NARRATIVE

Tape #003 Recording Number 1190	The meeting was called to order by Chairman Martin at 1:10 p.m. All members were present. The committee schedule called for the consideration of HB 595 and HB 146. Testifying before the committee regarding both bills was Representative Fred Brown, prime sponsor.
Number 1201	Rep. Brown, sponsor of HB 595 and HB 146, gave background on both bills. Chairman Martin limited further testimony and committee consideration to HB 595.
Number 1259	Nick Coti, Division of Occupational Licensing, Department of Commerce and Economic Development, spoke from prepared testimony in favor of continuing the Board of Welding Examiners.
Number 1371	Donald Lockman, of the Testing Institute of Alaska and the State Board of Welding Examiners, testified in favor of HB 595. Rep. Rogers questioned Lockman about his testimony.
Number 1634	Ken Lomax, of ARCO Oil and Gas Company, testified in favor of the bill, and presented written statements and letters to

the committee.

Number 1710 — Louie Rousseau, of Welding Application-Methods, a technical services business in Anchorage, testified against the bill.

Number 0136, Side B — Erwin Long, of Arctic Foundations, Inc., a manufacturer of pressure vessels and geo-tech equipment, also testified against the bill. He said he does contract work for the Corps of Engineers, and finds the State Board of Welding examinations and certifications to be in conflict with federal requirements that certification must be done according to the American Society of Mechanical Engineers (ASME) code.

Number 0312 — Donald Lockman gave rebuttal testimony in favor of the State Board of Welding Examiners.

Number 0348 — No action was taken on HB 595, and the Chairman adjourned the meeting at 3:00 p.m. Hearing on HB 595 will be continued in February.

A PERFORMANCE REVIEW
OF THE
BOARD OF WELDING EXAMINERS

June 8, 1979

Commissioner of the Department of Commerce and Economic Development	Charles Webber
Deputy Commissioner of the Department of Commerce and Economic Development	Bertram L. Wagnon

Members of the
Board of Welding Examiners

Chairman	Donald Lockman
Member	Tim Farrell
Member	Philip B. Davis
Member	Don Delk
Member	George Fox
Member	Peter Millar
Member	J.C. Wingfield

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU, ALASKA 99811

August 23, 1979

Members of the
Legislative Budget and Audit Committee:

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes, the attached report is submitted for your review.

A PERFORMANCE REVIEW
OF THE
BOARD OF WELDING EXAMINERS

June 8, 1979

Gerald L. Wilkerson

Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

3 31LH

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PURPOSE AND SCOPE OF THE REVIEW

Purpose

In accordance with the intent of Alaska Statutes 24.20.271(1) and 44.66.050 (sunset legislation), a review of the Board of Welding Examiners was conducted to review Board activities and accomplishments to determine if the Board has been operating in an effective, efficient and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Board will be reestablished. The law currently specifies that this Board will terminate on June 30, 1980, but will continue until June 30, 1981 for the purpose of concluding its affairs.

Scope

The major areas reviewed were the Board's operations and its licensing, examination, administration, complaint and affirmative action functions. Our review consisted of analyzing and evaluating the following:

(1) Applicable statutes and Board regulations;

(2) discussions with the Board and questionnaires sent to Board members;

(3) tests of records and documents of the Board and the Division of Occupational Licensing (OL), Department of Commerce and Economic Development, for the years 1976-1978;

(4) interviews with OL employees;

(5) complaints filed with OL, the Ombudsman's Office, Consumer Affairs Agency and the Human Rights Commission during the period 1976-1978;

(6) questionnaires sent to State licensed welding inspectors; and

(7) interviews with personnel and review of publications of the American Welding Society (AWS).

Scope Constraints

This review was hampered by the following constraints:

(1) The Board has not established and reported financial and program plans as required by AS 37.07.050 nor has it developed and reported

performance information regarding its effectiveness and accomplishments as required by AS 37.07 .090 and AS 08.99.080(a)(8).

(2) OL has not adequately collected, recorded and maintained pertinent files and statistics relating to the Board to effectively and efficiently carry out its administrative responsibilities.

ORGANIZATION AND FUNCTION

The Board of Welding Examiners was established by the 1968 Session Laws of Alaska. It is organized under the Department of Commerce and Economic Development, which provides administrative and investigative support through the Division of Occupational Licensing.

The Board consists of seven members with extensive experience in welding who are appointed by the Governor for staggered five year terms. At least three members must be engineers, i.e., with engineering degrees or registration as an engineer and at least five years engineering experience.

The functions of the Board are addressed in AS 08.99. Among the powers and duties cited, the statute directs the Board to: promulgate rules and regulations regarding the certification of welders; examine, certify and renew certification; define tests and certification methods; report annually to the Legislature and Governor.

REPORT CONCLUSION

Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting these practices are not within the scope of this review but require legislative consideration. In debating these issues, the legislative oversight committees should consider the findings and alternatives presented in this report in reaching their decisions.

Report Conclusion

In our opinion, there is not a sufficient public need for continuing either the Board or State licensing of welding personnel.

Most consumers (e.g. engineers, construction and pipeline companies) of welding services possess adequate knowledge to properly evaluate the qualifications of those offering the service. To assist in identifying qualifications, the American Welding Society administers a certification program for welding inspectors, the only classification of welding personnel being licensed by the State. If it is determined that State regulation of welding is desirable, less restrictive alternatives--such as statutory requirements for welder, qualification certificates--are viable (see Recommendation No. 1).

In the event that the Board is reestablished by the Legislature, certain changes should be implemented in order for the Board to more effectively serve the public.

The Board should thoroughly review applications before licenses are issued (see Recommendation No. 2).

To better represent the public and the industry, statutory requirements for membership on the Board should be expedited (see Recommendation No. 3).

Statutes governing the Board should be reviewed and amended to clarify duties, enforcement responsibility, and the applicability of administrative adjudication procedures (see Recommendation No. 4).

Additional revision of Board regulations is needed to make them clear, reasonable and within the scope of the Board's purpose (see Recommendation No. 5).

The Board should develop formal objectives and report performance as required by AS 37.07.050 and AS 08.99.080 (see Recommendation No. 6).

FINDINGS AND RECOMMENDATIONS

Findings and Recommendations No. 1 through No. 6 are addressed to the Board of Welding Examiners, with Recommendation No. 3 also being addressed to the Office of the Governor.

Recommendation No. 1

We recommend that the Board of Welding Examiners be allowed to terminate June 30, 1980 and that State licensing of welding personnel be discontinued.

Under regulations which became effective in August, 1978, the Board of Welding Examiners is licensing "welding inspectors" (WI). Among the functions of the WI are testing weldments and issuing welder qualification certificates. Such certificates are required under the regulations for welders performing operations in which weldment failure would be hazardous to life or property.

Requirements for WI licensure are based on the American Welding Society (AWS) program for certification of WI's. The written examination required for licensure is administered by AWS. In addition to other requirements for AWS certification, an applicant for State WI licensure must have passed a welder qualification test, demonstrating practical skills.

In determining whether there is a continued public need for the Board of Welding Examiners, several factors should be considered.

The primary goal of regulating occupations is to protect the public. Licensing is desirable when:

1. The unlicensed practice of an occupation poses a serious risk to the life, safety, health or economic well-being of a relatively large number of consumers;

2. the consumers of a service are at a disadvantage in evaluating the qualifications of a provider; and

3. there is evidence of abuse, by providers of the service, to which the consumer has inadequate recourse through the general law.

Because of its relationship to the integrity of a structure, inferior welding has the potential of resulting in physical, economic or environmental harm. However, we believe the potential has a public impact only in cases of large-scale projects, such as public structures, commercial buildings, or ventures like the pipeline.

Persons responsible for the construction of such projects, who are actually the "consumers" of welding services, can be expected to have the experience and knowledge needed to evaluate the qualifications of welding personnel. This is especially true now that the AWS certified WI program provides a means of identifying qualified inspectors. Furthermore, the AWS program includes a code of ethics and procedures for handling consumer complaints.

It should be noted that if an interstate gas pipeline is built, construction activities would be under the jurisdiction of the Federal Power Commission. The Board's authority to impose welding regulations over such a pipeline is doubtful.

Also noteworthy is: (a) AWS's lack of support for State licensure of welding personnel, and (b) that only one other state to date requires licensing of WI's.

We found no evidence that State licensing of WI's affords significant additional protection to consumers. Furthermore, of the few complaints filed with State agencies against the welding occupation, only one alleged inferior welding practices, the remainder concerned unlicensed practice of the occupation or problems encountered in obtaining a license.

If, as a result of the "sunset" process, the Legislature determines that regulation of welding is needed, less restrictive alternatives are, in our opinion, viable. Welder qualification certificates can be required by statute and, if desired, the AWS certification program for WI's could be adopted by reference.

While we recognize the time and effort contributed by Board members, we do not believe that a sufficient public need exists for continuing the present licensing and regulatory structure.

However, in the event that the Board is reestablished, we recommend the following changes be made in its operation.

Recommendation No. 2

The Board should assume a more active role in the licensing process.

During our test of licensing files we noted the following:

1. Application forms do not request all the information necessary to determine if requirements for licensure have been met. There is no provision for documenting qualifications for initial licensure (as defined in 12 AAC 72.065(a) 1-8), except through the submission of AWS QC-1 certificate. Applicants for renewal are not asked to provide

evidence of the required visual examination. Consequently, none of the licenses renewed in 1979 documented that this requirement had been met.

2. At the direction of the Board, the licensing examiner was issuing licenses to applicants prior to a review of qualifications by the Board. In August, 1978, the Board began licensing "welding inspectors" and discontinued licensing "weld qualifiers". The change produced a certain degree of confusion on the part of the licensees, as well as the examiner, regarding the qualifications for licensure. As a result, licenses were issued to 4 (out of 48 tested) applicants who did not submit adequate proof of meeting the qualifications of a welding inspector.

AS 08.01.070(6) requires licensing boards to pass on the qualifications of applicants for licensure. As evidenced by the above described findings, current review procedures are not effective. As a result, the public is not being protected from unqualified practitioners, which is the primary objective of occupational licensing. We therefore recommend that no license be issued until the Board has thoroughly reviewed the qualifications of an applicant and has determined that all requirements for licensure or renewal have been met.

Recommendation No. 3

To ensure adequate representation of the regulated occupation and the general public: (a) the composition, terms and sources of nomination for Board membership should be reviewed and amended; (b) the Office of the Governor should make appointments in compliance with statutory requirements and in a timely manner.

As provided in AS 08.99.010-.050, the Board of Welding Examiners consists of seven members with extensive welding experience, three of whom must be engineers. Members are appointed by the Governor for staggered five year terms from nominations submitted by the Alaska Chapter of the American Welding Society and the Alaska Society of Professional Engineers.

Board Composition and Nominations

Over 20% of the licensed Welding Inspectors, as well as one in five Board members, responding to Legislative Audit questionnaires felt that the statutory requirements do not ensure adequate representation of the occupation. Their comments included opinions that the present Board consists of too many persons involved with test labs and that more than one member from the same firm should not serve concurrently. It was suggested that the Board should represent the various areas of the occupation: engineers, test labs, construction, fabrication and petrochemicals.

Furthermore, it was expressed that nominations should be accepted from the entire industry rather than two societies to which many qualified, interested persons are not known.

In addition to statute changes in Board membership suggested by licensees, in our opinion the Board should include at least one lay member, who has no direct financial interest in the regulated occupation. Although lay members lack technical expertise, they can and should contribute to policy formulation and enforcement decisions. The importance of a representative of the primary interest group, the public, should definitely be addressed.

Terms of Board members

Responses to licensee questionnaries also pointed to a significant opinion that Board member terms should be: (1) shorter (54% of those responding) and, (2) limited to no more than two consecutive terms (80% of those responding). The reason most frequently expressed was to create a more responsive, active Board.

Size of the Board

In addition, we believe that the Board is unnecessarily large when compared with other State boards and considering it currently licenses only 50 persons. We recommend a reduction in size to five members to increase operating efficiency and coordination with the Divison of Occupational Licensing (OL), and to reduce associated travel costs.

Appointments

Our examination of records in the Office of the Governor and the Division of Occupational Licensing (OL) showed that since 1973 the Board has had between 3 and 8 properly appointed members at a given time. In fact, it met the requirement for seven members for only nine months during the period reviewed. Of the "current" board, we finally determined--after receiving much conflicting information -- that three terms expired in December, 1978. In addition, only two of the seven members of the most recent board are engineers, as defined in the statutes.

In conclusion, we recommend that the Board seek changes in the statutes which will result in improved representation and efficiency of operation. Furthermore, as recommended in our October 30, 1978 performance review of OL, we urge the Office of the Governor to make more timely appointments to the occupational boards to ensure compliance with statutory requirements.

Recommendation No. 4

The Board should propose revisions to the statutes in order to clarify: (a) the intended powers and duties of the Board; (b) how welding regulations are to be enforced; and (c) the applicability of administrative adjudication procedures.

A. Authority for the Board of Welding Examiners is found in AS 08.99, which was last amended in 1970. Since that time, changes in Board membership, activities and regulations have occurred. As a result, several subsections of AS 08.99.080(a) no longer pertain to operations of the Board.

1. § 6 requires the Board to approve fees for welder certification tests. The Board no longer engages in this activity. However, this section was cited as the authority for charging fees for licensing welding inspectors.

2. § 10 states that the Board shall approve test facilities. The revised regulations omit this activity and instead address licensing of welding inspectors.

3. § 9 requires the Board to designate reporting procedures necessary to certify compliance with quality standards. No reporting methods are addressed in the regulations.

B. Statutes provide for the enforcement of welding regulations by both the Department of Labor (AS 08.99.080(b)) and the Department of Commerce and Economic Development (AS 08.01.087). The dual assignment of enforcement responsibility has resulted in confusion. The assignment of investigative duties needs clarification so that regulations are adequately enforced and consumer complaints are properly handled.

C. Although AS 08.01.090 states that the Administrative Procedures Act (AS 44.62) applies to proceedings held under the Centralized Licensing Chapter, the Board of Welding Examiners is excluded from a listing of agencies to which administrative adjudication procedures apply (AS 44.62.330). As a result of the omission, the applicability of the adjudication procedures is in doubt. The Board should be included in the listing in AS 44.62.330 through an amendment to the statutes.

Recommendation No. 5

The Board should continue its efforts in revising administrative regulations.

One of the primary activities of the Board over the past several years was the substantial revision of 12 AAC 72, the administrative regulations governing the occupation of welding in Alaska. The changes became effective August 21, 1978.

In the course of our review we noted several areas of 12 AAC 72 which merit further consideration, and possibly amendment.

1. Requirements for welder qualification (12 AAC 72.015) and welding inspector licensure (12 AAC 72.055) apply to all compensated welding operations in the State "in which weldment failure would involve hazard to life or property". The applicability of the regulations needs clarification to simplify interpretation and to make their enforcement manageable.

2. 12 AAC 72.045 requires "continuous employment" on a process (without interruption of more than 90 consecutive days) as a condition of maintaining a current welder qualification certificate. We believe this is unduly restrictive because:

   a. The regulations also require that a certificate be current under the code or job specifications under which it was issued.

   b. A welder qualified in several processes may be assigned by his employer to only one process for several months. Before he could be assigned to another process, additional time and expense would be requried for re-testing.

   c. The limited construction season in Alaska causes many welders to be without work for more than 90 day periods.

3. 12 AAC 72.105 requires an annual renewal of welding inspector licenses. This conflicts with AS 08.01.100 which requres biennial renewal of occupational licenses. It also creates additional administrative effort for both the Divisior of Occupational Licensing and the licensee, with no demonstrable benefit to the public.

4. 12 AAC 72.085 provides for quarterly examinations for welding inspector license. The provision,

which exceeds the regular semi-annual administration of the exam by the American Welding Society (AWS), was included to give sufficient opportunity to become licensed under the revised regulations. While we concur with the Board's reasoning, we feel they should review this policy in light of increased costs and the relatively small number (an average of 9) who take the exam each quarter.

In reviewing questionnaire responses from licensed WI's, we noted concern regarding the interpretation, acceptance and enforceability of the regulations. Doubts concerning the enforceability were likewise expressed by Board members who responded to a separate questionnaire: three believed they could not be enforced, expecially among small operators; two said they could be enforced if State funding for investigation was adequate.

We believe that the cited opinions of members of the occupation support our contention that additional revisions to the regulations are needed to make them clear, reasonable and within the scope of the Board's purpose.

Recommendation No. 6

With the assistance of the Division of Occupational Licensing (OL), the Board should develop procedures for defining its objectives and reporting its performance to the Governor and the Legislature.

As part of the "sunset" process of determining whether there is a continued public need for its existence, each Board must identify formal objectives. Where practical, these objectives should be quantifiable so that the Board's performance can be measured.

The budget process is the vehicle by which State agencies usually identify goals and objectives. While OL prepares such documents on a division-wide basis, objectives and measurements have not been developed for individual boards (see our October 30, 1978 performance review of (OL).

Furthermore, although required by AS 08.99.080(a)(8), the Board has not been submitting annual reports to the Governor and the Legislature. We recommend such reports be prepared and contain, at a minimum, the following information:

1. Board's purpose and objectives;

2. operating receipts and expenditues;

3. participation by Board members;

4. changes in statutes and regulations; and

5. significant activities and concerns.

The process of identifying objectives and reporting performance not only allows outside parties to evaluate the need for the Board, it also provides an important tool for the Board to evaluate itself and adjust its priorities for the most effecitve use of its resources.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analysis of Board activities relates to the public need factors defined in the "sunset" law. This analysis is not intended to be all inclusive, but addresses those areas we were able to cover within the scope of our review.

I. The extent to which the board, commission or program has operated in the public interest.

A. The Board revised its regulations (effective August, 1978), incorporating a nationally recognized program for certifying welding inspectors. However, we found that the regulations: (1) duplicate efforts of the national organization; (2) are vague with regard to applicability; (3) difficult to enforce (see Recommendatons No. 1 and No. 5).

II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

A. Due to statutory membership requirements and appointment delays, neither the public nor the occupation is assured of adequate representation on the Board (see Recommendaton No. 3).

B. The responsibility for enforcement of Board regulations is not clearly defined (see Recommendation No. 4).

C. The Board has not developed written plans or reported achievements by which to evaluate its performance (see Recommendation No. 6).

D. The Division of Occupational Licensing (OL) has not maintained updated statistics for Board use (see the OL Performance Audit Report).

III. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest.

A. Statutes governing the Board have not been revised since 1970. We noted several sections which have become obsolete, yet the Board has not proposed any changes (see Recommendation No. 4).

IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, and availability of service which it has provided.

A. We found no documentation of Board efforts to encourage input on the effect of its regulations and decisions, except as noted in V below.

V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

A. In accordance with the Administrative Procedures Act, the Board solicited written and oral testimony from persons interested in its proposed regulation revisions.

B. Board meetings are held four times per year and are announced in Anchorage, Fairbanks, Juneau and Ketchikan newspapers. However, they are not advertised in a timely manner (see the OL Performance Audit Report).

VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

A. No formal complaints concerning Board activities have been filed with OL.

B. Of the two complaints filed with the Ombudsman during the last three years, both were closed and considered rectified.

VII. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

A. The Board has not adequately reviewed applications for licensure. As a result licenses were issued to several persons whose qualifications were not adequately documented (see Recommendation No. 2).

B. Few complaints have been received against members of the regulated occupation. All but one dealt with unlicensed (rather than unethical or substandard) practice.

VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest.

A. We found no complaints or other evidence to indicate discriminatory practices by the Board. However, application forms request information on age. The question is of a potentially discriminatory nature and should be eliminated unless it is based on a bona fide occupational qualification.

IX. The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

A. Please refer to the previous section, Findings and Recommendations.

APPENDIXES

APPENDIX A

BOARD OF WELDING EXAMINERS
REVENUES COMPARED WITH EXPENDITURES
Fiscal Year 1978
(UNAUDITED)

Revenue (See Note 1)	$ -0-
Expenditures (See Note 2)	(11,289)
Excess of Expenditures Over Revenues	$(11,289)

Note 1

Prior to the revision of its regulations in August, 1978, the Board did not assess any fees for licensure. Examination fees are remitted directly to the American Welding Society which administers the examination. Therefore no revenue was reported for the Board prior to the Fiscal Year 1979.

Note 2

Expenditures include those made by Board members, such as travel and per diem and an allocated percentage (estimated) of total administrative expenses of OL. They do not include expenditures for efforts of other departments, such as the Department of Law, that may be assisting the Board and OL.

APPENDIX B

ADMINISTRATIVE STATISTICS

Licensed Welding Inspectors as of 3/12/79 (see Note 1)	Number	As % of Total
Alaska residence	27	55%
Out-of-state residence	22	45%
Total	49	100%

American Welding Society Welding Inspector Examination	No. of Examinees at Anchorage Test Site (Unaudited - See Note 2)
Date	
Fall, 1976	14
Spring, 1977	19
Summer, 1977	3
Fall, 1977	8
Winter, 1978	3
Spring, 1978	6
Summer, 1978	11
Fall, 1978	9
Winter, 1979	8
Total No. Examined	81
Divided by No. of Examinations given	9
Average No. per exam	9

Board Meetings in Calendar Years 1976-1978	
Average Number of Meetings per calendar year (see Note 3)	4.7 meetings
Average Number of Board members per meeting	4.6 members

Note 1

We were unable to determine, from information on file with OL, the legal residence of licensees. The above figures reflect mailing addresses.

Note 2

Numbers of individuals taking examinations were provided by the American Welding Society.

Note 3

At its January 27, 1978 meeting, the Board adopted a policy to hold meetings four times per year, on Fridays preceeding examinations. All meetings have been held in Anchorage.

APPENDIX C

QUESTIONNAIRE SENT TO BOARD MEMBERS

1. What are the goals and objectives of the Board?

Description	Number of Board Members' Responses (See Notes 1 and 2)
Decrease hazards to public/environment by improving the quality of welded products.	3
Improve quality of welded products.	1
Should be quality control, but currently involves self-prctective business interests.	1

2. What are the past accomplishments and future plans of the Board for meeting its goals?

Description	Number of Board Members' Responses
Past accomplishments:	
Revised regulations to license welding inspectors, thereby improving welding in general.	4
Economic self-interest.	1
Future plans:	
Maintain quality of criteria.	2
Give technical advice to State departments.	1
Should support Bureau concept; too much ill will towards present Board.	1
Continue pre-joint activity.	1

3. In what ways would the absence of regulation of welding in Alaska be detrimental to the public interest?

Description	Number of Board Members' Responses
Quality of component inspection and welder certification would suffer; non-code work would increase to detriment of the public.	3
Not detrimental; profesisonal societies have certification programs; private industry monitors itself.	1
Left unmonitored, quality would be circumvented to increase profits.	2
Higher cost because weldment failure is more expensive after a product is operating.	1

4. What alternatives to Board regulation of welding exist? Are the alternatives viable? Why?

Description	Number of Board Members' Responses
Bureau such as introduced by SB121; not viable; too expensive, bureaucratic.	1
Require extensive insurance coverage, relying on insurance companies to enforce standards; too expensive.	1
Eliminate Board; let industry police itself:	
Viable.	1
Not viable; not effective in past; only some large companies have developed quality control programs.	2
Utilize procedures other than welding; not practical.	1

5. Are existing statutes (AS 08.01 and AS 08.99) obsolete, vague, unduly restrictive, and/or inadequate to provide the Board with the authority to meet its objectives? What changes would you suggest?

Description	Number of Board Members' Responses
Adequate; no changes suggested.	2
Inadequate; need Bureau to perform physical function.	1
Somewhat vague, restrictive; Board's authority is doubtful but interest in welding has increased.	1
Obsolete; should address licensing of inspectors rather than welders, test facilities and code writing.	1

6. Are the recently amended regulations:

		Number of Board Members' Responses
A.	too restricitve; too lenient?	
	No; satisfactory.	4
	Yes.	1
B.	easily interpreted?	
	Yes.	4
	No.	1
C.	enforceable?	
	No, especially among small operators	3
	Yes, if State adequately funds investigations.	2
D.	accepted by those being regulated?	
	Yes.	2
	Partially or generally.	2
	Voluntary compliance.	1

7. What procedures are followed in the event a complaint against the Board or a licensee is received?

Description	*Number of Board Members' Responses*
Forward to OL for investigation; Board can act in advisory capacity.	*1*
Investigation; possible revocation of license.	*1*
No complaints reveived as yet against licensee.	*2*
Forward to Department of Labor to investigate.	*1*

8. In what ways, if any, could the Department of Commerce and Economic Development improve its service to the Board in the areas of administrative support and enforcement?

Description	*Number of Board Members' Responses*
No need for improvement.	*2*
OL does not understand Board function well enough to enforce.	*1*
Administrative support is excellent; Department of Labor is responsible for enforcement.	*1*
Need more funding for inspectors and to advertise regulations.	*1*

9. Should continuing education or re-examination be required for licensees? Why or why not?

Description	*Number of Board Members' Responses*
American Welding Society requires re-examination if licensee does not remain active in inspection. This requirement is sufficient for now.	*5*

10. Other comments to assist us in evaluating the need for the Board and its performance:

Description	*Number of Board Members' Responses*
Regulations are workable for large companies; small operators can not afford licensed inspector.	*1*
Create Bureau to perform Board's physical function; need internal regulations to prevent several Board members from one business from serving concurrently.	*1*
Board has been active in revising regulations; now responsible for maintaining standards.	*1*
Need additional funding for enforcement; should publicize regulations.	*1*

Note 1

Questionnaires were mailed to seven Board members. Replies were received from five.

Note 2

Because certain questions received several answers from Board members, total numbers of replies may exceed the number of Board members who responded.

APPENDIX D

QUESTIONNAIRE SENT TO LICENSED WELDING INSPECTORS

The following questions were sent to licensed welding inspectors (see Note 1). For each question we have noted the number of responses. We have also indicated the most typical written comments following each question as compiled from the questionnaire (see Note 2).

			Number of Licensees Responding		
			Yes	No	No Opinion
1.	(a)	Is certification of welding inspectors necessary to protect the public's health, safety and welfare?	35	2	0

Comments:

Yes--Quality of product is controlled establishing minimum qualifications for welding inspectors.

If inspections were not required, some contractors would use cheaper, unqualified welders.

No---Licensing does not ensure adequate protection;

Should not be limited to AWS-certified inspectors.

(b) If your reply to "a" was yes, which of the following methods of certification would be best:

	check one:
i. license issued by the Board	14
ii. license issued by the State	6
iii. only AWS certification	12
iv. other:	4

1. (Cont'd)

Comments:

Board - is better judge of qualifications due to knowledge of, and experience in welding; is flexible; can exercise closer control.

State - less likely to be prejudiced.

AWS - has expertise, good program; usable in all states; more efficient.

Other - Employer training program results in known abilty.

	Number of Licensees Responding		
	Yes	No	No Opinion
2. Are current requirements for obtaining a welding inspector license (education, experience, written and practical tests) fair and reasonable measures of technical knowledge and ability?	32	5	0

Comments:

Yes--Exam is fair test of knowledge; practical skill is necessary.

No---Qualification as welder is not necessary to inspect; need more specific practical experience; no proof of employment.

3. Has the Board given sufficient notice to the public and/or the profession regarding:			
a. exams?	26	5	6
b. meetings?	20	10	7
c. proposed regulation changes?	18	12	7

Comments:

Yes--the small number of licensees allows for adequate communication with Board
No---many are unaware of Board's existence; newspaper notices are not effective.

		Number of Licensees Responding		
		Yes	No	No Opinion
4.	Are the recently amended regulations of the Board (12 AAC 72):			
	a. too restrictive?	2	23	12
	b. too lenient?	3	20	14
	c. enforceable?	19	8	10
	d. easily interpreted?	23	3	11
	e. accepted by industry?	15	10	12

Comments:

Board not needed since firms must comply with codes.

Regulations are not being observed, especially by small contractors; are not enforceable.

Regulations are too general; need to clarify applicability.

Inadequate publicity on regulations; needed to protect public; industry more interested in profit than quality.

5.	In what ways can the Board assure the public of continued proficiency of licensed welding inspectors:			
	a. evidence of continued employment in the field?	33	1	3
	b. periodic re-examination of practical skills?	9	16	12
	c. periodic written re-examination?	3	20	14
	d. continuing education?	18	8	11
	e. Other?	6	—	31

		Number of Licensees Responding		
		Yes	No	No Opinion
5.	(Cont'd.)			
	Comments:			
	Re-examination is necessary only if there is a sustained absence from inspection.			
	Other ways include eye exams, inspection for compliance, maintenance of AWS certificate.			
6.	Are you aware of any discriminatory practices by the Board with regard to an individual's race, religion, color, national origin, age or sex?	1	35	1
7.	Do you feel the support provided by the Department of Commerce and Economic Development, Division of Occupational Licensing, has been adequate:			
	a. in the area of administrative services?	26	5	6
	b. in investigating complaints?	10	8	19
	Comments:			
	Not enough knowledge of welding.			
	Need funding for Department of Labor to enforce.			
	Not aware of support or complaints.			
	Need to inform affected parties.			
8.	By statute, the Board of Welding Examiners consists of seven members with extensive welding experience, three of whom must be engineers. Members are appointed for five year terms from nominations submitted by the Alaska Chapter of the American Welding Society and Alaska Society of Professional Engineers. Do you believe the Board:			
	a. is too large?	3	25	9
	b. is to small?	1	25	11

		Number of Licensees Responding		
		Yes	No	No Opinion
8.	(Cont'd.)			
	c. adequately represents the regulated profession?	25	7	5
	d. members should have shorter terms?	14	12	11
	e. members should serve a limited number of terms?	20	5	12
	f. should be served by a public member, not directly involved in welding?	4	25	8

Comments:

Should represent various segments of industry, including active welders; too many on Board represent test labs.

Shorter terms would create a more responsive Board.

No more than one or two terms.

Board is working well under current structure; conscientious.

9. Other comments to assist us in evaluating the public need for the Board and/or its performance:

Comments:

Good regulations but problems in implementation and enforcement.

Dubious need for Board.

Board has improved quality of welding; unqualified people used in past.

Need to consider products fabricated outside of State, safety standards, reports on Board activity.

Reputable company training programs should be accepted in lieu of license.

Note 1

Number of questionnaires sent to licensees	44
Number of responses	37
Response rate	84%

Note 2

Comments were reviewed and considered in the performance of our audit and are briefly summarized in this appendix.

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

RECEIVED
SEP 28 1979
LEGISLATIVE AUDIT

September 28, 1979

Mr. Gerald Wilkerson
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

We have reviewed the enclosed agency response to your preliminary report entitled:

"A Performance Review of the Board of Welding Examiners - June 8, 1979"

Additionally, we have reviewed and are enclosing copies of responses by the following Board Members:

Donald M. Lockman
Don Delk
Peter A. Millar

We believe the Department of Commerce's response appropriately sets forth the position of the Executive Branch of State government affecting continued existence of the Board. Member responses attached for your information, provide additional insight and reaction to your report recommendation.

Sincerely,

Richard A. Smith
State Internal Auditor

RAS/PJA/mjc
Enclosure

08-H2LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER / *POUCH D – JUNEAU 99811*

September 27, 1979

RECEIVED

SEP 28 1979

LEGISLATIVE AUDIT

Mr. Gerald Wilkerson, C.P.A.
Division of Legislative Audit
Pouch W
Juneau, Alaska 99811

Dear Mr. Wilkerson:

The following comments are in response to the Performance Review of the Board of Welding Examiners, as submitted by the Division of Legislative Audit.

The department is still evaluating the viability of alternative methods of regulation and reserves the right to make additional findings and conclusions which may affect the continued existence of this board. This information will be presented to the Legislature during sunset hearings.

Thank you for the opportunity to respond to this report and for the time and effort expended by you and your staff.

Sincerely,

for Bertram L. Wagnon
Acting Commissioner

BLW/kb

8235 Endicott Street
Anchorage, Alaska 99501
September 17, 1979

Ms. Elaine Garrett
Management Analyst
Dept. of Commerce & Economic Dev.
Div. of Occupational Licen ing
Pouch D
Juneau, Alaska 99811

RECEIVED
SEP 28 1979
LEGISLATIVE
AUDIT

Dear Ms. Garrett:

In response to the recently received Performance Review of the Board of Welding Examiners submitted by Gerald L. Wilkerson, CPA, Legislative Auditor, Division of Legislative Audit dated August 23, 1979, I submit the following statements.

In reviewing the aforementioned Audit Report, it is quite obvious that the Audit Committee lacks the welding knowledge to fully understand the needs of the public in reference to protection against hazards from poor or inadequate weldments within the State.

In the beginning of the Boards existence, the largest issue was addessed to the licensing of weldors within the State. It was recognized by the Board that a weldor licensing would be a monumental task that would require a tremendous personnel and monetary effort on the State's part. The personnel requiring the expertise in this profession would not be available to the State as persons of this level are sought after by the industry on a continuing basis. Besides the lack of qualified persons available, the funds for such a task was also not available. It was recognized by the Board that qualified people from industry could control the certification of weldors if these qualified people could be responsible by proving their qualifications as Welding Inspectors.

The Board of Welding Examiners then began formulating a program to examine the qualifications of Welding Inspectors, although funds were not available from the State to adequately put a program of this nature together. At this same time, unbeknown to the Board, the American Welding Society had recognized the same need for testing Welding Inspectors and had implemented a testing procedure. The Board then adopted the AWS Testing Program guideline and the licensing of Welding Inspectors was born within the State.

The State licensed Welding Inspector holds a responsibility to the public to certify weldors within the guidelines of the nationally recognized Welding Codes used in Alaska. This responsibility protects the public from gross negligence of improper weldments that could fail, but only to the extent of those weldors actually certified by the Welding Inspectors.

As this method of assurance is still in the infancy stage due to the newness of the application, it is immature to criticize the effectiveness of the program. As more Welding Inspectors are licensed within the State, the greater the public protection will become.

There have been many instances of weld failures of crane booms, trailer hitches, store awnings, fishing boat hulls, school playground equipment, recreational equipment as well as building structures and harbor facilities, all of which are hazardous to the general public. Only trained personnel can recognize a poor or inadequate weldment and determine the abilities of a certifiable weldor.

It has been proven over the years that industry does not generally control the quality of production, evidenced by the need of welding codes to guide the users to implace restrictions of fabrication to assure quality. This is also evidenced by the need of societies to indoctrinate testing programs and Alaska to create the Board of Welding Examiners.

The Board has made acknowledgeable strides in creating a regulation that closely fits the needs of public interests, although additional revisions and clarifications of the regulations are clearly recognized by the Board members. These Board members serve without payment for their services, so progress is naturally slower than paid employees would be, although the expertise of these members would be more costly than the State would care to absorb if they would be available for hire. The cost to the State is at a minimum and should be recognized by the Audit Committee.

The size of the Board should be enlarged to accommodate the availability of donated services and to expand the current expertise level needed to properly evaluate the publics needs and industry's acceptance to those safeguards. As Board member nominations are received from two societies, they are not restricted to the societies membership by any means.

The Board's future activities will be guided by the public's desires of creating more effective regulations that are enforceable pursuant to the public's needs. These goals are yet to be formalized and categorized to a general public need. With the forthcoming projects of the petrochemical industry in the State, a greater need will be emphasized for the Board's guidance in revising regulations to insure the Alaskan public will be protected from inadequate welding by assuring Welding Inspectors are properly tested and are qualified to pass judgement on the certification of weldors.

There has already been a Senate Bill proposed to create a welding bureau within the State which would be more of a bureaucratic administration of welding than a regulation, which if nothing else, emphasizes the need for the Board of Welding Examiners to create a better regulation guideline.

Sincerely,

Donald M. Lockman

Donald M. Lockman, Chairman
Board of Welding Examiners

/nl

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

POUCH D
JUNEAU, ALASKA 99811

BOARD OF WELDING EXAMINERS

September 25, 1979

RECEIVED

SEP 28 1979

LEGISLATIVE AUDIT

Mr. Don Lockman
Chairman
Board of Welding Examiners
8235 Endicott Street
Anchorage, Alaska 99501

Dear Mr. Lockman:

Enclosed are my responses to the preliminary audit report on the Board of Welding Examiners.

1. Report Conclusion

a. I concur that most consumers (e.g., engineers, construction and pipeline companies) of welding services possess adequate knowledge to properly evaluate the qualifications of those providing services.

b. However, from personal experience, it has been observed that those who have the knowledge are not the individuals out in the field doing inspection and quality assurance work. Examples: 1) the Ketchbaw-Alyeska controversy would, in all probability, not have occurred if the project was being adequately controlled by qualified welding inspection. I personally know senior managers on the project that had very limited knowledge of welding or inspection. I know of one inspector who was a used car salesman with no qualifications; 2) movies of the first pipeline run on the North side of Cook Inlet clearly show that pipeline inspection consisted of a truck mirror on a three-foot handle and a flashlight. Clearly inadequate; 3) the roof of the Bethel Hospital and the walkway between the campuses at Alaska Community College and the University of Alaska in Anchorage demonstrate a complete lack of inspection. Untold dollars were spent on correcting the projects to ensure safety to the public.

08-H8LH

c. In short, millions of dollars have been spent to correct deficiencies that would not have occurred with adequate welding inspection. Also, hazards claiming lives have occurred within the State which could have been prevented if adequate inspection had been available to correct safety violations or defect code violations. Examples: Building 6-900 on Elmendorf burning in the 1960's and killing a welder and helper. A welder killed when working off of empty gasoline drums during construction of the parks highway.

d. I believe that the knowledge is possessed by the consumers but that it, in many cases, is not, or inadequately applied.

e. I agree that the AWS welding inspection program is the best thing since light bread, however, at this time, there is nothing that requires companies to use qualified inspectors (except 12 AAC 72), that has been the direction that the board has taken to provide higher quality inspection to welding projects, thereby saving the public untold dollars in rework and to increase the safety during welding operations and in the final product.

2. Recommendation No. 1

I admit that the board has problems that must be corrected. I, however, believe that the board is needed as shown in the preceding comments. I also feel that, for the last year, the board has made very little progress since almost all energy has been expended on Sunset Review. If we can ever get this review completed and get back to work on revising statutes, regulations and implement corrections to problems, we will make great strides toward protecting the public (our main job).

This audit has been very helpful in pointing out problem areas, but we must now have time to work in implementing the recommendations instead of continuing to prepare for the review.

Recommendation No. 2

1. The State does not need to look at visual examinations since it is virtually impossible to obtain or maintain an AWS QC-1 Certificate without the results of the exam being received by AWS. We do not need to increase the bureaucracy by requesting something that has already been requested and supplied.

2. I concur that the board should review qualifications prior to issuing licenses.

Recommendation No. 3

1. I agree. However, I consider myself a lay member since I work for the Federal Government as an aircraft maintenance officer. I have very little chance to gain monetarily from any actions of the board. I also am technically qualified to make good input to the board's operations. If appointments are made from the entire industry some method must be set up to solicit applications.

b. The Office of the Governor must respond in a timely manner in order to be effective.

Recommendation No. 4

a. Concur.

b. Concur.

c. Concur.

Recommendation No. 5

1. Concur.

2. This one is tough, but should be looked at.

3. Concur.

4. Concur.

Recommendation No. 6

1. Concur.

2. Concur.

3. Concur.

4. Concur.

5. Concur.

Additional Comments

I was asked for more information than I could supply simply because of one reason: time. It seems that every time a response is required from me by the Division of Legislative Audit, I am working 14-hour days and on my way out of State. Twenty days to respond is inadequate. If we could respond during the next scheduled board meeting, we could work for a couple of days and come up with the type of response that you are

looking for. All board members are busy and need additional time to meet together to comply with your wishes.

Appendix A

If the board has collected no revenues, the companies that have paid for test lab licenses in the past, as well as myself, paying for welder qualifier and welding inspector licenses are surely getting ripped off. I suggest homework should be done. I also feel that the expenditures by the board are insignificant for the amount of work that has been done by the board.

Appendix D

It appears to me that properly qualified welding inspectors (if not qualified they could not pass AWSQC-1), more or less support the board. Individuals who cannot qualify under AWS QC-1 will not (for obvious reasons), support the board.

I appreciate the opportunity to reply to the Division of Legislative Audit, but, again, request more of the item that I have the least of, time.

Very truly yours,

Don Delk / bjf

Don H. Delk
Secretary

DHD/sa2/6

RECEIVED
SEP 28 1979
LEGISLATIVE AUDIT

August 9, 1979

To: Don Delk
Secretary, Board of Welding Examiners

Re: Comments in regards to Judy White's letter of June 20, 1979 to the Board of Welding Examiners

In general the letter received by Judy White, Auditor Division of Legislative Audit, in regards to Sunset Legislation is very well written and pinpoints exactly many of the problems of the Board of Welding Examiners.

I would like to take exception, however, to the following points:

a) AWS's lack of support for State licensure: Robert Foxall, AWS National Chairman, 1978; John Moeller, AWS Chairman, 1977 and Ken Fordyce, AWS National Certification Chairman have been present at Anchorage AWS meetings and have spoken highly of the Board of Welding Examiners' work in regards to licensing inspectors.

b) It may be true that only one state requires licensing of Welding Inspectors, however the AWS certification program has only been in effect since 1976 and thus it is understandable that very few states have adopted the requirement of certification.

c) Certification of welders instead of inspectors was discussed previously by the board. It was felt that it is easier to monitor and license 100 welding inspectors than 2,000 welders. I do agree that monitoring either welding inspectors or welders by state agencies is not feasible, however I do believe many individual welding inspectors have vastly upgraded their knowledge and ability in meeting the state license requirment.

d) In regards to the state license files, there are discrepencies all of which are minor and easily corrected. I do believe that the public is being protected from "unqualified practitioners" to a greater extent than ever before.

e) In regards to the make up of the Board of Welding Examiners size, appointments, etc. I would agree that we need a more diverse group, however I would think that seven members is a workable number. Meetings of twice or once yearly I would think is a better solution for cutting costs than limiting the numbers of members to five. We may only affect 50 to 100 inspectors, however the regulations affect thousands of welders.

f) In regards to revising the statutes, revising administrative regulations, developing board objectives and document administrative procedures; many good points were brought up. I would like to see the Auditor, Judy White, attend our next meeting if possible in order that we might make some progress in these areas.

In conclusion, I would say that although the present statutes are probably unenforceable to a large extent they never the less have made a very positive impact in the area of welding in Alaska with many inspectors being licensed

through the American Welding Society. Personally I do not believe the Board should be terminated in 1980, however I do not feel that further regulation of the industry by government is necessary either.

Peter A. Millar, P.E.
Member of the Board of Welding Examiners

RECEIVED
OCT 9 1979
LEGISLATIVE AUDIT

Legal Services
Plumbers & Steamfitters
Union Local 375
3568 Geraghty Street
Fairbanks, AK 99701

October 3, 1979

Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch WF
Juneau, AK 99811

RE: A Performance Review of the Board of Welding Examiners, June 8, 1979.

Dear Mr. Wilkerson:

Your letter of September 10th has requested a reply within twenty (20) days. In order to meet this deadline, we two board members have had several meetings and discussions. We have not had time to get together with the entire board or to circulate a reply, so that all of the board could participate in this answer.

At the time of the Legislative committee hearing, the welding board contemplates "presenting its case." Our discussions indicate that this case will be in three parts:

1) an orientation in respect to welding

2) recommendations of prominent authorities throughout the United States with respect to State regulation of welding, and

3) a series of specific proposals including but not limited to those raised by the preliminary audit report.

By way of the requested written reply, to the findings and recommendations of the written audit report, we set forth the following:

1) Re: Recommendation No. 1. Termination of the Board. We disagree. The performance review sets forth good criteria to determine whether licensing is desirable. Essentially we agree that licensing is desirable when a) unlicensed practice poses a serious risk; b) consumers are at a disadvantage in evaluating the welder; and c) there has been abuse with inadequate recourse through the general law. Here the unlicensed practise can mean failure of the weld with the attendant sinking of the vessel, collapse of a structural steel member, bursting of a pipe, leakage of carbon monoxide from a muffler into the interior of an automobile, etc. It is safe to say that the general public does not know enough about welding and welders to be able to evaluate a person's qualifications as a welder. The sinking of barges, collapse of crane booms and leakage of pipelines and car mufflers, have resulted in loss of life and environmental damage; in addition to the structural damage and loss of time which can be compensated through the general law. Therefore, licensing is desirable.

Performance review is correct in indicating that the State of Alaska has not been in a financial position to regulate, by licensing, all welding personnel in the past. It is also correct in indicating that only one other State to date has elected the stop gap measure currently used by the Board of Welding examiners, of licensing welding inspectors. We respectfully suggest, that that time is at hand when public safety and environmental necessity merit the regulation of welding in a more thorough manner. We further suggest that the logical means to do this is through a State Board of Welding Examiners, who will be able to be more active than the Board has been allowed to be in the past.

2) Re: Recommendation No. 2. The Board more active in Licensing. We agree with this recommendation. The performance review makes excellent points in this regard and its suggestions together with others to be proposed by ourselves should be adopted within the next year. To implicate these will require action by the Board in promulgating regulations and a budget which will permit actual work in the field. It is to be hoped that both of these processes could be completed by the beginning of fiscal 1980-81.

3) Re: Recommendation No. 3. Assuring adequate representation on the Board. We concur with the bulk of this recommendation. The performance review is good as far as it goes, in reviewing the Board composition, terms, etc. We feel that there are additional factors which should be considered in the make-up of the Board and the terms to be served. This is a Legislative process and we will be presenting specific recommendations to the Legislature in this regard. Because it is the turn of the Welding Board for review under the sunset law it would be hoped that these matters could be completed by the Legislature at its next session. The harder portion of the recommendation to implicate, concerns the direction that the Governor act in a more timely manner in making appointments to the Board. The Board itself would be glad to participate as requested in screening and recommending appointments. It is beyond the ability of the Board to direct the Governor in the course of making appointments. We agree with the recommendation but are not in a political position to be able to implicate it.

4) Re: Recommendation No. 4. Board recommendation of statutory revisions. We concur with this recommendation. As mentioned above we feel that the time has come when the State no longer need use the Board of Welding Examiners as a stop-gap measure to "do the best it can", to protect public safety and environmental concern. We favor the review of powers and duties of the Board. The Board has long requested fiscal support for the enforcement of welding regulations, since it is obviously quite difficult to be a fierce tiger when you are toothless. We certainly have no objections to the applicability of the administrative procedures act. Implementation of this should be by Legislative action and it can be completed by the effective date of Legislation affecting the welding board during 1980.

This paper is not the place to present a series of detailed recommendations. These will be provided at the Legislative hearing.

5) Re: Recommendation No. 5. Continuing revision of administrative regulations. We concur with the recommendation although we may differ on some of the detailed suggestions. Once again these suggestions are good, they represent needs that should be met and that the Board has been endeavoring to meet over the past couple of years. We propose that the Board continue its process of review and address the specific points raised. This should be implicated by board action with a target date of July 1, 1980.

6) Re: Recommendation No. 6. Defining objectives and reporting to the Governor and Legislature. We concur with the recommendation, feeling that part of the defining of objectives is established by the Legislature, and that staff time will have to be provided to permit the requested reporting to be done. Because this recommendation is partially budgetary it will have to be accomplished through both board action and legislative action and would probably become effective July 1, 1980 when the new budget becomes effective. We hope that the presentation that we will be making to the Legislative committees as part of the "sunset" process, will be of considerable help in arriving at the implication of this recommendation.

We hope that we will be notified of the time of the Legislative committee hearing at the earliest possible date. A good presentation requires lead time to make people available and work concepts into shape. We look forward to cooperating with you in the future in this process.

Respectfully submitted,

J. C. WINGFIELD

PHIL DAVIS

COMMITTEE REPORT

HOUSE

5/26/81

FURTHER: FINANCE

(5)

Date: 3-2-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 595

"An A[illegible]ontinuing the existence of the Board of Welding Examiners; and pro[illegible]ding for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____ CHAIRMAN

H 60 (Rev. 3/81)

HB595

Jan-28, 1982
Box 977
Wasilla, AK.
99687

Hello Mr. Terry Martin,

I'm writing in regards to the states of the Board of Welding Examiners. I am a firm believer in minimal government and related agencies, however, at this time I recommend retaining the Board for these reasons:

1. It has proven extremely frugal with practically no cost to the State - it has taken in approx. $2,000 over the past year to offset the approx $2,000 expenditures of its activities.
2. I, as a welding inspector, have seen several cases of extremely poor welding which would have endangered life or property if not stopped from being put into service before correction:
   a) These include the welder

bases of H-Beam piling supports for electric transmission lines along the busy Glenn Highway.
b) Also the Airport Control Tower at Bethel had serious defects which were found in time by a Liscensed welding inspector.

If we had a swift, effective judicial system which could hold people and companies responsible for slubby work before the damages were done, then I'd say we need no such watch dog for weld quality. But such isn't the case and in fact, it appears to me that a few people want to start a Welding Bureau which I believe would be no more effective and would grow into a full blown Tax eating hog.

Some of the same people who want the Welding Bureau have not been able to pass the rather stringent Welding Inspectors Test which also requires 5 years of experience in the welding field.

In these days of hundreds of millions of dollars in the state budget it is amazing that the Board of Welding Examiners have worked within such a small budget and been effective.

I believe strongly in the "sunsetting" concept but would even go further - so that when an agency is found to be ineffective and/or costly compared to a possible alternative, the legislature should be able to liquidate it without waiting for the 5 year period for sunset consideration.

Thank you for your attention to this matter.

Sincerely
John D. Ward
Certified Welder, Welding Inspector, & Instructo

ALASKA STATE LEGISLATURE

TWELFTH Legislature FIRST... Session

HOUSE ...BILL..... NO. ..595.

By ...BROWN AND ANDERSON.....

"An Act continuing the existence of the Board of Welding Examiners; and providing for an effective date."

Bd. of Welding Examiners

Introduced in the House 5/26 ..... 19..81

31-002

HISTORY IN THE HOUSE

19 81

May 26 Read first time and referred to Committee on

Labor & Commerce and Finance

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by Speaker
Sent to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19 Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by President
Returned to House

SECRETARY OF THE SENATE

HISTORY IN THE HOU

19 Received from Senate

Concurred in Senate am thus adopting:
VOTE

Failed to concur in Sena ment; asked Senate to re
VOTE

Senate receded from am
VOTE

Senate failed to recede f amendment
VOTE

CC appointed by House

CC appointed by Senate

CC adopted by House
VOTE

CC adopted by Senate
VOTE

To enrolling
Reported correctly enro
Sent to Governor

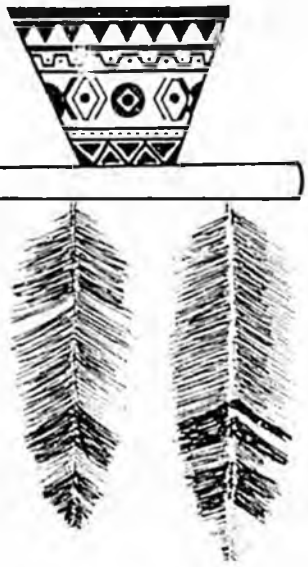
..... by

Filed with Lt. Governo

Chapter No. .....

J&A INC.

(907) 274-4856



February 20, 1982

Representative Terry Martin, Chairman
House Labor & Commerce Legislation Committee
Twelfth Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Sir:

We understand that your committee is in charge of reporting out for House Bill 595 to reestablish the Alaska State Board of Welding Examiners. In context we support an Alaskan need for some credible entity acting in an overview capacity on welder certifications. We are not familiar with this special bill. We understand that the bill would reestablish the retiring board of welding examiners where we served a short term. We could not concur totally with the past approach which suffered extensively from imput from our resident testing laboratories. The board and ensuing regulations, however, are vital to qualifying a welder's ability. This is especially interesting in the Alaska's petroleum industry where "the State" is so heavily involved and the joining of metals (i.e. welding) can be so closely associated with liability. Without some type of homogeneous examination and certification any novice welder may profess efficiency in a number of welding procedures totally outside his capabilities. We believe the present certification process has been and will continue to be in the best interest of Alaska and Alaskans. We would appreciate a copy of the draft legislation for review and comment.

Sincerely,

James W. Crippen

JWC/ca

cc: Representative Randy Phillips

ARCHITECTURE ENGINEERING (907) 276-1990 CONSTRUCTION (907) 274-4856

P.O. BOX 8-830 ANCHORAGE ALASKA 99508

MSG 82-00012569 PRTY 1 03/09/82 11 :9:34 ORIG: LM00 IN= 0006 OUT= 0037
FROM: MARY/MATSU TO: JNU INFO
TARGET: LJH2 SUBJ: P.O.M. PAGE 0005

TO: SENATORS MULCAHY, HOHMAN, FAHRENKAMP, RODEY, ZIEGLER
REPS. MARTIN, BYLSMA, RANDOLPH, ROGERS, GARDINER

FR: RON PALMER
P O BOX 145
WASILLA 99687

RE: CERTIFICATION OF WELDERS

IT IS MY UNDERSTANDING THAT THE BOARD OF WELDING EXAMINERS WISH TO ENACT CERTIFICATION OF WELDERS AND I AM OPPOSED TO THIS IN ANY MANNER. IF THIS IS THEIR PLAN, I WOULD BE OPPOSED TO THE CONTINUATION OF THIS BOARD. THANK YOU.

Schooley and Associates
Welding and N.D.T. Consultants
P. O. Box 2173
Valdez, Alaska 99686

February 10, 1982

The Honorable Mr. Terry Martin
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Martin:

It has come to my attention in recent weeks that there is an effort under way in Alaska to dissolve the State License requirements for welding inspectors. I think this would be a great disservice to the people of Alaska. At present, a welding inspector has to go through considerable time and effort to be licensed in Alaska. This helps to insure that welding inspectors are indeed qualified to make the determinations in the field that may affect the life and property of Alaskans.

I have been involved in the Welded Construction Industry since 1958 and have seen too many cases of unqualified inspectors allowing work schedules or favors from the contractor doing the construction to sway their decisions. I feel Alaska has taken a giant step into the future by licensing welding inspectors and setting down a code of ethics for welding inspectors. I hope all other states adopt such a forward looking program. For anyone to degrade or dilute this program would be a loss for Alaska and the other states considering such a program.

Sincerely,

James A. Schooley Jr

James A. Schooley, Jr.
AA0130

HB 597

COMMITTEE REPORT

HOUSE

3/29/81

(5)

FURTHER:

Date: 2-9-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 597

"An Act relating to the sale of bread."

under consideration and reports it back as follows:

[ ] 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 cindiv.

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 3/81)

There is an effect on the

CPI (Consumer Price Index)

? Historical Context — of Washington Law

Deceptive Practices - "Air" Bread
45.75

Office Copy

Introduced: 5/29/81
Referred: Labor & Commerce

IN THE HOUSE BY HAUGEN AND ROGERS

HOUSE BILL NO. 597

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the sale of food bread."

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

* Section 1. AS 45.75.200 ,190, 45, 755, 250, 280, AS 45.75.310 is amended by adding a new subsection to read:

(d) The marking provisions of this section do not apply to unwrapped loaves of bread.

* Sec. 2. AS 45.75.250 is repealed.

Passed out w/amendments

TO

Rep. E. J. Haugen
House of Reps Pouch V
Juneau, Alaska 99811

FROM

HAMMER & WIKAN, INC.
Box 249
Petersburg, Alaska 99833

SUBJECT:

2PM

FOLD HERE

DATE 4/10/91

MESSAGE

Ernie —

After you & Joe talked with me today I called Ed Poolley at A/S — and brought him up to date — He has delegated Jess Garcia, Director of Procurement to do research & other staff in this Road Deal —

Jess is one helluva good man & he gets the jobs done — He is one reason why A/S is where it is today —

His Phone is extention 740 or he can be reached dial to his office 206 — 767-8 — 740 — and he'll get any info you need — Also Keep him posted with copies etc —

Your Kenny was just in my office to say hello and to look for odd jobs etc — He is looking good — He said you were planning to come down for Easter — See you then —

SIGNED Art

DATE

REPLY

SIGNED

Poolley will be gone from A/S 7 days a week —

FORM 1100, REGENT FORMS, PENNSAUKEN, N.J. 08109

LETTER-LIMINATOR

RECIPIENT: RETAIN WHITE COPY, RETURN PINK COPY

ASSOCIATED GROCERS, INCORPORATED
3301 South Norfolk P.O. Box 3763 ■ Seattle, Washington 98124 ■ (206) 762-2100

April 8, 1981

Mr. Pete Jeans
Deputy of Commerce
State Office Building
9th Floor Pouch "D"
Juneau, Alaska 99811

Dear Pete:

Enclosed is a copy of Associated Grocers' Bakery Order Guide. I have circled the 36 products not available to consumers in Alaska due to current weight regulations as we discussed on the phone.

The bakery industry in the past few years has gone to other than 16 on increments in many breads. Due to the ingredients in variety breads and because consumers want smaller loaves for freshness, many breads are 14, 15, and 22½ oz. loaves.

If I can be of any other service, don't hesitate to contact me.

Sincerely,

Ed Pooley
Sr. Vice President
Wholesale Operations

EP/pn

Encl.

cc: Ernie Haugens
Alaska State Legislature
Pouch "V"
Juneau, Alaska 99811

Jess Garcia
Paula Garmo-Smith

Here are the current laws and subsection changes that HB597 effects.

Sec. 45.75.200. Declarations of quantity and origin on packages. (a) Except as otherwise provided in this chapter, a commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale in intrastate commerce shall bear on the outside of the package a definite, plain, and conspicuous declaration of

(1) the net quantity of the contents in terms of weight, measure, or count;

(2) in the case of a package kept, offered, or exposed for sale, or sold in a place other than on the premises where packed, the name and place of business of the manufacturer, packer, or distributor; and

(3) the identity of the commodity in the package unless it can easily be identified through the wrapper.

(b) In the declaration required under (a)(1) of this section the qualifying term "when packed" or other words of similar import, or a term qualifying a unit of weight, measure, or count such as for example "jumbo," "giant," "full," and the like that tends to exaggerate the amount of commodity in a package, may not be used.

(c) Under (a)(1) of this section the director shall, by regulation, establish (1) reasonable variations or tolerances to be allowed, which may include variations below the declared weight or measure caused by ordinary and customary exposure, only after the commodity is introduced into intrastate commerce, to conditions that normally occur in good distribution practice and that unavoidably result in decreased weight or measure, (2) exemption as to small packages, and (3) exemptions as to commodities put up in variable weights or sizes for sale to the consumer intact and either customarily not sold as individual units or customarily weighed or measured at the time of sale to the consumer. (§ 23 ch 101 SLA 1961; am § 2 ch 78 SLA 1969)

This section is amended by adding subsection (d).

Sec. 45.75.250, Bread. Each loaf of bread and each unit of a twin or multiple loaf made or procured for sale, kept, offered, exposed for sale, or sold, whether or not the bread is wrapped or sliced, shall weigh one-half pound, one and one-half pounds, or a multiple of one pound, avoirdupois weight, within reasonable variations or tolerances established by regulation by the director. This section does not apply to biscuits, buns, or rolls, weighing four ounces or less, or to stale bread sold and expressly represented at the time of sale as such. The marking provisions of AS 45.75.200 do not apply to unwrapped loaves of bread. (§29 ch 101 SLA 1961)

This section is repealed.

tend to exaggerate the amount of commodity in the package. (§ 3 ch 1 SLA 1969)

Cross reference. — As to unlawful acts and practices with regard to advertising, see AS 45.50.471.

Sec. 45.7 .230. Misrepresentation of price. When a commodity or service is sold, or is offered, exposed, or advertised for sale, by weight, measure, or count, the price shall not be misrepresented, and the price shall not be represented in a manner calculated or tending to mislead or deceive an actual or prospective purchaser. When an advertised, posted, or labeled price per unit of weight, measure, or count includes a fraction of a cent, all elements of the fraction shall be prominently displayed and the numeral expressing the fraction shall be immediately adjacent to, of the same general design and style as, and at least one-half the height and width of the numerals representing the whole cents. (§ 27 ch 101 SLA 1961)

Sec. 45.75.240. Meat, poultry, and sea food. (a) Except as provided in (b) of this section, meat, meat products, poultry, and sea food except shellfish, offered or exposed for sale or sold as food, shall be offered or exposed for sale and sold by weight. When meat, poultry, or sea food is combined with or associated with some other food element to form either a distinctive food product or a food combination, the food product or combination shall be offered or exposed for sale and sold by weight. The quantity representation may be the total weight of the product or combination, and a quantity representation need not be made for each of the several elements of the product or combination.

(b) This section does not apply to meat, meat products, poultry or sea food which is for immediate consumption on the premises where sold, or as one of several elements comprising a ready-to-eat meal not to be consumed on the premises where sold. (§ 28 ch 101 SLA 1961; am § 4 ch 78 SLA 1969)

Sec. 45.75.250. Bread. Each loaf of bread and each unit of a twin or multiple loaf made or procured for sale, kept, offered, exposed for sale, or sold, whether or not the bread is wrapped or sliced, shall weigh one-half pound, one pound, one and one-half pounds, or a multiple of one pound, avoirdupois weight, within reasonable variations or tolerances established by regulation by the director. This section does not apply to biscuits, buns, or rolls, weighing four ounces or less, or to stale bread sold and expressly represented at the time of sale as such. The marking provisions of AS 45.75.200 do not apply to unwrapped loaves of bread. (§ 29 ch 101 SLA 1961)

Sec. 45.75.260. Butter, oleomargarine, and margarine. Butter, oleomargarine, and margarine shall be offered and exposed for sale and

(3) the identity of the commodity in the package unless it can easily be identified through the wrapper.

(b) In the declaration required under (a)(1) of this section the qualifying term "when packed" or other words of similar import, or a term qualifying a unit of weight, measure, or count such as for example "jumbo," "giant," "full," and the like that tends to exaggerate the amount of commodity in a package, may not be used.

(c) Under (a)(1) of this section the director shall, by regulation, establish (1) reasonable variations or tolerances to be allowed, which may include variations below the declared weight or measure caused by ordinary and customary exposure, only after the commodity is introduced into intrastate commerce, to conditions that normally occur in good distribution practice and that unavoidably result in decreased weight or measure, (2) exemption as to small packages, and (3) exemptions as to commodities put up in variable weights or sizes for sale to the consumer intact and either customarily not sold as individual units or customarily weighed or measured at the time of sale to the consumer. (§ 23 ch 101 SLA 1961; am § 2 ch 78 SLA 1969)

Sec. 45.75.210. Declarations of unit price on random packages. In addition to the declarations required by AS 45.75.200, a commodity in package form, which is one of a lot containing random weights, measures, or counts of the same commodity and bearing the total selling price of the package, shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight, measure, or count. (§ 24 ch 101 SLA 1961)

Sec. 45.75.220. Misleading packages. No commodity in package form may be so wrapped, or put in a container so made, formed, or filled as to mislead the purchaser as to the quantity of the contents of the package, and the contents of a container may not fall below the reasonable standard of fill which the director prescribes for the commodity. (§ 25 ch 101 SLA 1961)

Sec. 45.75.225. Advertising packages for sale. (a) When a commodity in package form is advertised in any manner and the retail price of the package is stated in the advertisement, there shall be clearly and conspicuously associated with the statement of price a declaration of the basic quantity of contents of the package as is required by law or regulation to appear on the package.

(b) When the law or regulation requires a dual declaration of net quantity to appear on the package, only the declaration that is required to appear first and without parentheses on the package need appear in the advertisement.

(c) There may not be included as part of the declaration required by this section such qualifying terms as "when packed," "minimum," "not less than," or other terms of similar import nor terms qualifying a unit of weight, measure, or count such as "jumbo," "giant," "full," which

Section
270. Fluid dairy products
280. Flour, corn meal, and hominy grits
282. Bulk deliveries sold in terms of weight and delivered by vehicle
288. Furnace and stove oil
290. Coal, coke, and charcoal
300. Textile products
310. Berries and small fruits
320. Construction of contracts

Sec. 45.75.190. Method of sale of commodities. (a) Commodities in liquid form may be sold only by liquid measure or by weight. Except as otherwise provided in this chapter, commodities not in liquid form may be sold only by weight, by measure of length or area, or by count. However, liquid commodities may be sold by weight and commodities not in liquid form may be sold by count only if the method gives accurate information as to the quantity of commodity sold.

(b) The provisions of this section do not apply to

(1) commodities when sold for immediate consumption on the premises where sold;

(2) vegetables when sold by the head or bunch;

(3) commodities in containers standardized by a law of this state or by federal law;

(4) berries and small fruits when sold by dry measure in accordance with AS 45.75.310;

(5) commodities in package form when there exists a general consumer usage to express the quantity in some other manner;

(6) concrete aggregates, concrete mixtures, and loose solid materials such as earth, soil, gravel, and crushed stone, when sold by cubic measure; or

(7) unprocessed vegetable and animal fertilizer sold by cubic measure.

(c) The director may issue reasonable regulations necessary to assure that amounts of commodity sold are determined in accordance with good commercial practice and are so determined and represented as to be accurate and informative. (§ 22 ch 101 SLA 1961)

Am. Jur. 2d reference. — 67 Am. Jur. 2d, Sales, § 3-11 et seq.

Sec. 45.75.200. Declarations of quantity and origin on packages. (a) Except as otherwise provided in this chapter, a commodity in package form introduced or delivered for introduction into or received in intrastate commerce, kept for the purpose of sale, or offered or exposed for sale in intrastate commerce shall bear on the outside of the package a definite, plain, and conspicuous declaration of

(1) the net quantity of the contents in terms of weight, measure, or count;

(2) in the case of a package kept, offered, or exposed for sale, or sold in a place other than on the premises where packed, the name and place of business of the manufacturer, packer, or distributor; and

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

WEIGHTS AND MEASURES SECTION

P.O. Box 10-1686
Anchorage, Alaska 99511
(907)345-3886

April 14, 1981

Arthur H. Peterson
Assistant Attorney General
Department of Law
Pouch K
Juneau, Alaska 99811

Subject: Regulations Pertaining to Section 45.75.250 "Bread" of the Weights and Measures Act.

Dear Art:

Per our conversation on above subject. Following is the background material you requested.

I have been asked to draft regulations allowing bread to be sold within the State of Alaska in 15 oz. and 22½ oz. increments.

I would like a legal interpretation if regulations may be established under the portion of this section that reads "within reasonable variations or tolerances established by the director."

This request originated because the State of Washington allows bread to be baked and sold in several increments other than half or even pound. Some suppliers of bread products to several Alaskan communities do not bake most brands in the even increments required in our statutes and the purchasers are forced to seek several sources to supply their needs.

A regulation allowing bread to be sold in increments in other than those required by the statute would solve the problem. However, before I draft regulations of this nature I would like to have the Attorney General's interpretation of "reasonable variations or tolerances."

For additional information please find enclosed a copy of Chapter 34 of the AAC, Article 2, Section 30; and Chapter 33, Article 9, Sections 630 and 640, pertaining to reasonable variations.

Sincerely,

Joseph L. Swanson
Chief, Weights and Measures

Enc.

cc: Deputy Commissioner Pete Jeans
Representative Ernie Haugen
Art Hammer

Sec. 45.75.240. MEAT, POULTRY, AND SEAFOOD. (a) Except as provided in (b) of this section, meat, meat products, poultry, and seafood except shellfish, offered or exposed for sale or sold as food, shall be offered or exposed for sale and sold by weight. When meat, poultry, or seafood is combined with or associated with some other food element to form either a distinctive food product or a food combination, the food product or combination shall be offered or exposed for sale and sold by weight. The quantity representation may be the total weight of the product or combination, and a quantity representation need not be made for each of the several elements of the product or combination.

(b) This section does not apply to meat, meat products, poultry or seafood which is for immediate consumption on the premises where sold, or as one of several elements comprising a ready-to-eat meal not to be consumed on the premises where sold. (§ 28 ch 101 SLA 1961; am § 4 ch 78 SLA 1969)

Effect of amendment--The 1969 amendment designated the former section as subsection (a) and added subsection (b). In subsection (a) the amendment added "Except as provided in (b) of this section" at the beginning of the first sentence, deleted "unit or" preceding "weight" in the first and second sentences, and added the last sentence.

Sec. 45.75.250. BREAD. Each loaf of bread and each unit of a twin or multiple loaf made or procured for sale, kept, offered, exposed for sale, or sold, whether or not the bread is wrapped or sliced, shall weigh one-half pound, one pound, one and one-half pounds, or a multiple of one pound, avoirdupois weight, within reasonable variations or tolerances established by regulation by the director. This section does not apply to biscuits, buns, or rolls, weighing four ounces or less, or to stale bread sold and expressly represented at the time of sale as such. The marking provisions of § 200 of this chapter do not apply to unwrapped loaves of bread. (§ 29 ch 101 SLA 1961)

Sec. 45.75.260. BUTTER, OLEOMARGARINE, AND MARGARINE. Butter, oleomargarine, and margarine shall be offered and exposed for sale and sold by weight and only in units of one-fourth pound, one-half pound, one pound, or multiples of one pound, avoirdupois weight. (§ 30 ch 101 SLA 1961)

Sec. 45.75.270. FLUID DAIRY PRODUCTS. Fluid dairy products, including but not limited to whole milk, skimmed milk, cultured milk, sweet cream, sour cream, and buttermilk, shall be packaged for retail sale only in units of one gill, one-half liquid pint, 10 fluid ounces, one liquid pint, one liquid quart, one-half gallon, one gallon, one and one-half gallon, two and one-half gallon, or multiples of one gallon. However, packages in units of less than one gill are permitted. (§ 31 ch 101 SLA 1961; am § 5 ch 7 SLA 1969)

Effect of amendment--The 1969 amendment inserted "one and one-half gallon, two and one-half gallon" in the first sentence.

Sec. 45.75.280. FLOUR, CORN MEAL, AND HOMINY GRITS. When in package form, and when packed, kept, offered, or exposed for sale or sold, wheat flour, whole wheat flour, graham flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour, corn flour, corn meal, and hominy grits shall be packaged only in units of 2, 5, 10, 25, 50, or 100 pounds, avoirdupois weight. However, packages in units of less than two pounds or more than 100 pounds are permitted.

ARTICLE 2. BREAD

Section
30. Variances and tolerances
40. Sizes of baking pans

3 AAC 34.030. VARIANCES AND TOLERANCES. (a) Any bread manufactured for sale, offered or exposed for sale or sold, shall meet the weight requirements of AS 45.75.250 except that the following variances and tolerances are acceptable:

(1) the one pound loaf (standard loaf) may weigh not less than 15 ounces;

(2) the one and one-half pound loaf (standard large loaf) may weigh not less than 22 ounces and not more than 25 ounces;

(3) any loaf weighing more than those described in subsection (a) and (b) of this

section, shall be in multiples of one pound and the variances and tolerances may be not more than a minus one ounce per pound or more than a plus one ounce per pound.

(b) The statement of quantity required by AS 45.75.200(a)(1) to appear on the label shall not include the variances and tolerances permitted in subsections (1), (2) and (3) of this section. (Eff. 12/18/64, Reg. 17; am 7/24/70, Reg. 35)

Authority: AS 45.75.050
AS 45.75.190
AS 45.75.200

3 AAC 33.630. VARIATIONS FROM DECLARED NET QUANTITY. Variations from the declared net weight, measure, or count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting the contents of individual packages that occur in good packaging practice, but such variations shall not be permitted to such extent that the average of the quantities in the packages of a particular commodity, or a lot of the commodity that is kept, offered, or exposed for sale, or sold, is below the quantity stated, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment, delivery, or lot compensate for such shortage. Variations above the declared quantity shall not be unreasonably large. (Eff. 7/24/70, Reg. 35)

Authority: AS 45.75.050
AS 45.75.190
AS 45.75.200

3 AAC 33.640. VARIATIONS RESULTING FROM EXPOSURE. Variations from the declared weight or measure on individual packages shall be permitted when caused by ordinary and customary exposure to conditions that normally occur in good distribution practice and that unavoidably result in change of weight or measure, but only after the commodity is introduced into intrastate commerce; provided, that the phrase "introduced into intrastate commerce" as used in this paragraph shall be construed to define the time and the place at which the first sale and delivery of a package is made within the state, the delivery being either

(1) directly to the purchaser or to his agent; or,

(2) to a common carrier for shipment to the purchaser. This paragraph shall be construed as requiring that, so long as a shipment, delivery, or lot of packages of a particular commodity remains in the possession or under the control of the packager or the person who introduces the package into intrastate commerce, exposure variations shall not be permitted. (Eff. 7/24/70, Reg. 35)

Authority: AS 45.75.050
AS 45.75.190
AS 45.75.200

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

MEMORANDUM State of Alaska

TO: Joseph L. Swanson, Chief
Weights and Measures
Department of Commerce and Economic Development

DATE: May 18, 1981

FILE NO: J-66-693-81

TELEPHONE NO: 465-3600 x 56

THRU: Pete Jeans
FROM: Deputy Commissioner
Department of Commerce and Economic Development

SUBJECT: Regulation of Bread; AS 45.75.250

WILSON L. CONDON
ATTORNEY GENERAL

By:
Sarah T. Kavasharov
Assistant Attorney General

You have asked whether 3 AAC 34.030 may be construed to allow sale on a regular basis of loaves of bread weighing 15 oz. and 22.5 oz. 3 AAC 34.030, in effect since 1964, interprets AS 45.75.250, which sets standards for sizes of loaves. 1/ We understand that the most common standard loaf sizes regularly offered for sale are 16 oz. (1 lb.) and 24 oz. (1 1/2 lb.) However, we understand from you that the State of Washington allows regular marketing of loaves marked 1 lb. or, and 22.5 oz., and that Southeastern grocers have asked if they may stock and sell loaves of these sizes which are shipped from that state.

1/ AS 45.75.250 provides:

> Bread. Each loaf of bread and each unit of a twin or multiple loaf made or procured for sale, kept, offered, exposed for sale, or sold, whether or not the bread is wrapped or sliced, shall weigh one-half pound, one pound, one and one-half pounds, or a multiple of one pound, avoirdupois weight, within reasonable variations or tolerances established by regulation by the director. This section does not apply to biscuits, buns, or rolls, weighing four ounces or less, or to stale bread sold and expressly represented at the time of sale as such. The marking provisions of AS 45.75.200 do not apply to unwrapped loaves of bread.

3 AAC 34.030 provides, in relevant part, that:

> (a) Any bread manufactured for sale, offered or exposed for sale or sold, shall meet the weight requirements of AS 45.75.250 except that the following variances and tolerances are acceptable:

AS 45.75.250 provides, in part, that "reasonable variations or tolerances" from the statutory standard may be allowed by regulation adopted by the director of the division of weights and measures. 3 AAC 34.030 defines "variations or tolerances" to allow a 16 oz. loaf to weigh not less than 15 ozs. and a 24 oz. loaf to weigh not less than 22.5 ozs. We understand that it has been suggested to you that the regulation might be construed to allow regular marketing of the 15 oz. and 22.5 oz. loaves shipped from Washington.

We believe that approving the regular marketing of 15 oz. and 22.5 oz. loaves would be changing rather than interpreting the statute. Variation would still have to be allowed for individual loaves because of the problem that no one particular loaf can be expected to meet any standard to the exact ounce. We understand that it was to meet this problem that "reasonable variation" is allowed at all. Therefore, variation in the neighborhood of an ounce would still have to be allowed, with the result that loaves which should meet the 16 oz. standard could weigh only 14 oz. This would accomplish a shrinking of the statutory standard by executive action, which is not a reasonable exercise of the regulatory power.

AS 44.62.030 provides in part, that "no regulation adopted is valid or effective unless consistent with the statute and reasonably necessary to carry out the purpose of the statute." The apparent purpose of the statute is to protect reasonable public expectation that bread loaves will be of a standard size. The statute establishes a standard which consumers may reasonably expect to be followed. To allow a "variation" from the standard in this fashion -- a variation which would be virtually invisible to the consumer and yet not so small that it would not be significant -- would not be consistent with the statute. And, far from being reasonably necessary to carry out the purposes of the statute, it would operate to undermine the public protection purpose of the statute. A change of this nature should be made only with full notice to the public and opportunity for comment. At the least, this would require adoption of an amendment of

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1/ (continued)

(1) the one pound loaf (standard loaf) may weigh not less than 15 ounces;

(2) the one and one-half pound loaf (standard large loaf) may weigh not less than 22 ounces and not more than 25 ounces;

(3) any loaf weighing more than those described in subsection (a) and (b) of this section, shall be in multiples of one pound and the variances and tolerances may not be more than a minus one ounce per pound or more than a plus one ounce per pound.

the current regulation through procedures established by the Administrative Procedure Act (AS 44.62). However, we believe that it would be an abuse of the regulatory power even to do this, because it would amount to change in the statutory standard by regulation.

In short, our view is, that the legislature has set a standard and only the legislature should change it. To deviate from the standard more than is reasonably necessary to accommodate the problem that individual loaves cannot be precisely uniform would be essentially to change the standard.

STK/jb

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

NATIONAL AWARD WINNER

Rattle Ashbrook Bakery
Since 1923

1407 11th Avenue Seattle, Washington 98122 (206) 325-4900

Bakers of
Holsum
Honey Meal
Custom Label

February 4, 1982

State of Alaska

Re: Bread Weight Modification Bill

Due to the importance of your hearing I wish that I was in attendance, but a conflict made that impossible. The benefits to the people of Alaska are significant, if the Bill of Representatives Terry Martin and Ernie Haugen is adopted. To express these benefits during your hearing is the reason this letter is written.

In this era of rising costs and economic squeeze, conscientious manufacturers must increase productivity and decrease costs and the ultimate price of their product for the benefit of the public.

Currently the laws covering the bread weights of Alaska, Oregon and Washington vary. This increases costs due to production run stoppage for weight changes, costly small volume purchases of packaging material, and duplicated packaging inventories. Bread bag costs range from 1.7¢ to 4¢ depending some on ink coverage, but mainly on quantity runs. Modification of the Alaska law so that these extra costs can be eliminated will give your citizens a better buy on a very basic food - bread.

It is also the opinion of the Baking Industry that with the public's interest in many new varities of bread the weight of the dough must vary to bake the best quality product. The expansion of the dough differs greatly, from the regular white and blend wheat breads to the heavier multi-grain natural products which the public is interested in today. Therefore, quality can be improved and prices reduced by using less bread dough for some types of products.

Thank you,

LeConie Stiles C.

LeConie Stiles, Jr.
President

For Feb. 9th

Bread Bill

House Bill 597 - Sponsor Carrie, Haugan

Please call Mr. Jeff Garcia (main contact person)
Associated Groceries Inc.
P.O. Box 3763
Seattle, Wash. 50124
phone 01-206-762-2100 Ext. 7400 or 741

1) Get current laws and section changes from Rep Ernie Haugan's office aid #3712 or 3879 we have

[Battle mob for this is Joel S. Wanson? - his main & atty gen. & atty general utility

Ed Pooley - Seattle supporter with _____?

* Mary - Please call Jeff Garcia above. notified 1-18-82
let him know hearing date for above bill and if confirmed let Ernie Haugan know.

Thanks

(OK)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 597
Title Relating to the sale of bread
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Weights and Measures
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

IV. DATE 2/8/82 PREPARED BY E. W. Eboch E.W. Eboch
AGENCY Commerce and Economic Development
PHONE 465-2500

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

2-9-82

ALASKA

STATE LEGISLATURE

MEMORANDUM

Enclosed Terry

1 - Letter from Joe Swanson to attorney general seeking answers.

2 - Reply from atty generals' office

3 - Someone from Dept. of Law will be in attendance to answer any questions committee may have.

HB

612

COMMITTEE REPORT

HOUSE

6/10/81

(3)

FURTHER:

Date: 1-16-81

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 612

"An Act relating to public contracts for architectural and engineering services."

under consideration and reports it back as follows:

[ ] 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

Rev. 3/81)

COMMITTEE TAPE LOG

TAPE NUMBER 1,2

COMMITTEE LABOR AND COMMERCE HEARING DATE 9/22/81

MEMBERS PRESENT Chairman Terry Martin, Rep Bernie Bylsma

LEGISLATION CONSIDERED House Bills 600 & 612

METER NO.		PERSON SPEAKING/ACTION
012	TP1/1	Don Dent, Engineer, President of Bd. of Dir. AK Prof Design Co[illegible] cl.
204	TP1/1	Leo McGlothlin, State President, Amer. Institute of Architects
297	TP 1/1	Ken Cannon, President,CCC Architects
669	TP1/1	Ray Shumway, Dep Commissioner, DOT
384	TP1/2	Charles Tryck, Consultant Engineers Commission of AK
679	TP1/2	Ray Shumway (correction to testimony)

Civil Liability AND Public Contracts
Architectural & Engineering Services

SIGN-IN SHEET

COMMITTEE Labor & Commerce

HEARING DATE 9-22-81

NAME (PRINTED)	ADDRESS	REPRESENTING	TESTIFY (YES or NO)	MATTER
DON DENT	2064 BELAIR DR ANCHORAGE	AK PROF DESIGN COUNCIL BOF DIR	YES	HB600 HB612 25
LEO MCKOTHLIN	604 CORDOVA SUITE 6 ANCH 99501	ALASKA CHAPTER AIA	Yes	HB600 HB612
Ken Cannon	431 W 7TH AVE ANCH. 99501	" " "	Yes	"
Dick Armstrong	3700 Bonisace Anchorage	DOT/PF	NO	HB600 HB612
RAY Shumiwa	Box 1467 Juneau AK	DOT/PF	YES	
Charles Trych	1801 13th Ave Anchorage 99501	C.E.C.F.A	Yes	HB600 HB612

1/15/82

TESTIMONY OF MR. CHARLES E. TORKKO
President, Consulting Engineers Council of Alaska

Mr. Chairman and members of the Committee, my name is Charles E. Torkko. I am the President of the Consulting Engineers Council of Alaska. The Council is an association of active engineering firms dedicated to advancing the quality of engineering in Alaska. I would like to speak today in support of legislation ensuring that the selection of registered professional architects, engineers, and land surveyors for public projects will be made on the basis of professional qualifications and competence and not on premature fee or price bids. To assist the Committee, I have prepared copies of my remarks which I would like to leave with you, Mr. Chairman, at the conclusion of my testimony.

Traditionally, the selection of architects, engineers, and land surveyors--like many other learned professions--has been conducted through an evaluation process based on demonstrated competence and professional qualifications to perform the specific work that is desired. In this regard the selection of an engineer differs form the selection of a vendor for parts or supplies and from selection of construction contractors in that the choice of a vendor or contractor is generally based on detailed specifications and a quoted price, and contracts are generally awarded on a "low-bid" basis. The reason for this difference lies in the fact that the

professional architect or engineer offers a service that calls for applying state-of-the-art techniques to problems which are invariably unique and result in procurement specifications for vendors and construction contractors. I have been a professional engineer for over 20 years, and I can represent to this Committee that in those years I cannot remember solving the same design problem twice. Given these circumstances, the sole consideration in selecting an architect or engineer for a project must be whether the education, skills, and experience represented are best suited to the specific design problems of a proposed project.

No one in this room today--if he or she were ill--would think of asking for bids from physicians and expecting the low bidder to cure a person's illness while restricting the physician's resources. Nor would anyone with a particular complex legal problem--let's say an antitrust matter--ask for bids from the entire legal profession hoping that the most qualified attorney will just happen to submit the cheapest price. Similarly, in the design of a building or other public project, the first and foremost consideration must be the relative skill and experience of persons proposing to do the work. Only after a person or firm has been selected as the best qualified, and after the full requirements of the job have been assessed, should an attempt be made to negotiate a fair and reasonable price for the desired work. I stress the terms "fair" and "reasonable" because I do not mean to suggest that the cost of professional services should be ignored. It must always be the duty of the state or local official responsible for a public project to ensure that fees for professional

architectural or engineering services are amply justified. However, the only time that such a determination can properly be made is after the full scope and complexity of the project are understood, through negotiation. The selected firm must often be given clarifying assistance in the development of the project's objectives.

Many of you might ask what is wrong with requesting preliminary fee bids or estimates of charges for architectural and engineering services. Who loses if a contract is awarded based on, or substantially influenced by, such fee bids?

First and foremost--it is the public who loses--as the ultimate consumer for the proposed project. The public loses in that a few dollars saved at the critical design stage through shortcuts or unimaginative design solutions will result in increased construction costs and--more importantly--in increased operating, maintenance, and other life-cycle costs for the project over the many years of its useful life.

The public loses again in terms of receiving less than maximum value or utility from the project. A "bargain" price is no bargain if the item purchased does not do the job or does it at reduced efficiency.

Second, the professions of architecture and engineering suffer. Human nature being what it is, if fee bids or price estimates are injected prematurely into a competition process, the temptation to "lowball" the bid

will often be irresistible. A job obtained through a "bare bones" bid will produce one of two results. Either the client, and in this case the public, gets a less than optimal project and pays manyfold for the few dollars saved in design costs, or the design costs are later escalated upward through change orders as the client discovers the true cost of quality, professional work. This is, of course, unfair to others in the competitive process who may have refused to sacrifice professional quality for price.

The concept that I have outlined for you today, and which is represented in the legislation before this Committee, is neither new nor radical. As I mentioned at the beginning of my remarks, the generally accepted method for selecting architects and engineers has been to defer negotiation of fee until after a selection has been made based on qualifications. The federal government recognized the need to ensure that this concept is protected by passage of the Brooks Act in 1972. Many other states have followed this precedent and have enacted similar legislation. I have attached a list of these jurisdictions to my written remarks for the information of the Committee. Also, the American Bar Association, after years of effort, has adopted its Model Procurement Code, which calls for competitions to be based on qualifications and for the best qualified person or firm to be selected before fee or price is negotiated. Finally, the Alaska State Board of Registration for Architects, Engineers and Land Surveyors, established under Title 8 of the Alaska Statutes, has adopted, as a regulation with the force of law, 12 AAC 36.230, which prohibits registered professional architects and engineers from soliciting

or submitting proposals for services based on fee or price bids.

Although the substantial majority of public contracts for architectural and engineering services in Alaska are presently being advertised and awarded in accordance with the concept I have described, there have, unfortunately, been cases in which, either intentionally or inadvertently, registered professionals have been requested to submit fee bids. When a registered architect or engineer is faced with such a request, he or she must either decline to submit a proposal for the public job or be placed in a situation which violates the code of professional conduct established by regulation. The legislation which the Consulting Engineers Council of Alaska supports would specify that for contracts with registered architects or engineers issued by the state or a political subdivision, the initial selection of a person or firm must be made on the basis of professional qualifications and demonstrated competence to perform the desired work. I would, however, like to stress that the state or local official would, under this proposal, be free to establish whatever procedures or criteria they deem best in selecting a qualified person or firm. The only requirement under the proposed bill is that an attempt be made to negotiate a fair and reasonable fee with a person or firm selected as best qualified to perform the needed work. If negotiations with that person or firm are unsuccessful, state or local officials remain free to negotiate with other qualified applicants or to reject all or part of the remaining proposals. The recommended legislation would only apply to contracts with registered professional architects, engineers, and land

surveyors and would not affect bids for construction or other types of services or supplies by the state or its local governments. Also, contracts awarded in response to an emergency condition would be exempt from provisions of the bill.

By adopting the proposed bill, Alaska will join with many other states in ensuring that the public receives the highest possible quality of architectural and engineering services while preserving flexibility for state and local officials. I urge this Committee to act favorably on the proposed bill, and I will be happy to attempt to answer any questions. Thank you for the opportunity of testifying before the Committee today, and I thank you for your consideration of the proposed bill.

Sofo
9/16/81

Original sponsor: Labor and Commerce Committee by request

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 612 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to public contracts for architectural and engineering services."

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

* Section 1. AS 35.15 is amended by adding a new section to read:

Sec. 35.15.055. CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES. (a) The department may award a contract for architectural or engineering services only to a person or firm that the department determines is capable and qualified. ~~Notwithstanding AS 35.15.050,~~ after selecting a capable and qualified contractor for architectural or engineering services the department shall establish a reasonable fee for the services through negotiations with the contractor. The fee shall be based on the scope and complexity of the services required.

(b) A person or firm that (submits) provides architectural or engineering services may annually submit to the department a statement of qualifications and performance data. Before awarding a contract under (a) of this section, the department shall review the statements of qualifications and performance data on file with the department together with statements of qualifications and performance data submitted by others in response to an advertisement or request for proposals for bids under AS 35.15.030.

Mitch Gravo submitted this for consideration & discussion by committee

This passed as CS.

CS HB 612

DISCUSSION DRAFT
(Second Draft)

1/12/82

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to contracts for architectural, engineering and land surveying services, and providing for an effective date."

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

Section 1. AS Title 36 is amended by adding a Chapter to read:

Chapter 30. Professional Service Contracts

Section 36.30.010. Contracts for Architectural, Engineering and Land Surveying Services. (a) It shall be the policy of the state and all political subdivisions, including any agencies thereof, to select persons or firms for the performance of architectural, engineering or land surveying services and to award contracts for such services only on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

(b) In issuing any request for services of an architect, engineer, or land surveyor registered under AS 08.48 and in awarding contracts to such registered professionals, the state and all political subdivisions shall select a person or firm deemed best qualified to perform the desired work on the basis of demonstrated competence and professional qualifications, and an attempt shall be made to negotiate a contract with such person or firm at a price which is fair and reasonable. Prior to such selection and negotiation, the state or a political subdivision shall not request or consider any statement, bid or estimate of fees or charges for architectual, engineering or surveying services for the proposed project or request any other submission or action which would constitute a violation of any provision of AS 08.48 or any regulation adopted thereunder.

(c) This section shall not be construed to require any particular procedure for the selection of architects, engineers or surveyors or for the award of contracts except as provided in subsection (b) above. Nothing in this section shall prevent the state or a political subdivision from publicly ranking proposals or offers recieved in response to a request for services or from attempting to negotiate a fair and reasonable price with the proponent deemed best qualified to perform the desired work or from attempting to negotiate such a price with other proponents, in order of ranking, if negotiations with the first ranked proponent are not successful or from rejecting all or part of any proposals. This section shall not apply to contracts awarded on an emergency basis when the person responsible for execution of the contract on behalf of the state or a political subdivision has certified in writing that an emergency exists.

Section 2. AS 36.95.010 is amended by adding subsections to read:

Section 36.95.010 Definitions. In AS 36.95.010 - [36.25.025] 36.30.010 unless the context requires otherwise:

( ) "emergency" means a condition which results in imminent danger of harm to the public health, safety or welfare or which requires immediate action to prevent harm to any person or property.

Section 3. AS 19.10.170(a) is amended to read:

(a) Except as provided in AS 36.30.010 and AS 44.33.300, it shall be the general policy of the department to require the construction of all highways under bid contract. However, subject to the provisions of (b) of this section, when the estimated cost of a construction project is less than $100,000 or when it appears to be in the best interests of the state, the department may perform the work notwithstanding any other provisions of law.

Section 4. AS 35.15.010(a) is amended to read:

(a) Except as provided in AS 36.30.010 and AS 44.33.300, it shall be the general policy of the department to require the construction of all public works under bid contract. However, when the estimated cost of a construction project is less than $100,000, or when it appears to be in the best interests of the state, the department may perform the work, notwithstanding any other provisions of law. A complete record shall be kept by the commissioner or his designee of all transactions entered into under this section including names of employees involved in the transactions.

Section 5. AS 37.05.230 is amended by adding a new subsection (9) to read:

(9) Requests and acceptance of bids, or other proposals for professional services of an architect, engineer or land surveyor registered under AS 08.48 shall comply with AS 36.30.010.

Section 6. AS 37.05.240 is amended by adding a new subsection to read:

(6) Requests and acceptance of bids, requests or other proposals for professional services of an architect, engineer or land surveyor registered under AS 08.48 shall comply with AS 36.30.010.

Section 7. This Act shall apply to all requests or advertisements for bids or proposals or other requests for professional services issued after the effective date hereof.

Section 8. This Act takes effect immediately in accordance with AS 01.10.070(c).

Note: States may appear in more than one category. Prohibition of or exemption from competitive bidding requirements for procurement in general may be provided in general statutes for A/E services. A specific procedure for selection of A/E services may be spelled out in another law.

States which prohibit competitive bidding for A/E services in Law:

Tennessee

Texas

States which exempt A/E services from general bidding requirements:

California
District of Columbia
Hawaii
Illinois
Kentucky
Mississippi-by attorney general's ruling
New Jersey
New York-by state comptroller's opinion
Ohio
Oklahoma
Pennsylvania
Wyoming

States calling for selection based on qualification: (with procedure requiring ranking of firms, negotiation on scope of project and fee with the top firm. If no contract can be reached, negotiations are terminated and taken up with the second ranked firm. Same procedure required for third ranked firm (and lower ranked firms if required by law) if no agreement can be reached with the second.

California	(1973)	Minnesota	(1975)
Connecticut	(1979)	Nebraska	(1978)
Colorado	(1979)	New Hampshire	(1973)
Delaware	(1976)	New York State	(1980)
Florida	(1973)	Oklahoma	(1974)
Kansas As and Es	(1977)	Pennsylvania-building construction offices	(1975)
Kentucky	(1978)	South Carolina	(1981)
Louisiana	(1975)	Texas	(1971)
Maine	(1979)	Utah	(1980)
Massachusetts	(1975)	Virginia	(1980)
		Washington	(1981)

States prohibiting competitive bidding under registration law rules, regulations, standards of conduct: (Source: NCARB study revised June 13, 1975. Whether rules are promulgated for architectural board alone, joint board or occupational board is noted).

Arkansas - A
Connecticut - A
Florida - A
Hawaii - A/PE/S
Idaho - Occup. Licensing
Kentucky - A
Louisiana - Occup. Standards
Montana - A
North Carolina - A
North Dakota - A
Oklahoma - A
South Carolina - A
South Dakota - A/E
Tennessee - A/E
Vermont - A
Wisconsin - A/E
Pennsylvania - A/E/LS

 ABA

Part E—Architect-Engineer Services

§5-501 Architect-Engineer Services.

(1) *Applicability.* Architect-engineer services shall be procured as provided in this Section except as authorized by Section 3-204 (Small Purchases), Section 3-205 (Sole Source Procurement), and Section 3-206 (Emergency Procurements).

(2) *Policy.* It is the policy of this [State] to publicly announce all requirements for architectural and engineering services and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of services required, and at fair and reasonable prices.

(3) *Architect-Engineer Selection Committee.* In the procurement of architectural and engineering services, the Chief Procurement Officer or the head of a Purchasing Agency shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. [The Chief Procurement Officer or the head of a Purchasing Agency, the Procurement Officer, and [the State Architect]] shall comprise the Architect-Engineer Selection Committee for each architect-engineer services contract over [S_____]. The Selection Committee for architect-engineer services contracts under this amount shall be established in accordance with regulations promulgated by the Policy Office. The Selection Committee shall evaluate current statements of qualifications and performance data on file with the [State], together with those that may be submitted by other firms regarding the proposed contract. The Selection Committee shall conduct discussions with no less than three firms regarding the contract and the relative utility of alternative methods of approach for furnishing the required services, and then shall select therefrom, in order of preference, based upon criteria established and published by the Selection Committee, no less than three of the firms deemed to be the most highly qualified to provide the services required.

(4) *Negotiation.* The Procurement Officer shall negotiate a contract with the highest qualified firm for architectural and engineering services at compensation which the Procurement Officer determines in writing to be fair and reasonable to the [State]. In making this decision, the Procurement Officer shall take into account the estimated value, the scope, the complexity, and the professional nature of the services to be rendered. Should the Procurement Officer be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the Procurement Officer determines to be fair and reasonable to the [State], negotiations with that firm shall be formally terminated. The Procurement Officer shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the Procurement Officer shall formally terminate negotiations. The Procurement Officer shall then undertake negotiations with the third most qualified firm. Should the Procurement Officer be unable to negotiate a contract at a fair and reasonable price with any of the selected firms, the Procurement Officer shall select additional firms in order of their competence and qualifications, and the Procurement Officer shall continue negotiations in accordance with this Section until an agreement is reached.

COMMENTARY:

(1) This Section applies to procurement of all services within the scope of architecture, professional engineering, or registered land surveying as defined by the laws of the State whether or not construction is involved.

(2) The principal reasons supporting this selection procedure for architect-engineer services are the lack of a definitive scope of work for such services at the time the selection is made and the importance of selecting the best qualified firm. In general, the architect-engineer is engaged to represent the [State's] interests and is, therefore, in a different relationship with the [State] from that normally existing in a buyer-seller situation. For these reasons, the qualifications, competence, and availability of the three most qualified architect-engineer firms is considered initially, and price negotiated later.

(3) It is considered more desirable to make the qualification selection first and then to discuss the price because both parties need to review in detail what is involved in the work (for example, estimates of man-hours, personnel costs, and alternatives that the architect-engineer should consider in depth). Once parameters have been fully discussed and understood and the architect-engineer proposes a fee for the work, the recommended procedure requires the [State] to make its own evaluation and judgment as to the reasonableness of the fee.

(4) If the fee is fair and reasonable, award is made without consideration of proposals and fees of other competing firms. If the fee cannot be negotiated to the satisfaction of the [State], negotiations with other qualified firms are initiated. Thus price clearly is an important factor in the award of the architect-engineer contract under this procedure. The principal difference between the recommended procedure for architect-engineer selection and the procedures used in most other competitive source selections is the point at which price is considered.

(5) If an enacting jurisdiction desires to use a different selection process, then it may consider the following language:

> "The Procurement Officer shall negotiate with the highest qualified firms for a contract for architectural and engineering services at compensation which the Procurement Officer determines in writing to be fair and reasonable to the [State]. In making such determination, the Procurement Officer shall take into account, in the following order of importance, the professional competence of offerors, the technical merits of offers, and the price for which the services are to be rendered."

CS HB 612

DISCUSSION DRAFT
(Second Draft)

1/12/82

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

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(b) In issuing any request for services of an architect, engineer, or land surveyor registered under AS 08.48 and in awarding contracts to such registered professionals, the state and all political subdivision shall select a person or firm deemed best qualified to perform the desired work on the basis of demonstrated competence and professional qualifications, and an attempt shall be made to negotiate a contract with such person or firm at a price which is fair and reasonable. Prior to such selection and negotiation, the state or a political subdivision shall not request or consider any statement, bid or estimate of fees or charges for architectual, engineering or surveying services for the proposed project or request any other submission or action which would constitute a violation of any provision of AS 08.48 or any regulation adopted thereunder.

(c) This section shall not be construed to require any particular procedure for the selection of architects, engineers or surveyors or for the award of contracts except as provided in subsection (b) above. Nothing in this section shall prevent the state or a political subdivision from publicly ranking proposals or offers recieved in response to a request for services or from attempting to negotiate a fair and reasonable price with the proponent deemed best qualified to perform the desired work or from attempting to negotiate such a price with other proponents, in order of ranking, if negotiations with the first ranked proponent are not successful or from rejecting all or part of any proposals. This section shall not apply to contracts awarded on an emergency basis when the person responsible for execution of the contract on behalf of the state or a political subdivision has certified in writing that an emergency exists.

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(a) Except as provided in AS 36.30.010 and AS 44.33.300, it shall be the general policy of the department to require the construction of all highways under bid contract. However, subject to the provisions of (b) of this section, when the estimated cost of a construction project is less than $100,000 or when it appears to be in the best interests of the state, the department may perform the work notwithstanding any other provisions of law.

Charles Torkka -

pool of applicants to contract with qualification
+ low bidding -
demonstration of confidence of performance.

Let record show Rep. Terry Gardener is present.

Speab on HB600 — dropped because from hearing schedule
liabilities of arch, eng. & land surveyors

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M January 18, 1982

SUBJECT: Analysis of CSHB 612 (L&C)

TO: Representative Terry Martin, Chairman
House Labor and Commerce Committee

FROM: Thomas A. Sofo
Legislative Counsel

You have asked for a review and comparison of CSHB 612 with drafts of legislation prepared by attorney, Ted Berns. CSHB 612 and the two drafts provided by Mr. Berns all share in common the objective of taking architectural engineering and land surveying service contracts out from under the requirement that they be let to the lowest responsible bidder. CSHB 612 provides that such contracts should be awarded only to persons or firms that are "capable and qualified". After selecting a capable and qualified contractor, CSHB 612 provides that the fee for the services should be reached through negotiations with the contractor. CSHB 612 also allows for various contractors to have on file with the state material showing their qualifications and performance data. Both drafts provided by Mr. Berns require that contracts for architectural, engineering and land surveying services be awarded "only on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices". The drafts provided by Mr. Berns similarly require that only after the qualified contractor has been selected shall negotiations for the contract price be entered into. The discussion drafts both require that the contract be awarded to the contractor "best qualified to perform the desired work on the basis of demonstrated competence and professional qualifications". It may be argued that the use of that phrase results in limiting the number of potentially qualified contractors depending on how the phrase "demonstrated competence" is interpreted. One may argue that "demonstrated competence" can only apply to those persons or firms who

have been in field for a certain amount of time or who have worked for the state before. On the other hand, "demonstrated competence" does not necessarily demand such a restrictive interpretation.

Although the second discussion draft includes one or two items not included in the first discussion draft, such as an exception for emergency situations and an affirmative statement that no particular procedure is mandated in the awarding and selection of contractors, the distinguishing characteristic between the two discussion drafts and CSHB 612 is the distinction to be made, if any, between the criteria of "capable and qualified" contained in CSHB 612, and "best qualified to perform the desired work on the basis of demonstrated competence and professional qualifications" contained in both discussion drafts. The possible different interpretations of these two phrases is the distinguishing factor between the bulk of the material contained in CSHB 612 and the two discussion drafts. Second to that point would be the exception allowed for emergency situations noted at the bottom of subsection (3) on page 2, of the second discussion draft. CSHB 612 and both discussion drafts would apparently apply both to the state and municipalities. This office has no objection to using Title 36 as a vehicle for the inclusion of the new material which the committee is considering (as done in the discussion drafts). The mechanics of making the required amendments do not present a problem.

The most important factor for the committee's review seems to be the criteria used in selecting a contractor. It may be that there is no contractor who would qualify under CSHB 612 who would not otherwise qualify under the criteria used in the discussion drafts. The converse may not be true. However, I would look forward to hearing comments from proponents of the discussion drafts as to their preference for the "demonstrated competence" language in the discussion drafts as opposed to the "capable and qualified" language in the most recent version of the committee substitute.

TAS:ljb

HB

623

Discussion of ✓ choice & conflicts
re O'Connell of skill-posting
for appointees to the

Labor & Commerce

cc: H.B 640 pull also.

Passed
H.B 623 pass

NOTE: Rep. Grimsrud notified of this & he
then signed HB 6140.
Sen Bradley's office notified personally
Coalition of Ad. Veterans "

Date Filed 1-11-82
Date Rec'd. 1-12-82
Referral - Judiciary
Comm. Hearing. - 1-19-82 - Teleconference
" action CS proposed & pend & Clerk's office

See file HB 623
Passed

STATE OF ALASKA
DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

January 19, 1982

The Honorable Terry Martin
Chairman
House Labor & Commerce Committee
Room 211 - Behrends Building
Juneau, AK 99811

Dear Mr. Martin:

Re: House Bill No. 623

House Bill No. 623, an Act relating to games of chance and contests of skill, was introduced in the House on January 11, 1982, and was referred to the House Labor & Commerce and Judiciary Committees.

For consideration of the House Labor & Commerce Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Ervin B. Jones, Supervisor, Audit Division, Department of Revenue, concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

RDS:jas

Enclosure

cc: The Honorable Ramona L. Barnes
Chairwoman
House Judiciary Committee

Joseph K. Donohue
Deputy Commissioner, Taxation
Department of Revenue

Ervin B. Jones, Supervisor
Audit Division
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 623
Title An Act relating to games of chance and contests of skill; and providing for an effective date Date January 18, 1982
Requested by
Requested by: House Labor and Commerce Committee

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
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) None

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL						

FUNDING (Thousands of Dollars) None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

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

See attached memo to R. D. Stevenson dated January 18, 1982.

Ervin B. Jones

IV. DATE January 18, 1982 PREPARED BY Ervin B. Jones
AGENCY Audit Division
PHONE 465-2320

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

R.D. Stevenson
Legislative Assistant

January 18, 1982

Ervin Jones
Office Audit Manager
Audit Division

HB 623
(Labor and Commerce)

This bill proposes to amend three sections of AS 05.15.

The effect of these proposed changes is to considerably broaden the privileges granted with the issuance of a games of chance and skill permit. The original language of AS 05.15.100 limited the games of chance to only those activities listed (i.e., bingo, raffles, lotteries, ice classics, rain classics, dog mushers' contests and fish derbies). New games of chance would have to then be allowed under one of those listed. The proposed language removes that limitation and taken in context with sections 2 and 3 of the bill, would allow any game of chance which could be contrived where the element of chance and luck is foremost, regardless of whether those games of chance existed in Alaska prior to statehood. Since the original intent of the legislation was to permit continuance of those gaming activities after statehood which existed in territorial days, this change is a considerable divergence.

The only remaining limitation would be the limitation on use of gambling implements found in AS 05.15.180(a). This would presumably prevent the introduction of casino type hardware and coin operated video games as games of chance, but would not prevent the legal introduction of games of chance such as can be contrived by profit-seeking individuals and nonprofit organizations striving to maximize their take in an extremely competitive industry. Additionally, this bill would allow for large scale betting as it imposes no limitation on the allowable charge to participate in a pull-tab game. With no limit, and given the competitive nature of the industry, the prizes and charges to participate can be expected to escalate.

If the author's intent is simply to legalize pull-tabs, I would recommend this bill to legal counsel to arrive at a simpler way of accomplishing that goal without opening Pandora's box.

EJ:jg

COMMITTEE REPORT

HOUSE

(5) FURTHER: JUDICIARY

1/11/82

Date: _____ ___

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 623

"An Act relating to games of chance and contests of skill; and providing for an effective date."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

_____

_____

_____

_____

_____

_____

_____

_____

_____

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

_____

_____

_____

_____

_____

_____

CHAIRMAN

H 60 (Rev. 12/78)

ALASKA STATE LEGISLATURE

TWELFTH Legislature SECOND Session

HOUSE BILL NO. 623

By GRUSSENDORF, VASKA AND O'CONNELL

"An Act relating to games of chance and contests of skill; and providing for an effective date."

Games of chance/contests of skill

Introduced in the House 1/11, 19 82

HISTORY IN THE HOUSE

19		
1982		Read first time and referred to Committee on
JAN.	11	Labor & Commerce and Judiciary
		Reported back with recommendation that
		Read second time and
		Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by Speaker
Sent to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19		
		Read first time and referred to Committee on
		Reported back with recommendation that
		Read second time and
		Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by President
Returned to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19	
	Received from Senate
	Concurred in Senate amendment thus adopting: VOTE
	Failed to concur in Senate amendment; asked Senate to recede VOTE
	Senate receded from amendment VOTE
	Senate failed to recede from amendment VOTE
	CC appointed by House
	CC appointed by Senate
	CC adopted by House VOTE
	CC adopted by Senate VOTE
	To enrolling Reported correctly enrolled Sent to Governor
	..... by Governor
	Filed with Lt. Governor
	Chapter No. .....

01-002

HB
630

COMMITTEE REPORT

HOUSE

(5) FURTHER: STATE AFFAIRS

FINANCE

1/11/82

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 630

"An Act relating to state loan programs; and providing for an effective date."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[X] referred to the Special committee on BANKING Committee

MEMBERS SIGNING
DO PASS Refer to Banking Special Com

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Larry Martin
CHAIRMAN

H 60 (Rev. 12/78)

By: Metcalfe providing for effective date'
H. Labor & Commerce 1981-1982

F/N hereinc 1-14-82 Metcalfe notified
1 Sd they will notify
people they want
called
Gov Jenkins notified
Don Hatch - Div. Bus Loans
Veterans affair

Mr Leslon Rotto. 276-14
wants it heard 11-14???
Fish & Game - Mrs Jenkins hi
Kit Mourant - for C & K affo
Natural Resources - Mark Wil
Both Stevens and Udy
Sd Coercion Stakes
Sd Mourant & Metcalfe

Dated Filed 1-11-82
Date Recd. 1-12-82
Referred State Affairs & Finance
Comm. Hearing 2-8-82 - F/F/or passed & Upon Rules Committee for review & then Returned to C & L
" Action Set

Requested by Common Wealth North.

Three major group of Loans

I - Housing
II - Business
III - Social

Dept.

Don Hostab - Banks will not service loans in "social" category. - . .

Tie up loans exist. No new loans

Rod Mourant - Co RA -

Sec. 23 - Mr. Dan Jenkins

Comm. Williams — request L

all 3 of loans = energy loans H.P.A. Power Authority.

Special Comm. on Banking. —

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 630
Title Relating to State Loan Programs
Requested by House Labor & Commerce Committee Date 1/11/82

II. FISCAL DETAIL
Agency Affected Dept. of Commerce & Economic Development, Dept of Revenue
Program Category Affected Development
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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		1,750.6	1,925.7	2,118.2	2,330.1	2,563.1
200 TRAVEL		200.0	220.0	242.0	266.2	292.8
300 CONTRACTUAL		500.0	550.0	605.0	665.5	732.1
400 COMMODITIES		50.0	55.0	60.5	66.5	73.2
500 EQUIPMENT		130.0				
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		2,630.6	2,750.7	3,025.7	3,228.3	3,661.2

FUNDING (Thousands of Dollars)

GENERAL FUND		2,630.6	2,750.7	3,025.7	3,228.3	3,661.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		43.0	43.0	43.0	43.0	43.0
PART TIME		3.0	3.0	3.0	3.0	3.0
TEMPORARY						

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

Create an Alaska Housing Loan Authority (AHLA) in Dept. of Commerce & Economic Development to coordinate, supervise and give final approval for purchases of home loans by Alaska Housing Finance Corp. (AHFC) and several other programs, AHFC and others must make credit analysis, etc. and all their work is subject to approval of AHLA; therefore, staffing and budget presented above is similar in size and scope to AHFC budget since all AHFC and other work is subject to second review and approval.

IV. DATE February 8, 1982 PREPARED BY Peter A. Beadle Anselm Staack
AGENCY Department of Revenue
PHONE 465-2350

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

BILL ANALYSIS
HOUSE BILL 630 (1/11/82)

1. Creates an Alaska Housing Loan Authority (AHLA) in Department of Commerce and Economic Development to coordinate, supervise and give final approval for purchase of loans by:

   a. Alaska Housing Finance Corporation (AHFC).
   b. Nonconforming Housing Loan Fund.
   c. Senior Citizens Housing Development Fund.
   d. Residential Energy Conservation Fund.

   Authority may employ executive director and staff as necessary.

2. Amends the various statutes of AHFC and loan funds stipulated in (1) above subjecting their lending activity to AHLA approval.

3. Nonconforming Housing Loan Fund is allowed to purchase, as a secondary lender, loans but is not allowed to directly originate loans.

4. Alaska Industrial Development Authority is renamed the Alaska Business Loan and Industrial Development Authority (ABLIDA). Powers of ABLIDA are expanded to purchase or insure business loans to agricultural and fishing enterprises.

5. Residential Energy Conservation Fund can purchase loans but can no longer originate them.

6. After July 1, 1982 no further loans may be made for or under:

   a. Alaska Agriculture Loan Account.
   b. Loans for purchase of Alaska limited entry permits.
   c. Fisherman's Mortgage and Note fund.
   d. AHFC Housing Development Fund.
   e. Veterans Loans from Department of Commerce and Economic Development.
   f. Child Care Facility Revolving Loan Fund.
   g. Residential Care Facility Revolving Loan Fund.
   h. Alaska Commercial Fishing and Agriculture Bank.

7. The following programs are repealed:

   a. Housing Development Revolving Loan Fund. (Low and Moderate income on rentals for low and moderate income).
   b. Moderate cost and rental housing of the Alaska State Housing Authority.

There are 38 loan programs,
What about miners loans = #30 M's.

2/8/82

c. Housing Development Fund of AHFC; provides loans for persons of lower and moderate income.
d. Loans for relocation assistance to encourage and facilitate the construction and rehabilitation of housing of displaced persons.
e. Alaska Economic Disaster Impact Fund.
f. Alaska Renewable Resources Corporation (repeals entire account).
g. Native corporation loan fund. (This is no longer needed as native claim payments have been settled).
h. Temperate Social Activities Revolving Loan Fund.
i. Nonconforming Housing Loan Fund. (Repeals eligible locations statute).
j. Alaska Commercial Fishing and Agriculture Bank (entire statute).

Common Wealth North request.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 630
Title An Act relating to state loan programs; and providing for an effective date.

Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Economic Development
BRU, Program, Or Subprogram(s) Affected Division of Loans and Veterans' Affairs
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		(434.6)	(434.6)	(434.6)	(434.5)	(434.6)
200 TRAVEL		(56.0)	(56.0)	(56.0)	(56.0)	(56.0)
300 CONTRACTUAL		(48.6)	(48.6)	(48.6)	(48.6)	(48.6)
400 COMMODITIES		(8.5)	(8.5)	(8.5)	(8.5)	(8.5)
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		(547.7)	(547.7)	(547.7)	(547.7)	(547.7)

FUNDING (Thousands of Dollars)

GENERAL FUND		(547.7)	(547.7)	(547.7)	(547.7)	(547.7)
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		(12)	(12)	(12)	(12)	(12)
PART TIME						
TEMPORARY						

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

Space Rental and ASHA payments not included in these figures.

IV. DATE 2/8/82

PREPARED BY Don Hostak, Director
AGENCY Department of Commerce & Economic Development
PHONE 465-2555 Division of Loans and
or 465-2510 Veterans' Affairs

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

SPS

SPECIALIZED PROFESSIONAL SERVICES, INC.

P.O. BOX 194

(907) 586-4100

AUKE BAY, ALASKA 99821

January 18, 1982

Representative Terry Martin
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Martin:

As this session of the Legislature gets under way, it is already apparent that some very hard decisions will have to be made regarding funding of all the various needs around the state. One of the areas which will require careful review is the state loan programs. Since there are currently 54 loan and related grant programs currently in the statutes, it is virtually impossible to be knowledgable of the specifics of the various programs. Also, there are just under 100 bills pending from last year regarding loan programs with more already having been introduced this session.

As you may recall from some of our previous advertising, we have compiled and published a Guide to State of Alaska Loan Programs. This guide is current and would be a very valuable tool for you and your staff during this legislative session. Having it available will help you and your staff:

(1) when considering new legislation on loan programs, to review all existing programs with a similar purpose to insure that the new legislation is not duplicative of other programs;

(2) when considering funding proposals for existing programs, to determine if you feel the program objectives justify more, less or the same funding as it has had in prior years; and

(3) when receiving inquiries from your constituants, to quickly review the programs of interest to them and explain the basic terms and conditions as well as advising them who to contact for more specific information.

Enclosed is a sample Executive Summary for one of the loan programs and a brochure explaining the loan guide in more detail. Please note that the guide is printed and will be delivered immediatley upon receipt of your order. If you have any questions regarding the guide, feel free to call me.

Very truly yours,

Gary L. Jenkins
President

FISHERIES ENHANCEMENT LOANS
FISHERIES ENHANCEMENT REVOLVING LOAN FUND
EXECUTIVE SUMMARY

IS THERE ANY MONEY AVAILABLE TO BORROW:	Please see the current funding summary in the Funding Status Section of this guide.
PURPOSE FOR WHICH MONEY MAY BE BORROWED:	I. Hatchery planning, construction and operation. II. Other fishery rehabilitation activities such as lake fertilization and habitat improvement.
HOW MUCH MAY BE BORROWED:	I. $6,000,000 II. $1,000,000
FOR HOW LONG MAY IT BE BORROWED:	30 years for all loans. NOTE: Payment of principal and interest may be deferred a minimum of 6 years and a maximum of 10 years. Interest does not accrue during this deferral period.
AT WHAT INTEREST RATE(S):	9.5% for all loans.
WHO MAY APPLY FOR A LOAN:	An applicant who is (A) a nonprofit corporation which has been formed by a regional aquaculture association; or (B) a local nonprofit corporation which has been organized for this specific purpose and in the case of a loan application for preconstruction activities, the approval of the local regional aquaculture association has been obtained.
WHO SHOULD BE CONTACTED FOR MORE SPECIFIC INFORMATION:	Joe Davis (907) 465-2510 Department of Commerce and Economic Development Division of Business Loans Pouch D Juneau, Alaska 99811
ALASKA LAW AND REGULATIONS WHICH ESTABLISH AND EXPLAIN THIS LOAN PROGRAM:	Alaska Statutes: AS 16.10.500-620 Alaska Regulations: None issued
WHERE SHOULD THE APPLICATION BE FILED:	Mailed To: Division of Business Loans Dept. of Commerce and Economic Dev. Pouch D Juneau, Alaska 99811 Delivered To: In Juneau-9th Floor, State Office Building: In Anchorage-2600 Denali, Suite 401: In Fairbanks-675 7th Avenue, Station A.

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LOAN APPLICATION ASSISTANCE SERVICE

Recognizing that the majority of businessmen in Alaska do not have ready access to the State agencies or financial institutions who are processing loan applications, that many of you do not have the time to personally prepare and submit an application, and that most of the time agencies tend to be responsive to those people who have daily contact with them, we will provide an application assistance service. The services provided will include preparing or assisting in the preparation of the application, gathering and compiling any necessary supplementary information and submitting and monitoring the application as it is being processed. Charges for this service will be strictly on the basis of time spent with no minimum fee. Complete information, to include the rates for the various types of services will be provided in a separate section of the loan guide.

WHO IS SPECIALIZED PROFESSIONAL SERVICES, INC.

Specialized Professional Services, Inc. is wholly owned by Gary L. Jenkins. Professionally, I am a Certified Public Accountant. For the past eight years I have been working for the Alaska Department of Revenue, the last six as Director of the Audit Division. I have chosen to leave State employment because I wanted to develop services like this one to aid businesses and to provide specialized tax and management services. As Director of the Audit Division I have worked extensively with legislation, have written regulations, concentrating on making them as understandable as possible, and have had many occasions to work with a large number of other state agencies. I've discovered that there are many ways to get things done in spite of the bureaucracy and all of the roadblocks thrown up by those people working in it. This experience will give me a tremendous advantage in getting information regarding the various loan programs and dealing with the respective agencies.

My associates have been carefully selected and have proven to be effective and efficient at working within the State system.

ALASKA LOAN PROGRAMS GUIDE ORDER FORM

Please send the loan guide to:

Name _____ Phone #_____

Address _____

_____

For the period of: ___ One year @ $225 if paid with order or $250 if billed when the guide is ready to be mailed

___ Two Years @ $375 if paid with order

___ Three Years @ $500 if paid with order

Mail to: Specialized Professional Services, Inc.,
P. O. Box 194, Auke Bay, Alaska 99821

Please allow 4-6 weeks for delivery of the Guide.

SPECIALIZED PROFESSIONAL SERVICES, INC. PRESENTS
A GUID" TO STATE OF ALASKA LOAN PROGRAMS

There is now available a guide to all the loan programs which have been established by the Alaska Legislature. This guide will allow you to be the among the first to know all the details about every State of Alaska loan program in existence, including personal loans, and which loan programs have funds available.

The guide is organized to provide you the information you want in the most efficient way. Within the major sections of the guide, organized on the basis of general purpose, each separate loan will have a tab which will identify the basic purpose of that loan program. Behind each tab will be information on that specific loan program which will include

AN EXECUTIVE SUMMARY which will provide all pertinent details about that program such as what specific purposes the money is available for, how much money may be borrowed, what interest rates will be charged, how to apply and who to contact for more specific information:

A LISTING of the information needed to apply for a loan; and

A GUIDE on how to complete your application so that it is immediately processable when it is submitted, thus, keeping it from being returned for missing information.

In addition, as part of the basic service you will also receive

A PERIODIC REPORT detailing any proposed changes in the various loan programs, the status of funds availability and information on any proposed new loan programs:

UPDATED REPLACEMENT PAGES for any loan program where there have been changes made by legislation, regulation or policy:

NEW LOAN PROGRAM information ready to be added to your binder which will provide the same information specified above for all new programs and which will be sent to you as quickly as possible after the program has been established, giving you the opportunity to be among the first applicants to obtain funds from that program; and

AN INFORMATION SERVICE so that if you have a question on a loan program that is not answered by the information provided or adequately by the staff of the responsible agency, call and we will get the answer for you.

For your convenience an order form is included on the back of this brochure.

LOAN APPLICATION ASSISTANCE SERVICE

Recognizing that the majority of businessmen in Alaska do not have ready access to the State agencies or financial institutions who are processing loan applications, that many of you do not have the time to personally prepare and submit an application, and that most of the time agencies tend to be responsive to those people who have daily contact with them, we will provide an application assistance service. The services provided will include preparing or assisting in the preparation of the application, gathering and compiling any necessary supplementary information and submitting and monitoring the application as it is being processed. Charges for this service will be strictly on the basis of time spent with no minimum fee. Complete information, to include the rates for the various types of services will be provided in a separate section of the loan guide.

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Mail to: Specialized Professional Services, Inc.,
P. O. Box 194, Auke Bay, Alaska 99821

Please allow 4-6 weeks for delivery of the Guide.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 630
Title Relating to State Loan Programs
Requested by House Labor & Commerce Committee Date 1/11/82

II. FISCAL DETAIL
Agency Affected Dept. of Commerce & Economic Development, Dept of Revenue
Program Category Affected Development
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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		1,750.6	1,925.7	2,118.2	2,330.1	2,563.1
200 TRAVEL		200.0	220.0	242.0	266.2	292.8
300 CONTRACTUAL		500.0	550.0	605.0	665.5	732.1
400 COMMODITIES		50.0	55.0	60.5	66.5	73.2
500 EQUIPMENT		130.0				
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		2,630.6	2,750.7	3,025.7	3,228.3	3,661.2

FUNDING (Thousands of Dollars)

GENERAL FUND		2,630.6	2,750.7	3,025.7	3,228.3	3,661.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		43.0	43.0	43.0	43.0	43.0
PART TIME		3.0	3.0	3.0	3.0	3.0
TEMPORARY						

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

Create an Alaska Housing Loan Authority (AHLA) in Dept. of Commerce & Economic Development to coordinate, supervise and give final approval for purchases of home loans by Alaska Housing Finance Corp. (AHFC) and several other programs. AHFC and others must make credit analysis, etc. and all their work is subject to approval of AHLA; therefore, staffing and budget presented above is similar in size and scope to AHFC budget since all AHFC and other work is subject to second review and approval.

IV. DATE February 8, 1982 PREPARED BY Peter A. Bussdre for Anselm Staack
AGENCY Department of Revenue
PHONE 465-2350

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

?3-001 (Rev. 12/81)

BILL ANALYSIS
HOUSE BILL 630 (1/11/82)

1. Creates an Alaska Housing Loan Authority (AHLA) in Department of Commerce and Economic Development to coordinate, supervise and give final approval for purchase of loans by:

   a. Alaska Housing Finance Corporation (AHFC).
   b. Nonconforming Housing Loan Fund.
   c. Senior Citizens Housing Development Fund.
   d. Residential Energy Conservation Fund.

   Authority may employ executive director and staff as necessary.

2. Amends the various statutes of AHFC and loan funds stipulated in (1) above subjecting their lending activity to AHLA approval.

3. Nonconforming Housing Loan Fund is allowed to purchase, as a secondary lender, loans but is not allowed to directly originate loans.

4. Alaska Industrial Development Authority is renamed the Alaska Business Loan and Industrial Development Authority (ABLIDA). Powers of ABLIDA are expanded to purchase or insure business loans to agricultural and fishing enterprises.

5. Residential Energy Conservation Fund can purchase loans but can no longer originate them.

6. After July 1, 1982 no further loans may be made for or under:

   a. Alaska Agriculture Loan Account.
   b. Loans for purchase of Alaska limited entry permits.
   c. Fisherman's Mortgage and Note Fund.
   d. AHFC Housing Development Fund.
   e. Veterans Loans from Department of Commerce and Economic Development.
   f. Child Care Facility Revolving Loan Fund.
   g. Residential Care Facility Revolving Loan Fund.
   h. Alaska Commercial Fishing and Agriculture Bank.

7. The following programs are repealed:

   a. Housing Development Revolving Loan Fund. (Low and Moderate income on rentals for low and moderate income).
   b. Moderate cost and rental housing of the Alaska State Housing Authority.

2/8/82

c. Housing Development Fund of AHFC; provides loans for persons of lower and moderate income.
d. Loans for relocation assistance to encourage and facilitate the construction and rehabilitation of housing of displaced persons.
e. Alaska Economic Disaster Impact Fund.
f. Alaska Renewable Resources Corporation (repeals entire account).
g. Native corporation loan fund. (This is no longer needed as native claim payments have been settled).
h. Temperate Social Activities Revolving Loan Fund.
i. Nonconforming Housing Loan Fund. (Repeals eligible locations statute).
j. Alaska Commercial Fishing and Agriculture Bank (entire statute).

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

To: Russ Meekins, Chairman
Special Banking Committee

From: Terry Martin, Chairman
House Labor & Commerce Committee

Date: February 8, 1982

Subject: HB 630 referral

Pursuant to hearing and discussion by this committee, the members have agreed that the Special Banking Committee should review HB 630 before action by the Labor & Commerce Committee. Areas we request your committee review are:

1) to include all state loan programs under the proposed Alaska Business Loan and Industrial Development Authority:

a) consolidation of social loan programs;

b) include the Alaska Power Authority in the loans being addressed by this legislation;

2) review contractual and constitutional rights of loan participants under those loan programs being eliminated; and,

3) evaluate the bureaucracy potentially created by this legislation.

Labor & Commerce Committee members Bylsma and Rogers have been appointed by the committee chairman to work with your committee on reviewing HB 630. After review by the Special Committee on Banking, we request HB 630 be returned to the House Labor & Commerce Committee for expedited consideration.

Terry Martin by
by Jones

State Loan Programs (term. & consol.)

HOUSE BILL NO. 630, by Rep. Metcalfe. Relates to the involvement of the state in lending activities, specifically the state loan programs now in existence. The bill provides: ". . .It is the purpose of this Act (1) to terminate those state loan programs that are inactive, as well as several loan programs that have questionable objectives; (2) to consolidate two major areas of state loan activity, housing and buisness loans, into two authorities that will increase the accountability, consistency, and efficiency in these areas; (3) to use the existing mechanism of the Alaska Industrial Development Authority, renamed the Alaska Business Loan and Industrial Development Authority, to facilitate business loans to agricultural and fishing enterprises; (4) to remove the state from the private lending market and to return that function to competent private financial institutions."

Creates the Alaska Housing Loan Authority under AS 44 (State Government), within the Department of Commerce and Economic Development. Provides the Authority shall administer loans under the Senior Citizens Housing Development Fund (AS 18.54.070), the Alaska Housing Finance Corporation (AHFC) (AS 18.56), the Nonconforming Housing Loan Fund (AS 44.47.380), and the Residential Energy Conservation Fund (AS 45.89). States: "The authority shall assess the need and monitor the supply of residential housing in the state and develop a comprehensive plan to make decent, safe, low and moderately priced residential housing available to all persons by purchasing or participating in the purchase of loans made by financial institutions qualified under AS 06." (AS 06--Banks and Financial Institutions).

Amendments which pertain to existing loan programs include:

--Amends the Housing Development Revolving Loan Fund (administered by the Dept. of Community & Regional Affairs, Community Planning Division), providing that loans or grants to municipalities or eligible corporations be subject to approval of the Alaska Housing Loan Authority. Adds new subsection stating that the department may only purchase or participate in the purchase of a loan to a public or nonprofit private corporation. Deletes language relating to the loan fund which states it may ". . .make or participate in the making of mortgage loans to sponsors, developers, builders and purchasers of residential housing, if the corporation determines that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions." Also states that other powers of the Fund are subject to the approval of the Alaska Housing Loan Authority (hereafter referred to as AHLA)

--Amends the Nonconforming Housing Loan Fund, placing similar restrictions relating to the powers of the Director of the Division (administered by the Dept. of Community & Regional Affairs, Division of Housing Assistance), providing those powers are subject to approval by the AHLA. Deletes language which provides the Division may "originate" loans. Deletes language which states the Director may execute service agreements with private lending institutions to service loans originated by the Division.

--Amends sections relating to the Alaska Industrial Development Authority (AS 44.88), changing the name of the Authority to the

HB 630, (cont'd)

Alaska Business Loan and Industrial Development Authority. Also adds new sections giving the ABLIDA power ". . .to purchase or insure loans for fishing vessels to be used by a small enterprise; (20) to purchase or insure loans to purchase a limited entry permit required under AS 16.43.140." Deletes reference under "Legislative findings & policy" section relating to ABLIDA "making" loans (all loans now having to be approved by AHLA). (Note: does not delete any of the powers of the Authority as set out in AS 44.88.080, Powers of the Authority).

--Amends sections relating to the Residential Energy Conservation Fund, providing for approval of grants and loans "purchased" (currently "made") by the Fund by the AHLA.

The bill provides that after July 1, 1982 no further loans may be made under the following programs:

--AS 03.10 (Alaska Agricural Loan Act); AS 16.10.333 (Fish and Game. Loans for purchase of Alaska Limited Entry Permits); AS 16.-10.650 - 16.10.720 (Fishermen's Mortgage and Note Fund); AS 18.56.-100 (AHFC. Housing Development Fund); AS 26.15 (Alaska World War II Veterans Act); AS 44.33.240 - 44.33.275 (Child Care Facility Revolving Loan Fund); AS 44.33.320 - 44.33.380 (Residential Care Facility Revolving Loan Fund); AS 44.81 (Commercial Fishing and Agriculture Bank).

Programs repealed by the bill include:

--AS 18.54.010 - 18.54.060 (Housing Development Revolving Loan Fund--does not repeal section relating to the Sr. Citizen Housing Development); AS 18.55.300 - 18.55.470 (Moderate Cost and Rental Housing); AS 18.56.210(5) (definition of "housing development fund"); AS 34.60.135 (Relocation Assistance and Real Property Acquisition Practices. Planning loans for additional housing); AS 37.11.100 (Renewable Resources Funds. Alaska economic disaster impact fund); AS 37.12 (Alaska Renewable Resources Corporation); AS 44.25.030 - 44.25.038 (Dept. of Revenue. Loan program; PL 92 - 203 corporations Declaration of purpose); AS 44.47.310 - 44.47.350 (The Temperate Social Activities Revolving Loan Fund); AS 44.47.385 (Div. of Housing Assistance. Eligible locations); AS 44.81 (Commercial Fishing and Agriculture Bank).

Provides Act takes effect July 1, 1982.

Introduced January 11 and referred to Labor & Commerce, State Affairs, then to Finance.

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811

March 8, 1982

The Honorable Terry Martin
Chairman
House Labor and Commerce Committee
Room 211 - Behrends Building
Juneau, Alaska

Dear Mr. Martin:

Re: House Bill No. 630

House Bill No. 630, an Act relating to state loan programs, was introduced in the House on January 11, 1982 and was referred to the House Labor and Commerce; State Affairs and Finance Committees.

For the consideration of the House Labor and Commerce Committee, I am enclosing six copies of a Fiscal Note prepared by Mr. Anselm Staack, Treasury Comptroller, Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson

R. D. Stevenson
Special Assistant

Enclosure

cc: The Honorable Ray H. Metcalfe
Chairman
House State Affairs Committee

The Honorable Albert P. Adams
Chairman
House Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Anselm Staack
Treasury Comptroller
Department of Revenue

04-D2LH

STATE OF ALASKA
JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

February 8, 1982

Honorable Joe Hayes
Speaker of the House
Pouch V
Juneau, Alaska 99811

Dear Mr. Hayes:

As required by AS 37.05.035, the Department of Commerce and Economic Development, Division of Loans and Veterans' Affairs, submits for your review the following report on loans closed during FY '81:

- Loans made by loan type

The prevailing market rates used were obtained from the Department of Revenue, Division of Treasury.

Because of the number of assumptions made during FY '81 and the use of subsidized loan funds, a separate section on assumptions was included with the report of loans made by loan type. The prevailing market rate at the time of the assumption was used to determine the amount of subsidy provided by the State for this type of loan.

Sincerely,

Charles R. Webber
Commissioner

CRW/jar#26V2

08-H2LH

ANNUAL STATE LOAN REPORT
LOANS CLOSED BY TYPE
FISCAL YEAR 1981

	Total # of Loans	Total Principal Loaned	*Return on Loan at Business Loans Interest Rate	Return on Loan at Prevailing Interest Rate	Total State Subsidy
Residential Energy	47	$ 181,508	$ 80,182	$ 110,546	$ 30,364
Alternative Technology	276	1,333,824	598,694	1,838,165	1,239,471
Commercial Fish	405	25,472,412	14,313,698	26,314,649	12,100,951
Small Business	450	74,340,534	49,467,489	72,047,265	22,597,776
Tourism	5	834,575	881,996	1,738,146	856,150
Mining	10	9,303,834	3,449,845	5,243,477	1,793,632
Fish Enhancement	15	3,396,714	3,794,022	8,649,299	4,855,277
Bulk Fuel	0				
Child Care	0				
Water Resources	0				
Historical Districts	0				
Total Amounts For Business Loans	1,208	$114,863,501	$72,585,926	$115,941,547	$43,473,621
Assumptions: **					
Veterans	49	$ 2,510,933	$ 3,491,818	$ 4,238,128	$ 746,310

* (a) Business Loan interest rate is 5% energy loans; 10% for Historical Dist.; 9.5% Commercial Fish, Tourism, Small Business and Fish Enhancement
(b) Vets original interest rate on loan unless person assuming is a nonvet, in which case interest rate is at prevailing market rate

** No new loans were made.

HB
639

COMMITTEE REPORT

HOUSE

(5)

FURTHER: FINANCE

3/10/82

Date: 3-22-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had SSHB 639.

"An Act relating to supplemental employee benefits; and providing for an effective date."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Terry Martin

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bruce Rogers Do Pass if HB121 is added to it

Terry Martin "Do"

Terry Martin
CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SSHB 639
Title An Act Relating to Supplemental Employee Benefits; and Providing for an Effective I
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement & Benefits
Program Category Affected Centralized Administrative Services
BRU, Program, or Subprogram(s) Affected Retirement & Benefits
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

		FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100	PERSONAL SERVICES						
100	RETIREMENT BENEFITS						
200	TRAVEL						
300	CONTRACTUAL		35.0				
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		35.0	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
SBS PROGRAM RECEIPTS		35.0	-0-	-0-	-0-	-0-

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

1. Contractual costs include $25 thousand for a one-time revision of the SBS annuity subsystem (data processing) and $10 thousand for benefit consulting in drafting and implementing the required amendments to the Supplemental Annuity Plan.

2. This bill would also result in some adverse impact on annuity earnings for all SBS participants because of the need for increased liquidity.

Paul B. Arnoldt

IV. DATE March 22, 1982 PREPARED BY Paul B. Arnoldt
AGENCY Division of Retirement & Benefits
PHONE 465-4460

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

C.S.
adv
4' bed
2 1/4 jet
3 yr per Ifrom
letter of intent Ifrom
may to ↔ Supply grade — HB 634
way air TAXI & set groups inc.
permanent from prepare

#1642 —

CS being prepared / House Copy

Introduced: 3/10/82
Referred: Labor & Commerce and Finance

IN THE HOUSE BY RANDOLPH

CS / SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 639

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to supplemental employee benefits; and providing for an effective date."

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

* Section 1. AS 39.30.150 is amended by adding a new subsection to read:

(d) Upon termination of employment by an employee, the amount contributed by the employee that was used to purchase supplemental annuities may be refunded to the employee on application by the employee.

* Sec. 2. The plan administrator of the State of Alaska Supplemental Annuity Plan shall apply to the United States Internal Revenue Service for a ruling that an amendment to the plan to allow participants to receive an annuity benefit as provided in AS 39.30.150(d) at any age will not adversely affect the deferral of taxes and, on receipt of a favorable ruling, shall amend the plan in accordance with the provisions of this Act.

* Sec. 3. Section 1 of this Act takes effect on amendment of the plan by the plan administrator after receipt of a favorable tax ruling by the United States Internal Revenue Service.

* Sec. 4. Section 2 of this Act takes effect immediately in accordance with AS 01.10.070(c).

Original sponsor: Randolph

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 639 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to supplemental employee benefits; and providing for an effective date."

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

* Section 1. AS 39.30.150 is amended by adding a new subsection to read:

(d) Upon termination of employment by an employee, the amount held on behalf of the employee in the supplemental benefits account established under AS 39.30.160 may, on application of the employee, be paid to the employee under the terms of the State of Alaska Supplemental Annuity Plan.

* Sec. 2. The plan administrator of the State of Alaska Supplemental Annuity Plan shall apply to the United States Internal Revenue Service for a ruling that an amendment to the plan to allow participants to receive an annuity benefit as provided in AS 39.30.150(d) at any age will not adversely affect the deferral of taxes and, on receipt of a favorable ruling, shall amend the plan in accordance with the provisions of this Act.

* Sec. 3. Section 1 of this Act takes effect on amendment of the plan by the plan administrator after receipt of a favorable tax ruling by the United States Internal Revenue Service.

* Sec. 4. Section 2 of this Act takes effect immediately in accordance with AS 01.10.070(c).

Effect of amendment. — The 1980 amendment, effective September 17, 1980 substituted "workers' compensation" for "workmen's compensation."

Article 4. Supplemental Employee Benefits on Withdrawal from Social Security.

Section		Section	
150.	Contributions	160.	Benefits in place of social security
155.	Duties of the public employees retirement board	170.	Participation in program
		180.	Definitions

Sec. 39.30.150. Contributions. (a) In place of contributions to the federal social security system which would have been required on behalf of an employee had the participating employer belonged to the social security system, the participating employer shall contribute 12.26 percent of the wages of the employee up to the taxable wage base then in effect in the social security system. All costs of establishing and administering the benefit program established by AS 39.30.160 shall be paid from the contributions made by the participating employers under this section. The balance of the contributions made by the participating employers shall be paid into special individual employee benefit accounts in the Department of Administration to be used to provide supplemental employee benefits provided in AS 39.30.160.

(b) Employees of the division of marine transportation included in the public employees' retirement system through the process of collective bargaining under AS 39.35.680(21)(D) may, under the terms of a collective bargaining agreement, utilize contributions made under (a) of this section on their behalf to offset the costs of inclusion in the public employees' retirement system; however,

(1) the state is placed under no obligation to continue making contributions under this section if the state resumes participation in the federal social security system;

(2) the bargaining agreement must provide a mechanism for satisfying any residual liabilities which might exist if the state resumes participation in the federal social security system; and

(3) no funds contributed under (a) of this section on behalf of employees who are not covered by maritime union contracts may be obligated or expended to pay any costs associated with the inclusion of marine transportation employees in the public employees' retirement system.

(c) An employee of a participating employer is considered to have agreed to have his wages reduced by an amount equal to one-half the total contribution which the participating employer is required to make on behalf of the employee under this section. (§ 5 ch 58 SLA 1979; am §§ 2, 3 ch 135 SLA 1980; am §§ 16, 17 ch 146 SLA 1980)

Revisor's note. — Under the provisions of § 7, Chapter 58, SLA 1979 the state employees voted in September, 1979, to withdraw from the federal Social Security

System. AS 39.30.150 — 39.30.160 thereafter became effective on January 1, 1980, as provided in § 8, Chapter 58, SLA 1979.

Effect of amendments. — The 1980 amendments, retroactive to January 1, 1980, both substituted "participating employer belonged to the social security" for "state remained in the" in the first sentence of subsection (a), substituted "participating employer" in both the singular and the plural forms for "state" where it appeared in subsection (a), and added subsection (c).

Sec. 39.30.155. Duties of the public employees retirement board. (a) The Public Employees Retirement Board (AS 39.35.030) shall

(1) hold regular and special meetings it considers necessary to carry out its responsibilities relating to the supplemental employee benefit program; all meetings are open to the public and the board shall keep a full record of all its proceedings;

(2) adopt, with modifications it considers proper, regulations recommended by the administrator for carrying out the supplemental employee benefit program, and regulations providing employees the opportunity to periodically change distribution of contributions among the supplemental benefit options listed in AS 39.30.160(a);

(3) consider matters referred to it by the administrator in connection with changes in policy and revisions of the supplemental employee benefit program;

(4) act as an appeals board, hold hearings at the request of an employer, employee, surviving spouse, or a beneficiary on decisions made by the administrator that relate to the payment of benefits under the supplemental employee benefit program, and submit its findings to the administrator;

(5) prescribe policies for the operation of the supplemental employee benefit program and take other action which it considers necessary to carry out the purposes of that program;

(6) advise the Department of Administration concerning the features to be included in the benefit options provided under AS 39.30.160(a).

(b) In this section "administrator" means the administrator of the public employees' retirement system appointed under AS 39.35.050. (§ 18 ch 146 SLA 1980)

Sec. 39.30.160. Benefits in place of social security. (a) The Department of Administration shall, in accordance with policies prescribed by regulations of the Public Employees Retirement Board, provide to employees for whom benefit accounts are established under AS 39.30.150 the following benefit options:

(1) supplemental health benefits,

(2) supplemental death benefits,

(3) supplemental disability benefits,

(4) supplemental survivor benefits, and

HB 640

COMMITTEE REPORT

HOUSE

(5) FURTHER: JUDICIARY

1/11/82

Date: 1-19-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 640

"An Act relating to games of chance and contests of skill; and providing for an effective date."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

_____

_____

_____

_____

_____

_____

_____

_____

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____ (Chairman - No Vote)

_____

_____

_____

_____

_____

_____

_____
CHAIRMAN

H 60 (Rev. 12/78)

Labor & Commerce 198

cl: HB623 pmd also

PASSED OUT AS CS-1-20-

Pmrns & stfied

Comm. Williams

Date Filed 1-11-82
" Recd. 1-14-82
Referred — Judiciary
Comm. hearing — 1-19-82 - teleconference
" action passed as CS by all members but Bylaws No Rec.

Brad Bradley for Vets organizations
Elks - American Legion - V.F.W.
A.V.S.

STATE OF ALASKA
DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

March 2, 1982

The Honorable Joe L. Hayes
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

The annual report on Games of Chance and Skill, as required by AS 05.15.090; is enclosed. Also enclosed is a supplemental report for 1980 which summarizes all 1980 financial statements received through March 2, 1982.

A total of 622 permits were issued for 1981 with 347 permittees having filed the required financial statements. The Department is requiring financial statements from those who have not reported.

Permit fees and the 1% net proceeds are projected to exceed $40,000 for 1981. The permit fee scale continues to cover the cost of Administration and no change is recommended.

The Department adopted Emergency Regulations 15 AAC 105.(5)(L) and (M) on September 11, 19823. This Regulation allowed Pull Tabs to be used for the period ending December 31, 1981. Pull Tabs used in the past were illegal. Some Pull Tab fees had been reported under Bingo activity. The Regulation created some confusion in the reporting of Pull Tab fees for 1981 with some fees still reported under Bingo and others under Raffles and Lotteries. The proper reporting of Pull Tab fees under Raffles and Lotteries has caused some permittees to exceed the $30,000 prize limit established by 15 AAC 105.120(4). The Department is presently reviewing reports to determine the extent of this problem. No decision has been reached on handling violations. The estimated gross receipts from Pull Tabs reported thus far is $1,990,528 or 15% of the total gross receipts reported for 1981.

A supplemental report for 1981 will be prepared and submitted next year.

Sincerely,

Thomas K. Williams
Commissioner
Department of Revenue
(907)465-2300

Enclosures

AUDIT DIVISION

REPORT TO THE LEGISLATURE

MARCH 2, 1982

Summary of the 1981 annual financial statement reports required of permittees of Authorized Games of Chance and Skill.

TOTAL APPLICATIONS RECEIVED: 650

TOTAL APPLICATIONS REJECTED: 28
(Note: Can be rejected for more than 1 reason)

(1)	Non-qualified Organization	18
(2)	Non-authorized Activity	0
(3)	Unacceptable Dedication of Proceeds	0
(4)	Disapproved by Local Authorities	0
(5)	Failure to submit Permit Fee	6
(6)	Failure to submit prior year Financial Stmt.	7

TOTAL PERMITS ISSUED: 622

TOTAL FEES COLLECTED: $33,006.
622 Permits Issued @ $20 - - - - - - - - - $12,440.
28 Permits Denied - - - - - - - - - - - - $ 420.
1% Net Proceeds Fee recd. to 2/22/82) - $20,146.

PERMITS REVOKED: 3
Reason: Decision organizations not qualified

PERMITS SUSPENDED: 2
Reason: Failure to file prior year Financial Statement

ACTIVITIES AUTHORIZED:
(Note: Some permits authorize two or more activities)

(1)	Bingo	339
(2)	Raffles & Lotteries	542
(3)	Ice Classics	2
(4)	Rain Classics	7
(5)	Dog Mushers Contests	41
(6)	Fish Derbies	37
(7)	Contests of Skill	177

	PERMIT TYPE	GROSS RECEIPTS	NET PROCEEDS FOR DONATIONS
	BINGO	$ 9,536,143.	$ 1,492,297.
	RAFFLES & LOTTERIES	$ 2,706,071.	$ 423,490.
*	GAMES OF SKILL & MISCELLANEOUS GAMES	$ 527,854.	$ 100,831.
	TOTALS	$12,770,068.	$ 2,016,618.

* Includes Ice Classics, Rain Classics, Dog Races, Fish Derbies

DEPARTMENT OF REVENUE
AUDIT DIVISION

REPORT TO THE LEGISLATURE

SUPPLEMENT TO REPORT OF MARCH 2, 1981

Summary of the 1980 annual financial statement reports required of permittees of Authorized Games of Chance and Skill.

TOTAL APPLICATIONS RECEIVED: 619

TOTAL APPLICATIONS REJECTED: 41
(Note: Can be rejected for more than 1 reason)

(1)	Non-qualified Organization	29
(2)	Non-authorized Activity	-
(3)	Unacceptable Dedication of Proceeds	4
(4)	Disapproved by Local Authorities	-
(5)	Failure to submit Permit Fee	9
(6)	Failure to submit prior year Financial Stmt.	7

TOTAL PERMITS ISSUED: 578

TOTAL FEES COLLECTED: $40,055.00

578 Applications @ $20	$11,560.
Rejected Applications	$ 670.
1% of Net Proceeds	$27,825.

PERMITS REVOKED: -0-
Reason: _____

PERMITS SUSPENDED: -0-
Reason: _____

ACTIVITIES AUTHORIZED:
(Note: Some permits authorize two or more activities)

(1)	Bingo	325
(2)	Raffles & Lotteries	517
(3)	Ice Classics	2
(4)	Rain Classics	13
(5)	Dog Mushers Contests	41
(6)	Fish Derbies	45
(7)	Contests of Skill	76

PERMIT TYPE	GROSS RECEIPTS	NET PROCEEDS FOR DONATIONS
BINGO	$14,989,159.	$2,363,388.
RAFFLES & LOTTERIES	$ 1,776,609.	$ 337,627.
* GAMES OF SKILL & MISCELLANEOUS GAMES	$ 875,924.	$ 112,542.
TOTALS	$17,641,692	$2,813,557.

* Includes Ice Classics, Rain Classics, Dog Races, Fish Derbies

For proper file

LOYAL ORDER of MOOSE

ANCHORAGE LODGE NO. 1534

4211 ARCTIC BLVD.
99503
Anchorage, Alaska [redacted]

21 January 1982

Anchorage, Alaska

Representative Dick Randolph
Alaska State Legislature
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Representative Randolph:

Thank you very much for your letter explaining the problems surrounding the use of "pull-tabs" and other games of skill and chance for raising funds for charitible purposes.

We certainly agree with your analysis of the problem and the value of changing the regulations. Our Lodge has in the past made a considerable number of contributions, quite significant in their total, to local community service and charitible groups. These funds have come almost exclusively from the proceeds of our pull-tab program. In point of fact, all proceeds were used exclusively for charitible contributions.

We wish to encourage you to take those steps you feel appropriate to the end, to modify the regulations that prevent us from conducting a pull-tab program.

Due to the lack of any evidence of any clear and present danger to the citizens of our State posed by a pull-tab game of chance and our desire to use the proceeds for the betterment of the citizens of our State, we whole-heartedly support a change in the regulations to allow there use.

Certainly, we would be willing to cooperate and comply with any reasonable reporting requirements for the purpose of insurring the proceeds are indeed being used to cover only the expenses associated with the program and those charitible purposes already noted.

If we can help in any way, please contact us at 4211 Arctic Blvd, Anchorage, 99503, 272-4752.

Respectfully yours,

Melvin L. Bunch

Melvin L. Bunch, Governor

James E. Fox

James E. Fox, Secretary

CC: Governor Jay Hammond
Lt. Governor Miller
Alaska Senate Members
Alaska House Members

Please put in my file of HB 640

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811

January 20, 1982

The Honorable Terry Martin, Chairman
House Labor & Commerce Committee
Room 211 - Behrends Building
Juneau, AK 99811

Dear Representative Martin:

HOUSE BILL NO. 640 AND HOUSE BILL NO. 623

Pursuant to your request at the committee hearing yesterday, I have prepared the attached schedule, reflecting the estimated effect of continuing the ban on the sale of pull-tabs by games of chance and skill permits. The figures are based on the financial statements submitted by such permittees for calendar years 1978, 1979 and 1980, and indicate an estimated net proceeds from pull-tabs of slightly less than $1 million a year. This is of necessity a very rough estimate.

Since pull-tabs have not been recognized as a legal game of chance, the Department has no firm data on the dollar volumes generated by pull-tabs for those years. This information was requested for 1981, and the available information received to date indicates pull-tabs as approximately 26% of the total gross receipts. We do not feel that this is a true representation of the whole, and find no reason to disagree with the testimony presented and the correspondence received by the Department indicating that pull-tabs represent approximately 50% of gross receipts to those permittees selling pull-tabs. The projected net proceeds reflect an assumption that the expenses related directly to the sale of pull-tabs are proportional to the expenses related directly to bingo. Since most permittees previously included their pull-tab receipts in either bingo or lottery receipts, I have applied the 50% assumed ratio to the total of gross receipts and net proceeds from those two categories.

I would like to take this opportunity to add my agreement with those testifying as to the effect of Section 3 of House Bill No. 640. The current version would provide a limitation on the price to participate in any lottery which is presumably not the intent of the legislation.

Thank you again, for the opportunity to comment on this legislation.

Sincerely,

Joseph K. Donohue

Joseph K. Donohue
Deputy Commissioner, Taxation

JKD:EJ:jg

04-D2LH

ESTIMATED PROCEEDS FROM THE SALE OF PULL-TABS

	1978	1979	1980
Reported Gross Receipts from Bingo/Lotteries	$10,294,002	$11,944,918	$12,963,136
Estimated Gross Receipts from Pull-Tabs	$5,147,001	$5,972,459	$6,481,568
Reported Net Proceeds from Bingo/L ries	$1,702,978	$2,108,454	$1,991,733
Estimated Net Proceeds from Pull-Tabs	$851,489	$1,054,227	$995,867

STATE OF ALASKA
DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

January 19, 1982

The Honorable Terry Martin
Chairman
House Labor & Commerce Committee
Room 211 - Behrends Building
Juneau, AK 99811

Dear Mr. Martin:

Re: House Bill No. 640

House Bill No. 640, an Act relating to games of chance and contests of skill, was introduced in the House on January 11, 1982, and was referred to the House Labor & Commerce and Judiciary Committees.

For consideration of the House Labor & Commerce Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Ervin B. Jones, Supervisor, Audit Division, Department of Revenue, concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

RDS:jas

Enclosure

cc: The Honorable Ramona L. Barnes
Chairwoman
House Judiciary Committee

Joseph K. Donohue
Deputy Commissioner, Taxation
Department of Revenue

Ervin B. Jones, Supervisor
Audit Division
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 540
Title "An Act relating to games of chance and contests of skill; and ~~Requested by~~ providing for an effective date Date January 18, 1982
Requested by: House Labor and Commerce

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
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) None

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

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

See attached memo to R. D. Stevenson, dated January 18, 1982.

IV. DATE January 18, 1982 PREPARED BY Ervin B. Jones
AGENCY Audit Division
PHONE 465-2320

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

33-001 (Rev. 12/81)

R.D. Stevenson
Legislative Assistant

January 18, 1982

Erwin Jones
Office Audit Manager
Audit Division

HB 640
(Labor and Commerce)

This bill proposes to amend three sections of AS 05.15.

The effect of these proposed changes is to considerably broaden the privileges granted with the issuance of a games of chance and skill permit. The original language of AS 05.15.100 limited the games of chance to only those activities listed (i.e., bingo, raffles, lotteries, ice classics, rain classics, dog mushers' contests and fish derbies). New games of chance would have to then be allowed under one of those listed. The proposed language removes that limitation and taken in context with sections 2 and 3 of the bill, would allow any game of chance which could be contrived where the element of chance and luck is foremost, regardless of whether those games of chance existed in Alaska prior to statehood. Since the original intent of the legislation was to permit continuance of those gaming activities after statehood which existed in territorial days, this change is a considerable divergence.

The only remaining limitation would be the limitation on use of gambling implements found in AS 05.15.180(a). This would presumably prevent the introduction of casino type hardware and coin operated video games as games of chance, but would not prevent the legal introduction of games of chance such as can be contrived by profit-seeking individuals and nonprofit organizations striving to maximize their take in an <u>extremely</u> competitive industry.

If the author's intent is simply to legalize pull-tabs, I would recommend this bill to legal counsel to arrive at a simpler way of accomplishing that goal without opening Pandora's box.

EJ:jg

STATE OF ALASKA
DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

January 19, 1982

The Honorable Terry Martin
Chairman
House Labor & Commerce Committee
Room 211 - Behrends Building
Juneau, AK 99811

Dear Mr. Martin:

Re: House Bill No. 640

House Bill No. 640, an Act relating to games of chance and contests of skill, was introduced in the House on January 11, 1982, and was referred to the House Labor & Commerce and Judiciary Committees.

For consideration of the House Labor & Commerce Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Ervin B. Jones, Supervisor, Audit Division, Department of Revenue, concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

RDS:jas
Enclosure

cc: The Honorable Ramona L. Barnes
Chairwoman
House Judiciary Committee

Joseph K. Donohue
Deputy Commissioner, Taxation
Department of Revenue

Ervin B. Jones, Supervisor
Audit Division
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 640
Title "An Act relating to games of chance and contests of skill; and providing for an effective date" Date January 18, 1982
Requested by: House Labor and Commerce

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
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) None

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

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

See attached memo to R. D. Stevenson, dated January 18, 1982.

IV. DATE January 18, 1982 PREPARED BY Ervin B. Jones
AGENCY Audit Division
PHONE 465-2320

Original: Legislative Finance
Budget and Management
Prime Sponsor (First Legislator Named)
Rev. 12/81)

R.D. Stevenson
Legislative Assistant

January 18, 1982

Ervin Jones
Office Audit Manager
Audit Division

HB 640
(Labor and Commerce)

This bill proposes to amend three sections of AS 05.15.

The effect of these proposed changes is to considerably broaden the privileges granted with the issuance of a games of chance and skill permit. The original language of AS 05.15.100 limited the games of chance to only those activities listed (i.e., bingo, raffles, lotteries, ice classics, rain classics, dog mushers' contests and fish derbies). New games of chance would have to then be allowed under one of those listed. The proposed language removes that limitation and taken in context with sections 2 and 3 of the bill, would allow any game of chance which could be contrived where the element of chance and luck is foremost, regardless of whether those games of chance existed in Alaska prior to statehood. Since the original intent of the legislation was to permit continuance of those gaming activities after statehood which existed in territorial days, this change is a considerable divergence.

The only remaining limitation would be the limitation on use of gambling implements found in AS 05.15.180(a). This would presumably prevent the introduction of casino type hardware and coin operated video games as games of chance, but would not prevent the legal introduction of games of chance such as can be contrived by profit-seeking individuals and nonprofit organizations striving to maximize their take in an extremely competitive industry.

If the author's intent is simply to legalize pull-tabs, I would recommend this bill to legal counsel to arrive at a simpler way of accomplishing that goal without opening Pandora's box.

EJ:jg

Rodegers moved
Randolph second

Passed

Introduced: 1/11/82
Referred: Labor and Commerce
and Judiciary

IN THE HOUSE BY RANDOLPH,MOSS AND O'CONNELL

HOUSE BILL NO. 640

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to games of chance and contests of skill; and providing for an effective date."

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

* Section 1. AS 05.15.100 is amended to read:

Sec. 05.15.100. COMMISSIONER OF REVENUE MAY ISSUE PERMITS. The commissioner of revenue may issue a permit to a qualified organization. The permit gives the organization the privilege of conducting games of chance and contests of skill including bingo, raffles and lotteries, ice classics, rain classics, dog mushers' contests, and fish derbies [AND CONTESTS OF SKILL].

* Sec. 2. AS 05.15.180(b) is amended to read:

(b) With the exception of ga of chance [RAFFLES, LOTTERIES AND RAIN CLASSICS], no activity may be licensed under this chapter unless it existed in the state in substantially the same form and was conducted in substantially the same manner before January 1, 1959.

* Sec. 3. AS 05.15.210 is amended by adding a new paragraph to read:

(22) "game of chance" means a game in which the skill and experience of the player is secondary to purely fortuitous or accidental circumstances incidental to the game and includes ~~raffles and lotteries and~~ pull-tab and punchboard games in which the price of each chance is $1 or less, and raffles and lotteries.

* Sec. 4. Sections 1 - 3 of this Act are retroactive to January 1, 1982.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-070(c).

HB
642

COMMITTEE REPORT

HOUSE

(5)

1/13/82

FURTHER: JUDICIARY
FINANCE

Date: 3-30-82

Mr. Speaker: (Resources referral waived 1/12/82)

The Committee on LABOR & COMMERCE has had HB 642

"An Act establishing the Alaska natural resource trust; and providing for an effective date."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note 4 (FOUR)

[X] reports it back without recommendations

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Brian Rogers Do Pass if amended
Terry Gardner Do Pass if amended
Terry Martin Do not pass
Ed Kaplan - Do Not Pass

Terry Martin
CHAIRMAN

H 60 (Rev. 12/78)

Date Filed 1-13-82
Date Rec'd. 1-14-82
Referral - Judiciary - Finance
Comm. hearing 2-24-82 - held 3-17-82 - held 3-30-82 - Committee members signed out of Committee - No hearing posted. Sent to chief clerk's office
" action

[Mary Ann] in Ackelson Streit's office

Dept of Revenue certified

F/N Herein (4)

Call #3867 (Bill Berrien) will come when bill before committee but requests call as not to have to sit in waiting room.

Alaska Natural Resource Trust (establishing)

HOUSE BILL NO. 642, by Reps. [illegible]

Alaska Natural Resource Trust, a means of distributing the natural resource wealth to state resident "shareholders". Under the terms set out in the bill, residents would be issued certificates for a certain number of "units of beneficial interest" in the Trust (the number of units being determined by the Commissioner of Revenue, trustee). Amounts to be distributed are determined on the basis of

HB 642, (cont'd)

cash proceeds of royalties, and the sale or lease of state land. In order to receive "units" an individual must be a certified resident of the state (must provide proof of residence) on the date established in the portfolio plan under which units are distributed. Legal requirements fora setting up the Trust are outlined in length. Repeals the Alaska Renewable Resources Development Fund and the Alaska Renewable Resources Permanent Fund (AS 37.11.010 - 37.11.090).

Introduced January 11 and referred to Labor & Commerce, Judiciary, then to Finance.

Jerry Sanders as F/N mentions HJR 81 attached for your info. only

Introduced: 2/8/82
Referred: Resources and Judiciary

IN THE HOUSE

BY RANDOLPH, ROGERS, GARDINER, AND BEIRNE

HOUSE JOINT RESOLUTION NO. 81

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

Proposing amendments to the constitution of the State of Alaska relating to the creation of a natural resource trust.

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

* Section 1. Article IX, sec. 7, Constitution of the State of Alaska, is amended to read:

SECTION 7. DEDICATED FUNDS. The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 and section 17 of this article or when required by the federal government for state participation in federal programs. This provision shall not prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

* Sec. 2. Article IX, Constitution of the State of Alaska is amended by adding a new section to read:

SECTION 17. NATURAL RESOURCE TRUST. Const. Amendment In order to transfer part of the natural resource wealth of the State to individual Alaskans all income received by the State from the sale or lease of land and renewable and nonrenewable natural resources owned by the State, excluding income from fish or fisheries products or income from timber or timber products, not otherwise dedicated to the permanent fund by section 15 of this article, shall be placed in a natural resource trust.

* Sec. 3. The amendments proposed by this resolution shall be placed before the voters of the state at the next general election in conformity

with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

FACT SHEET ON HB 642
THE ALASKA NATURAL RESOURCE TRUST
REPRESENTATIVE DICK RANDOLPH

This bill is intended as an ongoing means of directly distributing a substantial portion of state government held wealth to individual Alaskans. The justification for the trust is that Alaska's natural resource wealth belongs to all Alaskans so long as government claims ownership of the natural resources involved. Therefore, the only way Alaskans can receive any equitable direct benefit from the wealth which belongs to them is to have it distributed to them as individuals who are capable of using that wealth in the most beneficial manner.

The bill requires that the Commissioner of Natural Resources convey to the trust the right to income from natural resources which accrues to the state, including royalties other than those already dedicated to the permanent fund and proceeds from the sale or lease of state land or minerals. The bill is not intended to include any tax revenues. Since this conveyance amounts to a dedication of revenue, HJR 81, a companion piece of legislation, is necessary to implement this concept. Together these pieces of legislation will insure that Alaskans receive substantial equitable benefit from state wealth rather than to have that wealth used to increase government programs which produce inequitable results.

Shares in the Natural Resource Trust would be granted at no cost to "residents" of the state on a one time basis. Modification of the bill should be made to prevent a rush to Alaska by outsiders to secure shares.

The number of "units" (shares) will be determined by the Commissioner of Revenue and they will be divided by the total number of eligible individuals to determine the number of units (shares) each beneficiary will own. Natural resource revenues will be distributed per unit (share) on a prorata basis each quarter and the units (shares) are freely transferable.

The Natural Resource Trust is irrevocable and is only terminated upon termination of the production of income from the assets that have been transferred to and retained by the trust. The assets of the trust consist of the interests in natural resources of the state conveyed to the trust.

STATE OF ALASKA
DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

February 24, 1982

The Honorable Terry Martin
Chairman
House Labor and Commerce Committee
Room 211 - Behrends Building
Juneau, Alaska

Dear Mr. Martin:

Re: House Bill No. 642

House Bill No. 642, an Act establishing the Alaska natural resource trust, was introduced in the House on January 11, 1982 and has been referred to the House Labor and Commerce; Judiciary and Finance Committees.

For the consideration of the House Labor and Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Anselm Staack, Comptroller, Treasury Division, Department of Revenue concerning the proposed legislation.

At a later date, a further Fiscal Note will be submitted by Mr. Phillip A. Wall, Director, Public Services Division, Department of Revenue concerning costs of administration. Mr. Wall is presently on official business in Anchorage and will return to his post of duty in Juneau on March 1, 1982.

Sincerely,

R. D. Stevenson

R. D. Stevenson
Special Assistant

Enclosure

cc: The Honorable Ramona L. Barnes
Chairwoman
House Judiciary Committee

The Honorable Albert P. Adams
Chairman
House Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Anselm Staack
Treasury Comptroller
Department of Revenue

Phillip A. Wall, Director
Public Services Division
Department of Revenue

STATE OF ALASKA
DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

March 8, 1982

The Honorable Terry Martin
Chairman
House Labor and Commerce Committee
Room 211 - Behrends Building
Juneau, Alaska

Dear Mr. Martin:

Re: House Bill No. 642

House Bill No. 642, an Act establishing the Alaska natural resource trust, was introduced in the House on January 11, 1982 and has been referred to the House Labor and Commerce; Judiciary and Finance Committees.

On February 24, 1982, copies of Fiscal Notes prepared by Mr. Anselm Staack, Comptroller, Treasury Division, Department of Revenue concerning the proposed legislation were transmitted to the House Labor and Commerce Committee.

For the further consideration on the House Labor and Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Phillip A. Wall representing administrative costs of the Public Services and Administrative Service Division of the Department of Revenue.

Sincerely,

R. D. Stevenson
Special Assistant

Enclosures

cc: The Honorable Ramona L. Barnes
Chairwoman
House Judiciary Committee

The Honorable Albert P. Adams
Chairman
House Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Anselm Staack
Treasury Comptroller
Department of Revenue

Phillip A. Wall, Director
Public Services Division
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 642
Title Establishing the Alaskan Natural Resources Trust
Requested by House Resources Committee Date 3/4/82

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Admin. & Support, Admin 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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		22.5	283.2	172.8	184.9	197.8
200 TRAVEL						
300 CONTRACTUAL			1,744.1	1,583.5	1,694.4	1,813.0
400 COMMODITIES			4.0	4.3	4.6	4.9
500 EQUIPMENT				125.0		
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		22.5	2,031.3	1,885.6	1,883.9	2,015.7

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
Natural Resources Trust		22.5	2,031.3	1,885.6	1,883.9	2,015.7

POSITIONS

FULL TIME		1/6mm	6/72mm	5/60mm	5/60mm	5/60mm
PART TIME			8/48mm	2/12mm	2/12mm	2/12mm
TEMPORARY						

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

See attached.

HJR81 establishes Natural Resource Trust.

IV. DATE 3/4/82 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. 12/81)

ANALYSIS
HB 642

HB 642 establishes the Alaska Natural Resources Trust. This Fiscal Note presents the Administrative costs related to the creation of ownership certificates in the Trust, the distribution of the certificates and cash, and related activity.

Assumptions: 420,000 ownership certificates will be created year application period beginning January, 1984. 126,000, miscellaneous transactions (address changes, transfers, etc.) per year
Quarterly distribution of cash and reports
Annual Report distribution
525,000 application forms
Quarterly Report mailed with Quarterly distribution, IRS 1099 data on the 4th quarter distribution.

Program Summary:

Design and distribute application forms and instructions with 90 days of eligibility date. Design and implement quarterly computer assisted application processing. Design Certificate of Beneficial Interest form and miscellaneous transaction forms. Design and implement quarterly processing. Assist applicants through phone, letters and field services in applying for ownership certificates. Opening of mail, batching, data capture and comnputer processing of applications. Quarterly distribution of cash and application of garnishments and other attachments. Preparation and distribution of Quarterly and Annual Reports.

1. Positions:

FY83

1 PFT Systems Analyst R18 @ $2838 mo. plus .32% costs for 6 mos.	=	22.5
Begin design of processing and computer assisted procedures		
Total FY83 Positions:	=	22.5

FY84

1 PPT Clerk Typist R8 @ $1487 mo plus .32% costs for 9 mos. = 17.7

Provide clerical support for Personnel Section. Typing, filing, working of eligble registers, arrainging interviews, miscellaneous personnel duties.

1 PFT Systems Analyst R18 @ $2838 [illegible]us .32 % costs = 45.0

Complete processing and computer program designs. Develop coding specifications

2 PPT EDP Programmers R17 @ $2639 mo plus .32 % costs. for 9 mos. = 62.7

Code, compile, and test computer programs.

5 PFT Tax Scanners R8 @ $1487 mo. plus .32 % costs = 117.8

Mail opening, document control numbering batching, batch control, data capature, batch correction, forms distribution.

3 PPT Tax Scanners R8 @ $1487 mo. plus .32% costs for 3 mos. = 17.7

Deadline peak mail opening, document control numbering, batching, batch control, data capture, batch correction.

2 PPT Clerk Typist R7 @ $1408 mo plus .32% costs, 6 mos each = 22.3

Assisting in response to phone and mail forms, requests, accounts payable, voucher preparation, filing, copying and miscellaneous clerical duties.

Total FY84 Positions: = 283.2

FY85

1 PFT Systems Analyst R18 @ $3036 mo plus .32% costs.	=	48.1
Maintain trust procedures and computer programs and modify as required		
4 PFT Tax Scanners R8 @ $1591 mo plus .32 % costs	=	100.8
Mail opening of miscellenous transactions, document numbering, batching, batch control, data capture, batch correction, warrant batch control, pulling and control of attached warrants, warrant release.		
2 PPT clerk typist R7 @ $1506 mo plus .32% costs, 6 mos each.	=	23.9
Assist in response to phone and mail inquiries, accounts payable, voucher preparation, filing, copying, quarterly and annual report preparation.		
Total FY85 positions:		172.8

2. Other Expenditures:

FY84

Forms -

Miscellaneous Forms - 126,000 @ $35M	=	4.4
Applications and Instructions - 550,000 @ $50M	=	27.5
Ownership certificates:		
Initial issue -420,000 @ $80M	=	33.6
Transfers and reissues - 50,000 @ $80M	=	4.0
Warrant stock with Quarterly Report Provision - 1,680,000 @ $75M	=	126.0
Envelopes -		
Ownership certificates - 470,000 @ $20M	=	9.4
Warrant - 1,680,000 @ $15M	=	25.2
Annual Report - 420,000 @ $20M	=	8.4
Postage -		
Forms distributing - 420,000 @ .20 each	=	90.0
Ownership certificates - 470,000 @ .20 each	=	94.0
Correspondence - 10,000 @ .20 each	=	2.0
Warrants - 1,680,000 @ .20 each	=	336.0
Annual Report - 420,000 @ .56 each	=	235.2
Printing of Annual Report - 500,000 @ .40 each	=	200.0
Data Processing (includes development, data capture and production):		
Computer Resource Units: 221,000 @ 1.25 per unit	=	276.3
Common Output Units: 4,200 @ $31 (reports, warrants, COM)	=	130.2
Storage Units: Trust File - 11,000 @ .90 - Disk	=	9.9
Misc including garnishments - 1,200 @ .90 Disk	=	1.1
Backup File - Tape	=	.2
Terminals: Data Capture CRT's, 4 @ $3,900 each	=	15.6
Data Management CRT's, 4 @ $4,600 ea.	=	18.4
Printer - 1 @ $7,026	=	7.0
Controller - 1 @ $4,679	=	4.7
Professional Services - Annual Audit	=	75.0
Miscellaneous contractural (insurance, transportation, of things, etc.)	=	10.0
Total FY84 contractual:	=	1,744.1
Commodities -	=	4.0
Total FY84 Commodities		4.0

FY85

Forms -	
Miscellaneous transaction forms - 126,000 @ $37.50	= 5.1
Ownership Certificates - Transfers and Reissues 50,000 @ $85.60M	= 4.3
Warrants - 1,680,000 @ $80.30M	= 134.9
Envelopes -	
Ownership Certificates - 50,000 @ $21.40M	= 1.1
Warrants - 1,680,000 @ $16.05M	= 27.0
Annual Report - 420,000 @ $21.40M	= 9.0
Postage -	
Forms Distribution - 50,000 @ .25 each	= 12.5
Ownership Certificates - 50,000 @ .25 each	= 12.5
Correspondence - 10,000 @ .25 each	= 2.5
Warrants - 1,680,000 @ .25 each	= 420.0
Annual Report - 420,000 @ .65 each	= 273.0
Printing of Annual Report - 420,000 @ .65 each	= 215.0
Data Processing (includes development, data capture and production)	
Computer Resource Units: 175,000 @ 1.25 per unit	= 218.8
Common OUtput Units: 3,900 @ 31 (reports, warrants and COM)	= 120.9
Storage Units: Trust File - 8,500 @ .90 - Disk	= 7.7
Misc. including garnishments - 2,5000 @ .90 - Disk	= 2.3
Backup File - Tape	= .2
Terminals: Data Capture - 2 CRT's @ $4,173	= 8.3
Data Management - 1 CRT @ $4,922	= 4.9
Printer - 1 @ $7,518	= 7.5
Controller - 1 @ $5,005	= 5.0
Professional Services - Annual Audit	= 80.3
Miscellaneous Contractual	= 10.7
Total FY 85 Contractual:	1,583.5
Commodities	= 4.3
Total FY 58 Contractual:	= 4.3
Equipment - Microfilm System	= 125.0
Total FY 85 Equipment	= 125.0

FY83

6 PPT Clerk typist R8 @ $1487 mo each .32% costs, 6 mos.each	=	70.7
Assist applicants at field counter locations and in the field as required.		
Total FY83 Positions:	=	70.7

FY84

6PPT clerk typists R8 @ $1,591 mo plus .32 costs, 9 mos each	=	113.4
Application, transfer and miscellaneous application assistance at field counters and in the field as required.		
Total FY 84 Positions:	=	113.4

FY85

3 PFT Clerk Typists R8 @ $1,702 mo plus .32 costs	=	80.9
Transfer and miscellaneous application assistance at Field Counters.		
Total FY85 Positions	=	80.9

2. Other Expenditures:

FY83

Toll calls including Zeith calls	=	25.0
Contracts providing applicant assistance	=	50.0
Advertising in papers, on TV, and radio	=	20.0
Total FY83 Contractual		95.0
Travel to provide application assistance	=	35.0
Total FY83 Travel	=	35.0

FY84

Toll calls including Zenith calls	=	35.0
Contracts providing applicant assistance	=	75.0
Advertising in papers, on TV and radio	=	35.0
Total FY84 Contractual	=	145.0

FY85

Toll calls including Zenith calls	=	10.0
Advertising	=	5.0
Total FY 85 Contractual	=	15.0

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 642
Title Establishes the Alaska Natural Resource Trust
Requested by House Resource Committee Date 3/4/82

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Public 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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		70.7	113.4	80.9	86.6	92.6
200 TRAVEL		35.0	50.0			
300 CONTRACTUAL		95.0	145.0	15.0	16.1	17.2
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		200.7	308.4	95.9	102.7	109.8

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
Natural Resource Trust		200.7	308.4	95.9	102.7	109.8

POSITIONS

FULL TIME				3/36mm	3/36mm	3/36mm
PART TIME		6/36mm	6/54mm			
TEMPORARY						

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

See Attached.

IV. DATE 3/4/82 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. 12/81)

HJR81 establishes the Natural Resources Trust
See Administrative Services Fiscal Note for Analysis and Assumptions.

Program Summary:

Provide Ownership Certificate application assistance beginning January, 1983 and continuing through December, 1983. Answer phone, letter and in-person requests for information and assistance. Provide assistance to applicants in remote areas through contractual agents and travel. Distribute forms and instructions. Advise applicants as to the purpose of the program and where assistance is available through newpapers, TV and radio.

STATE OF ALASKA
DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

February 24, 1982

The Honorable Terry Martin
Chairman
House Labor and Commerce Committee
Room 211 - Behrends Building
Juneau, Alaska

Dear Mr. Martin:

Re: House Bill No. 642

House Bill No. 642, an Act establishing the Alaska natural resource trust, was introduced in the House on January 11, 1982 and has been referred to the House Labor and Commerce; Judiciary and Finance Committees.

For the consideration of the House Labor and Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Anselm Staack, Comptroller, Treasury Division, Department of Revenue concerning the proposed legislation.

At a later date, a further Fiscal Note will be submitted by Mr. Phillip A. Wall, Director, Public Services Division, Department of Revenue concerning costs of administration. Mr. Wall is presently on official business in Anchorage and will return to his post of duty in Juneau on March 1, 1982.

Sincerely,

R. D. Stevenson

R. D. Stevenson
Special Assistant

Enclosure

cc: The Honorable Ramona L. Barnes
Chairwoman
House Judiciary Committee

The Honorable Albert P. Adams
Chairman
House Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Anselm Staack
Treasury Comptroller
Department of Revenue

Phillip A. Wall, Director
Public Services Division
Department of Revenue

Office Copy

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

HB 642
(REVENUE REDUCTION TO GENERAL FUND UNRESTRICTED)

FISCAL NOTE (1 of 2)

I. REQUEST
Bill/Resolution No. HB 642 (1/11/82)
Title Establish Alaska Natural Resources Trust
Requested by House Resources Committee Date 2/24/82

II. FISCAL DETAIL
Agency Affected General Fund Unrestricted
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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL						

→ M I L L I O N S ←
FUNDING (~~Thousands~~ of Dollars)

GENERAL FUND			(1,608.8	(1,906.9	(2,159.9	(2,511.1)
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
Legislation establishes an Alaska Natural Resources Trust which is to receive the state's interest in income from natural resources, including royalties, etc., subject to prior amounts dedicated to permanent fund and other previously established claims. Trust to distribute ownership certificates to beneficiaries as defined by the legislation and make dividend payments.
Above revenue estimated for the trust is based upon royalties only, not including severance and conservation taxes that result from natural resources as companion legislation, HJR 81, a constitutional amendment to effect dedication to the trust appears to speak to royalties only and some related amounts but not specifically to taxes. Since the constitutional amendment is necessary to effect transfer of funds to the trust FY 84 is the first year of transfer after election takes place.
SEE OTHER FISCAL NOTES FOR ADMINISTRATIVE COSTS.

Anselm C. Staack

IV. DATE February 24, 1982 PREPARED BY Anselm C. Staack, Treasury Comptroller
AGENCY Dept. of Revenue, Treasury Division
PHONE 465-2350

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

HB 642
(FUND INVESTMENT ADMINISTRATIVE COST)

FISCAL NOTE (2 of 2)

I. REQUEST
Bill/Resolution No. HB 642 (1/11/82)
Title Establish Alaska Natural Resources Trust
Requested by House Resources Committee Date 2/24/82

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
BRU, Program, Or Subprogram(s) Affected Treasury 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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES			92.6	101.9	112.1	123.3
200 TRAVEL			10.0	11.0	12.1	13.3
300 CONTRACTUAL			255.0	280.5	308.6	339.4
400 COMMODITIES			3.0	3.3	3.6	4.0
500 EQUIPMENT			6.0			
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL			366.6	396.7	436.4	480.0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
Trust Income			366.6	396.7	436.4	480.0

POSITIONS

FULL TIME			2	2	2	2
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
Legislation creates trust fund managed by Dept. of Revenue. THIS FISCAL NOTE ACCOUNTS FOR ADMINISTRATIVE COSTS RELATED TO THE INVESTMENT OF FUND ASSETS ONLY. SEPARATE FISCAL NOTE TO BE PROVIDED THAT SHOWS ADMINISTRATIVE COSTS RELATED TO OWNERSHIP AND DISTRIBUTION PLAN.
Personal Services is for Investment Officer II (R22,X) to invest and manage assets; Accounting Tech. II (R14,G) for associated trust investment accounting and reporting. Contractual Services: Comm. $15.0; Print & Adv. $10.0; Safekeeping and related reporting/accounting $200.0; Audit $25.0; Misc. $5.0. Equipment is for new positions.

IV. DATE February 24, 1982 PREPARED BY Anselm C. Staack, Treasury Comptroller
AGENCY Dept. of Revenue, Treasury Division
PHONE 465-2350

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

HB 1694

COMMITTEE REPORT

HOUSE

(5)

1/27/82

FURTHER: FINANCE

Date: 3-8-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 694

"An Act relating to the Alaska Municipal Bond Bank Authority."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Tony Knowles
Ted Kerttula

MEMBERS HAVING
OTHER RECOMMENDATIONS:

VICE - CHAIRMAN

H 60 (Rev. 3/81)

Date filed 1-27-82
" Read 1-28-82
Referred Finance
Comm. hearing 3-8-82 - passed w o/s 3-8-82
" action Sent X legal opinion for c/s. - pd back CS 3/15/82 @ 4:10 p.m. finally requested 3-16 @ 8:40 a.m.
Sent X chief clerk 3-16-82 @ 10:12 a.m.

Bro's letter received
Reg. F/N.
Cncl Tally " in Ld. Bro's office
Notified 3-5-82 TALLY when scheduled
notified 3-5-82 Cncl Dora Rose in Anch when scheduled. 274-7366
Susan in Bro's office requested F/N from Bob Stevenson in Revenue Dept. 3-5-82 9:AM
Rec'd. 3-8-82

CHAIRMAN:
LEE MCANERNEY

BOARD MEMBERS:
LANCE ANDERSON
CARROLL FADER
LARRY URBACH
THOMAS K. WILLIAMS

601 WEST FIFTH AVENUE
SUITE 430
ANCHORAGE, ALASKA 99501
(907) 274-7366

EXECUTIVE DIRECTOR:
DAVID A. ROSE

ALASKA MUNICIPAL BOND BANK AUTHORITY

February 18, 1982

Representative Terry Martin
Pouch V
Juneau, Alaska 99811

Dear Terry:

House Bill 694 has been referred to your Committee.

This proposed legislation has been thoroughly reviewed by the Board of Directors of the Authority and passage is recommended. The Board has also requested that you consider the attached amendment. Although the legislation and amendment is pretty straightforward, I would be pleased to testify on its behalf if you think such testimony would be beneficial.

Sincerely,

David A. Rose
Executive Director

DAR:tva
Enclosure

CHAIRMAN:
LEE MCANERNEY

BOARD MEMBERS:
LANCE ANDERSON
CARROLL FADER
LARRY URBACH
THOMAS K. WILLIAMS

601 WEST FIFTH AVENUE
SUITE 430
ANCHORAGE, ALASKA 99501
(907) 274-7366

EXECUTIVE DIRECTOR:
DAVID A. ROSE

ALASKA MUNICIPAL BOND BANK AUTHORITY

ADDITION TO HB 694

*Section _____ AS 44.85.180 (c) is amended to read:

(c) Notwithstanding the provisions of (a) and (b) of this section, the total amount of bond bank authority bonds and notes outstanding at any one time, except bonds or notes issued to fund or refund bonds or notes, may not exceed [$150,000,000] $180,000,000.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811

March 8, 1982

The Honorable Terry Martin
Chairman
House Labor and Commerce Committee
Room 211 - Behrends Building
Juneau, Alaska

Dear Mr. Martin:

Re: House Bill No. 694

House Bill No. 694, an Act relating to the Alaska Municipal Bond Bank Authority, was introduced in the House on January 27, 1982 and was referred to the House Labor and Commerce and Finance Committees.

For the consideration of the House Labor and Commerce Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Anselm Staack, Treasury Comptroller, Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

Enclosure

cc: The Honorable Albert P. Adams
Chairman
House Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Anselm Staack
Treasury Comptroller
Department of Revenue

04-D2LH

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE HB 694

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 694 (1/27/82)
Title Alaska Municipal Bond Bank Authority
Requested by House Labor & Commerce Committee Date 3/5/82

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected
BRU, Program, Or Subprogram(s) Affected Alaska Municipal Bond Bank Authority
(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) SEE ANALYSIS SECTION

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL						

FUNDING (Thousands of Dollars) SEE ANALYSIS SECTION

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS SEE ANALYSIS SECTION

FULL TIME						
PART TIME						
TEMPORARY						

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

Municipal Bond Bank Revolving Loan Fund (RLF) established by Sec. 4 of the legislation would require an appropriation to the RLF in the future. More than likely this would be an appropriation of program receipts.

No additional administrative costs are anticipated.

Anselm C. Staack

IV. DATE March 5, 1982 PREPARED BY Anselm C. Staack, Treasury Comptroller
AGENCY Dept. of Revenue/Treasury Division
PHONE 465-2350

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

Legal Services / Please prepare, Labor & Commerce committee substitute – see p. 3 & attachment. Pls call if you have questions.

Joan
x3657

Introduced: 1/27/82
Referred: Labor & Commerce and Finance

IN THE HOUSE

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

HOUSE BILL NO. 694

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the Alaska Municipal Bond Bank Authority."

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

* Section 1. AS 39.25.120 is amended by adding a new paragraph to read:

(20) employees and agents, other than the executive secretary and legal counsel, of the Alaska Municipal Bond Bank Authority.

* Sec. 2. AS 44.85.070 is amended to read:

Sec. 44.85.070. STAFF. The bond bank authority shall employ an executive secretary who may with the approval of the bond bank authority select and employ additional staff as necessary. Employees and agents of the bond bank authority other than legal counsel and the executive secretary are in the partially exempt [CLASSIFIED] service under AS 39.-25. In addition to its staff of regular employees, the bond bank authority may contract for and engage the services of the bond counsel, consultants, experts, and financial advisors the bond bank authority considers necessary for the purpose of developing information, or conducting studies, investigations, hearings or other proceedings.

* Sec. 3. AS 44.85.100(b) is amended to read:

(b) The bond bank authority shall include in the report required by (a) of this section an estimate of the amount of revenue bonds of the bond bank authority to be issued during the fiscal year following the fiscal year in which the report is submitted [12-MONTH PERIOD]. The bond bank authority may not issue revenue bonds, other than refunding bonds, in excess of $50,000,000 during any 12-month period beginning after

Our copy

rate which the authority would have to pay at the time of the loan for notes issued for a similar purpose.

— add new Sec. 5 — see attached

— add immediate effective date.

CHAIRMAN:
LEE McANERNEY

BOARD MEMBERS:
LANCE ANDERSON
CARROLL FADER
LARRY URBACH
[illegible]

601 WEST FIFTH AVENUE
SUITE 430
ANCHORAGE, ALASKA 99501
(907) 274-7366

EXECUTIVE DIRECTOR:
DAVID A. ROSE

ALASKA MUNICIPAL BOND BANK AUTHORITY

ADDITION TO HB 694

*Section _____ AS 44.85.180 (c) is amended to read:

(c) Notwithstanding the provisions of (a) and (b) of this section, the total amount of bond bank authority bonds and notes outstanding at any one time, except bonds or notes issued to fund or refund bonds or notes, may not exceed [$150,000,000] $200,000,000 ~~$180,000,000.~~

Schedule for second week in March

HB 694 by the Rules Committee by request of the Governor

An Act relating to the Alaska Municipal Bond Bank Authority.

Labor + Commerce - Finance

Placed for 3-8-82

AK Municipal Bond Bank Authority

HOUSE BILL NO. 694, by the Rules Committee by request of the Governor. Proposes several amendments to statutes governing the Alaska Municipal Bond Bank Authority. Would place employees of the Authority, other than the director and legal counsel, in the partially exempt service (currently in classified service). Amends language regarding the Authority's estimate of the amount of revenue bonds it expects to issue (see Governor's letter) and places a limit of $50 million on the amount of revenue bonds the Authority may issue in one year without legislative approval. Establishes in the Dept. of Revenue a "Municipal Bond Bank Revolving Loan Fund." Loans may be made to municipalities for projects for which bonds have been authorized by law, but not yet sold; for expenditures authorized under a state or federal grant made after grant is authorized but before it is received; or for expenditures authorized by a municipal governing body in anticipation of tax revenues expected to be received during the period of the loan. The loans shall be for a period of one year or less and each municipality is entitled to borrow up to $1 million from the fund. The interest rate will be determined by the Authority and must not be less than the market rate which the Authority would have to pay at the time of the loan

HB
697

COMMITTEE REPORT

HOUSE

(E)

1/27/82

FURTHER: STATE AFFAIRS

Date: 2-11-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had CSHB 697

"An Act relating to appointment of nonpermanent employees for certain work assignments; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 697 [ ] same title [ ] new title

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____ CHAIRMAN

H 60 (Rev. 3/81)

Date Filed 1-27-82
" Recd. 1-28-82
Referrals - State Affairs
Comm. hearing ~~2-4-82~~ 2-11-82 - passed as CS 2-11-82 - tabled
" action clerks' office

and providing for an effective

3/23/- pltd F/N = Fish & Game
+ position paper Mary Jo Lemaki

3/23/82 pltd F/N + position paper
to Rules

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 697
Title An Act Relating to appointment of nonpermanent employees
Requested by Representative B/lsma Date 1/27/82

II. FISCAL DETAIL
Agency Affected Fish and Game
Program Category Affected Natural Resources Management
BRU, Program, Or Subprogram(s) Affected see #III
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	(471.6)	(477.0)				
200 TRAVEL						
300 CONTRACTUAL	(24.5)	(26.7)				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	(496.1)	(503.7)				

FUNDING (Thousands of Dollars)

GENERAL FUND	(378.0)	(383.9)				
FEDERAL FUNDS	(78.5)	(79.5)				
OTHER (Specify Source) Fish & Game Fund	(39.6)	(40.3)				

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

	Line Item 100	Line Item 300
Commercial Fisheries	(239.1)	(16.0)
F.R.E.D.	(125.9)	(5.0)
Sport Fish	(75.0)	(2.0)
Game	(31.6)	(1.5)

IV. DATE 2/5/82 PREPARED BY Beverly Reaume
AGENCY Fish and Game
PHONE 465-4120

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

Beverly Beaune –
Fish + Game – short term

Mr. Andy Hooge –
REA'd

Permits per cable T.V.

A.P.V.C.

Mat. Su – Telephone – allows

The Department of Fish and Game currently has 712 permanent seasonal positions that were created in response to Alaska Statute 39.25.195. These seasonal positions range in time from two weeks to ten months each year. The regulations required us to create seasonal positions because our activities are both planned and reoccuring each year. For positions that last more than four months in a year, the seasonal system has produced some positive benefits for Fish and Game. For these longer term positions, a higher percentage of the incumbents return in succeeding years providing us with trained, knowledgeable employees. However, these benefits are unfortunately overshadowed by the problems we encounter with the system on those positions that last less than 120 days. The difficulties occur in two major areas: cost and local hire.

First the cost.

Attachment No. 1 outlines the salary plus benefit costs for 712 seasonal positions. 56% or 399 of these 712 positions are employed for less than 120 days a year. These 399 positions represent a salary cost of 2.4 million dollars to which you must add $656,000 for benefits as permanent seasonals. These same 399 positions would need only $185,000 as non permanents—a difference of $471,000. Keep in mind these employees are on our payroll for two weeks to four months per year.

That is only part of the cost. To that you must add the cost of recruiting these people. We did a survey of those positions hired out of our Anchorage Regional office for just the Division of Commercial Fisheries. In 1979, prior to the passage of the non permanent hire law, we spent $3,900 on telegrams and long distance phone calls, during April, May and

June, to hire 175 temporary employees. In 1980, after the non permanent hire law, to hire these same 175 employees we spent $14,600 on telegrams and long distance phone calls--a difference of $10,000. In 1981 our $14,000 in long distance calls and telegrams only got us 40 employees. The total cost for telegrams and long distance phone calls for recruiting in 1981 was $28,000.

The third cost associated with these seasonal employees is another recruiting cost--manpower. Commercial Fisheries estimates it took about 50 man days in 1979 to recruit 175 seasonals. In 1980 it took 217 man days to recruit 175 seasonals. In 1981 the personnel doing the recruiting were more organized, more knowledgeable about the new regulations and more efficient and it still took in excess of one man day of effort to hire each seasonal employee. When we hit the peak recruiting months of April, May and June in Anchorage, everyone from a range 8 clerk typist to range 20 management biologists recruit seasonal personnel. At an average salary of $12 per hour plus benefits, 217 man days represents a cost of $25,000. Even at this we haven't begun to measure the cost of lost productivity in their regular jobs.

Another area of particular concern to the Department is the ability to hire local residents. In the past, if one of the Fisheries Divisions needed some basic biological information in a rural area, they sought someone in the area who understood the local fishery to gather the data. Now, when that need arises, the Divisions must go to a register and hire from the top five. In most cases they hire someone from an entirely different area. This is compounded by some rural residents who don't want to bother with the

bureaucracy so don't bother to get on registers or, during the one month in the year when the register is open, doesn't think he will want to work for us in six months so again doesn't get on the register.

Those are the major problems but, in addition, there are the little ones:

- Comm Fish tries to get this seasonal hiring organized early and on May 1 offers John Smith a Fish Tech II job for two months beginning on June 1. John says, "I'll be there." On May 27, Sport Fish offers John Smith a Fish Tech III job for three months beginning June 1 and John Smith accepts. Comm Fish then finds themselves with an expired register and no employee to begin work in 4 days. An emergency hire is only good for 30 days so, if you hire that way, you will have to replace the person mid stream. It will take a week to get a new register, another week to work it and, if you are successful, there is only a two week delay which probably means some data is lost forever.

- College students who want summer jobs have to be on the registers when we go through our big recruiting effort in April and May. Individuals have told us they have received in excess of 100 telegrams from Fish and Game. Each one must be responded to or their name will be removed from the register.

In summary, Fish and Game supports permanent seasonal positions for jobs that last more than 120 days per year. However, we believe the Department could operate more efficiently, less expensively, to greater satisfaction of all parties and to the benefit of State if AS 39.25.195 applied only to positions in excess of 120 days.

Department of Fish and Game
Seasonal Positions
FY 1982

		Pos	Mos	Salary $
Commercial Fisheries	Salmon	326	868.2	1,419.4
	Shellfish	40	142.8	280.7
	Herring	42	97.7	165.4
	Admin	3	9.5	16.4
	Groundfish	14	76.0	159.1
Sport Fish	Investigations	119	313.5	593.7
	Management	5	17.0	33.7
	Restoration	4		14.8
F.R.E.D.	Operations	127	579.0	1,037.4
	Admin	4	27.5	37.9
Game	Investigations & Research	28	147.0	270.8
		712	2,286.2	4,029.3

56% of these positions are for less than 120 days.
$4,029.3 (total salaries) x .56 = $2,256.4

Benefits as Non Permanents
$2,256.4 x .0819 (FY 82 benefit rate) = $184.8

Benefits as Permanent Seasonals
$2,256.4 x .1575 (FY 82 benefit rate) = 355.4
$1,128.2 x .0966 (50% covered by police retirement = 109.0
1,280.3 mm x $150 (insurance premium x months) = 192.0
Total benefits $656.4

Difference $471.6

Temporary State Employees (hiring of)

HOUSE BILL NO. 697, by Rep. Bylsma. Would allow the state to hire temporary employees if the hiring of permanent employees for a work assignment of 120 days or less would result in "additional costs or the hiring of inappropriate individuals." Adds new section to AS 39.25 entitled "Procedure for Certain Nonpermanent Employees" which allows above exception to current prohibition on the hiring of temporaries contained in AS 39.25.195. Directs the Commissioner of a department that hires temporaries under provisions of bill to adopt regulations "to ensure that employees are appointed in the most efficient manner possible so that the needs of the department regarding these work assignments of 120 days or less are met. The regulations shall require that each employee meet the minimum qualifications established by regulation for a particular work assignment." Effective immediately.

Introduced January 27 and referred to Labor & Commerce and State Affairs.

HB
703

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

(5)

1/29/82

Date: 4-6-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 703

"An Act relating to the use of communicatior media under the Administrative Procedure Act."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note (4)

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Terry Maxie
Bill Bryson

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Maxie
CHAIRMAN

H 60 (Rev. 12/78)

Date Introduced 1-29-82
" Read. 2-1-82
Referred to Finance
Comm. hearing 3-3-82 held - CS rec'd in finalized form accts. committee did not review a work draft.
" action ~~3-24-82~~ 4-6-82

Position paper
of HSS Secretary
plus F/N
Requested Adm.
draft bgts. for position
paper.
Sue [redacted] inquired
as to if bill notified
Allen Blume "
586-9685

ALASKA BROADCAST SERVICES
308 G STREET, SUITE 311 • ANCHORAGE, ALASKA 99501 • (907) 276-4282

Subject: Telecommunications

With the State of Alaska's increased role in the establishment and operations of telecommunications services has come a tremendous increase in the budgets for such services. This year, the state is facing revenue short-falls yet services to the public must continue. There is perhaps, no other area that can stand the budget ax and be a positive incentive to the private sector as in the area of telecommunications.

At present the state funds:

1. A public broadcasting system
2. A Public radio network
3. A commercial satellite system
4. An educational satellite system
5. A program on the happening of the legislature
6. A program on Alaska (Alaska Review)

A rough guess would put all of these programs in the neighborhood of $30-$40 million dollars for state funding per fiscal year. I believe that significant reductions in these areas can be made without effecting the overall service to the public.

In addition to the above mentioned funding components, a critical look should be made into the contracting area for telecommunications services for all executive branch agencies. Past practices have indicated that purchasing regulations carry little force with agencies of the executive branch. The Office of the Governor, I should mention, is a prime offender (i.e. state image and film contract).

Should you wish to pursue such an investigation I would estimate that the time frame would be 6 to 8 weeks, with a final report available in 8 to 10 weeks. The final report will have all finding, and proposed legislation, if needed, to correct problems and save money.

I would estimate that the cost would be $400 per day plus travel and expenses not to exceed a total of $30,000.

Please contact me if I can be of further service.

Sincerely,

Michael F. Porcaro

Department of Education
Position Paper
House Bill 703

While the State Board of Education has not had the opportunity to discuss the provisions of Sections 1, 2 and 5, the department administration supports the provisions of Section 4.

As a practical matter, the department has found audio conferencing to be a very effective means of information exchange at a very low cost. This bill could result in substantial savings over the cost of face to face testimony acquisition in public meetings and administrative proceedings, although those savings would not necessarily accrue to the state.

for Stan Holm
Marshall L. Lind, Commissioner

Introduced: 1/29/82
Referred: Labor & Commerce and Finance

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

HOUSE BILL NO. 703

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the use of communications media under the Administrative Procedure Act."

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

* Section 1. AS 44.62.210(a) is amended to read

(a) On the date and at the time and place designated in the notice the agency shall give each interested person or his authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing, with or without opportunity to present them orally. The state agency <u>may accept matter presented by means of any form of communication and</u> shall consider all relevant matter presented to it before adopting, amending or repealing a regulation.

* Sec. 2. AS 44.62.310(a) is amended to read:

(a) All meetings of a legislative body, of a board of regents, or of an administrative body, board, commission, committee, subcommittee, authority, council, agency, or other organization, including subordinate units of the above groups, of the state or any of its political subdivisions, including but not limited to municipalities, boroughs, school boards, and all other boards, agencies, assemblies, councils, departments, divisions, bureaus, commissions or organizations, advisory or otherwise, of the state or local government supported in whole or in part by public money or authorized to spend public money, are open to the public except as otherwise provided by this section. <u>Public attendance and participation at meetings may be by communications media.</u> Except when voice votes are authorized, the vote shall be conducted in

asol- agency meetings also not only public teleconference meetings etc.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K–STATE CAPITOL
JUNEAU, ALASKA 99811

March 2, 1982

Hon. Terry Martin, Chairman
Labor and Commerce Committee
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: HB 703 (use of communications media under APA)

Dear Representative Martin:

A member of your staff called this afternoon to ask for a "position paper" on this bill, for your committee's consideration tomorrow. Here are some quick comments:

1. The basic purpose of the bill appears to be the recognition of technological advances in communications and the promotion of the use of that technology in conducting the state's business for the benefit of the public. We support that.

2. I am unable to predict the fiscal impact of this, and can only observe that technology usually costs money.

3. The amendment in sec. 1, allowing an agency to accept matter presented by any form of communication, when following the regulation-adoption procedures, is good.

4. (A) The amendment in sec. 2, amending the basic "open meeting" statute (AS 44.62.310), looks good to the extent that it might increase the possibility of public participation. However, the statute being amended in sec. 2 of the bill covers many different kinds of meetings and hearings. In some of them, it is important for the members of the agency conducting the hearing to be able to actually see the witness, and, in others, it is important for public participants to see each other. Your definition of "communications media" in sec. 7 of the bill is not limited to video technology; in fact, it is not limited to any of

the more advanced methods of communication; the definition leads off with the word "includes." Without getting into the various rules of construction that would be applied to interpret your definition, I will simply observe that that definition could cause problems in applying the amendment in sec. 2.

(B) In addition, since "communications media" includes telephones, there is the potential for people to disrupt an otherwise orderly meeting or hearing, unless it is made clear in the statute that the body conducting the meeting or hearing may establish reasonable ground rules for the use of whatever media are to be employed. This is especially important in light of AS 44.62.310(f), which says that action taken contrary to AS 44.62.310 is void.

(C) One additional point: The amendment only refers to "[p]ublic attendance and participation" at meetings. It says nothing about the agency members themselves being able to conduct a meeting through communications media (which is especially important in emergency situations). This omission in the bill should be corrected, since not dealing with the permissibility of agencies themselves conducting meetings through communications media may be interpreted by the courts as an implied prohibition on such meetings.

5. The statement of intent in sec. 3, regarding broad dissemination of information, is good. However, in mentioning only the "convenience of the public," it overlooks the legitimate needs of the governmental bodies involved to get on with the business of the public as a whole. The interests and convenience of various segments of the public will often conflict with each other. The bill should be amended in this regard too.

6. The amendment in sec. 4 relates to hearings in the course of administrative adjudication. Speaking of the "mutual convenience of the parties" is okay, but it overlooks the constitutional right to due process and to confront and cross-examine witnesses against an individual. The statute should not appear to give an agency the right to consider the

convenience of perhaps its own staff and of a witness, while disregarding the rights of a central figure in the hearing. Consider, for example, a license revocation hearing for which the complaining witness would find it more convenient to phone in from his home. The hearing officer or administrative law judge would not be able to observe the demeanor of the witness, and the accused party would be seriously hindered in his questioning of the witness.

7. Basically, the amendment in sec. 5, allowing voting by communications media, in an administrative adjudication, is okay, especially since agency members are currently authorized to vote by mail (which, actually, under your definition of "communications media," could be considered as included in the new term). However, the sentence being added to AS 44.62.600 only requires recordation of the vote in a manner that identifies each person who has voted. That is a good point to cover, but nothing is said about recording how each person voted (not by what means, but on which side of the issue). This additional point should be covered; it would be consistent with the next-to-last sentence of the current AS 44.62.310(a).

8. The catch-all provision in sec. 6 of the bill is okay, but should also say something about the protection of constitutional and statutory rights of individuals. The variety of meetings and hearings covered by the Administrative Procedure Act must be borne in mind.

Thank you for the opportunity to comment on this bill. It would be very helpful to us if you could provide a bit more advance notice, however.

Yours truly,

WILSON L. CONDON
ATTORNEY GENERAL

By: Arthur H. Peterson
Arthur H. Peterson
Assistant Attorney General

AHP:dlm

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

March 3, 1982

The Honorable Terry Martin
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Martin:

As you requested, we have prepared and enclosed the department's position paper and fiscal note fo H.B. 703 "An act relating to the use of communications media under the Administrative Precedures Act".

Sincerely,

Richard Aks
Deputy Commissioner

Enclosures

State of Alaska
Department of Community & Regional Affairs

Date: March 3, 1982

POSITION PAPER

Requested by: Representative Martin

Subject: H.B. 703 - An Act Relating to the use of Communications Media Under the Administrative Procedures Act.

Departmental Position: Favorable

Remarks:

The department supports the proposed statutory change and feels that it will enhance the public's opportunity for input into the governmental decision making process. Moreover, the voting provision allows individuals who are unable to attend meetings in person to vote by communications media. This can only serve to expedite decision-making.

such a manner that the public may know the vote of each person entitled to vote. This section does not apply to any votes required to be taken to organize the afore-mentioned bodies.

* Sec. 3. AS 44.62.312(a) is amended by adding a new paragraph to read:

(6) the use of communications media under the provisions of this chapter is for the convenience of the public and to provide the broadest dissemination of information as is practicable.

* Sec. 4. AS 44.62.410 is amended by adding a new subsection to read:

(b) For the mutual convenience of the parties, the agency may use communications media in the conduct of a hearing under this section.

* Sec. 5. AS 44.62.600 is amended to read:

Sec. 44.62.600. VOTING PROCEDURE [MAIL VOTE]. A member of an agency qualified to vote on a question may vote by mail or by communications media. A vote by communications media shall be recorded in a manner that identifies each person who has voted. and to show how they voted.

* Sec. 6. AS 44.62 is amended by adding a new section to read:

Sec. 44.62.635. COMMUNICATIONS MEDIA. In addition to the specific authorizations in this chapter of the use of communications media, an agency may use communications media for the benefit or convenience of the parties or the public in connection with any proceeding or act authorized under this chapter.

* Sec. 7. AS 44.62.640 is amended by adding a new subsection to read:

(c) In this chapter "communications media" includes telecommunications equipment or services that provide for the exchange of information by audio, video, or computer teleconferencing.

Hanagan suggested.

TELELINK
COMMUNICATIONS INC.

INFOCOM DIVISION

March 3, 1982

Rep. Terry Martin
Chairman
House Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Rep. Martin:

Thank you for the opportunity to testify on HB703. We appreciate the work that you and your staff have done on this bill, and hope that it will receive favorable consideration by the full legislature, this year.

TELELINK Communications, Inc. is seeking passage of this bill, to permissively expand the capacities of state agencies to act on matters that otherwise require expensive, time-consuming, face-to-face meetings.

While the use of electronic communications will not completely replace travel and the need to "press the flesh", we believe that contemporary advances in communications technology will imitigate the loss of productivity and revenues engendered by the need to be physically present during rate and tariff proceedings; employment security appeals and the like.

We believe that it is in the public interest to permit persons in remote corners of the state to enter opinions and matters of fact into the public record, without the requirement that they spend hundreds or thousands of dollars traveling away from home to interact with the policy makers.

The Legislature's substantial success with the Legislative Teleconference Network, and the Department of Education's Learn/Alaska network are examples of the gains that positively benefit Alaskan society.

HB703 will act to further expand the information collection and decision-making capability of the state whether through increased participation in Public Utility Commission hearings; Regional Fish and Game advisory board meetings; DOT/PF bid awards; or consultant bidder's conferences.

Sincerely,

Allen D. Blume
Marketing Associate

AUDIO TELECONFERENCING COST INCENTIVES

CMX VS. TRAVEL*

2 HOUR TRAVEL MEETING
JUNEAU TO ANCHORAGE

Transportation	
Air Fare	$ 300.00
Rental Car	45.00
Gas & Oil	15.00
Lodging	60.00
Meals (including tips)	45.00
Telephone charges from Hotel	12.00
Salary ($36,000)	250.00
Cost per person	$ 727.00
X 8 people	$5,816.00
Lost Productivity:	
Travel time 4 hours @ $125x8	$1,000.00
Missed telephone calls and Meetings at home office?	$6,816.00

2 HOUR CMX MEETING

Transportation	$ .00
Lodging	.00
Meals	.00
Telephone charges (50.00/hr.) x 2	100.00
CMX fee (22.80/hr.) x 2	50.00
Salary ($36,000)	250.00
Cost per person	400.00
X 8 people	$3,200.00

COMPARISON

Travel Meeting Cost	$6,816.00
CMX Meeting Cost	$3,200.00
Cost Saving Using CMX	$3,616.00

*Assumes typical two hour meeting. Does not account for weather or other airline delays.

Bill No. House Bill 703

Date March 3, 1982

Title "An Act relating to the use of communications media under the Administrative Procedure Act"

Contact: Judy Knight
Judy Knight
465-2700

The provisions of House Bill 703 which provide for expanded use of telecommunications type media in public proceedings, public meetings and administrative adjudication proceedings will be advantageous to both the public and to state agencies.

The Department of Labor presently conducts telephonic hearings in connection with unemployment insurance appeals, and such hearings have been well accepted by both claimants and attorneys. In fact, many of these people prefer such a hearing because they feel it removes them from any prejudices the hearing officer may have with respect to their personal appearance. Our hearing officers have also found telephonic hearings to be satisfactory.

We have also used the state's teleconference facilities on a limited basis in the development of workers' compensation proposals; and again have found it to be a very efficient and effective means of conducting public meetings.

If the opportunity were available, the Department of Labor would definitely expand its use of this type of communications media; and we, therefore, support the passage of this bill.

POSITION PAPER/Department of Labor

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 703
Title Relating to Communications Media
Requested by House Labor and Commerce Date March 2, 1982

II. FISCAL DETAIL
Agency Affected Administration
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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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	00	0	0	0	0.
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

No impact on Department of Administration operations. Accordingly, no fiscal impact

IV. DATE 3/2/82 PREPARED BY Alex Hills AH
AGENCY Administration
PHONE

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) Rep. Terry Martin
33-001 (Rev. 12/81) Office of the Governor: Keith Specking

BILL ANALYSIS

ASSIGNMENT DATE:_____

UNASSIGNED_____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Environmental Conservation	House Labor & Commerce	HB 703

DEPARTMENT POSITION

We support this legislation. Teleconferencing would allow greater public participation, probably at less cost to the agency.

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
		Ernst W. Mueller	3/3/82

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ POSITION DISAPPROVED

BY DATE:

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING)

(2) a. ORGANIZATIONAL SUPPORT FOR BILL		(2) b. ORGANIZATIONAL OPPOSITION TO BILL

(3) PROGRAM EFFECTS OF BILL

Teleconferencing should result in less cost to the agency.

(4) FISCAL IMPACT: ☒ NONE ☐ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

(6) COMMENTS:

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY
OFFICE OF THE COMMISSIONER

POUCH N
JUNEAU, ALASKA 99811
PHONE:

March 3, 1982

POSITION PAPER

HOUSE BILL NO. 703

AN ACT RELATING TO THE USE OF COMMUNICATION MEDIA
UNDER THE ADMINISTRATIVE PROCEDURES ACT

HB 703 would amend AS 44.62 to allow the use of communications at public meetings and hearings. Since this Bill would allow the Department to accept testimony by any form of communications, expanding the parameters by which the public could provide input on proposed regulations provided for under the Administrative Procedures Act, the Department of Public Safety supports passage of HB 703.

It should be noted, however, that support for this Bill is contingent upon receiving the necessary funding to purchase the communications equipment required to implement this Bill, if enacted. A Fiscal Note will be provided the Finance Committee outlining the projected costs anticipated if this Bill were to become law.

William R. Nix
Commissioner

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL #703

"An Act relating to the use of communications media under the Administrative Procedure Act."

House Bill No. 703 allows the use of communications media for hearings and meetings under the Administrative Procedure Act.

Analysis

This bill would enhance the opportunity for public input into state administrative deliberations by allowing use of communications media. People living in remote locations, whether members of administrative bodies or interested citizens, will be able to participate in hearings or meetings with much less trouble and expense if this bill passes. It is a cost effective and efficient way for the department to conduct business and take public testimony on an issue.

Department Position

The Department of Health and Social Services strongly supports House Bill No. 703.

Recommended by: [signature]
Marsha Hubbard,
Director, Division
of Management & Budget

Date: 2-16-82

Approved by: [signature]
Helen D. Beirne
Commissioner

Date: 2-16-82

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM January 12, 1982

SUBJECT: Electronic media under the Administrative Procedure Act (Work Order No. 12-2185)

TO: Representative Terry Martin, Chairman
House Labor and Commerce Committee

FROM: Thomas A. Sofo TAS
Legislative Counsel

In preparing the attached work draft regarding the use of electronic media under the Administrative Procedure Act, I reviewed a memo from Ray Tyson which outlined some suggested changes to AS 44.62. I originally proceeded by strictly adhering to the outline suggested until it became apparent that several well placed amendments would accomplish the objectives of the committee without actually amending each individual suggestion which the outline listed. An example of this type of result can be seen by reviewing the amendment contained in Sec. 1 of the draft (authorizing the use of electronic media at public proceedings under AS 44.62.210) and the second amendment suggested on the outline to AS 44.-62.230. A review of the latter section indicates that there is no need to state again that electronic media may be used as method of hearing petitions since AS 44.62.230 refers back to the public hearing process of AS 44.62.210. Unless the committee further desired that the petition itself could be submitted by electronic media no further adjustment in AS 44.62.230 is needed.

As to the possible suggestion that petitions as well as accusations and notices of defense, etc., be submitted through the use of electronic media, the committee should consider that the process seems to require that the initial contact be in written form. For similar reasons the sections pointed out for my review in sec. 6 of the outline did not seem to require further insertion of the term electronic media. As an example, AS 44.62.440 permits the use of

depositions "in the manner prescribed by law for depositions in civil actions". Depositions may be videotaped and, in appropriate instances, introduced into evidence in civil actions of this state. I think most of the changes which were suggested that are not found in this work draft can be explained by applying the rationale described above.

I do have one or two questions regarding suggested amendments to AS 44.62.310 (Agency Meetings Public) and AS 44.62.312 (State Policy Regarding Meetings). It was suggested under AS 44.62.310 that a roll call vote would be appropriate in the case of a voice vote taken by electronic means. This seems to create a higher standard of accountability for casting an affirmative or negative vote in the case of a voice vote taken at a meeting where electronic media is used. It can be argued that in the absence of being physically present in the room, an observer might not know which "voices" cast their votes either affirmatively or negatively. However, this is a defect inherent in the voice vote procedure and I am not sure the committee intended to create more accountability merely because electronic media were present. Similarly, the outline suggests adding a new section (f). Although the outline is inaccurate or poorly cross-referenced, I have taken the suggestion to mean that when the agencies meet in closed or executive sessions that an electronic transcript of that session be retained. This, of course, goes against the typical procedure for executive sessions which are by their very nature private. If the outline is suggesting that an electronic transcript be prepared of the proceedings of those bodies listed in subsection (d) of AS 44.62.310, the committee must be cautioned that this also would be inappropriate given the nature of those deliberative bodies. In the same manner, I cannot really make sense out of the request to add a section to AS 44.62.340 concerning the delegation of power by agencies. The concept of a delegation of power "per se" is ambiguous and will only serve to confuse matters under the Administrative Procedure Act. At best, this suggested amendment seems unnecessary.

I would like to particularly draw the committee's attention to our slightly revised definition of "communications media" which appears in the last section of this draft. I solicit your comments as to whether the revised definition accurately encompasses the telecommunications formats which are to be included.

As a result of this office's interpretation of the goals to be achieved in preparing this work order, the attached draft is probably somewhat shorter than you had anticipated. There may be several items which we still need to include if, after discussion, you do not feel that the general amendments suggested adequatly address the situation. I would recommend that we continue to attempt to accomplish the committee's objectives by using several general, well placed amendments in AS 44.62 rather than a wholesale amendment of each section in which electronic media might have some possible application.

If you have any questions, I would be happy to discuss them with you at your convenience.

TAS:ljb

Enclosure

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

(907) 465-3900

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DEPUTY COMMISSIONER – ADMINISTRATION

POUCH Z
JUNEAU, ALASKA 99811

March 3, 1982

Honorable Terry Martin
Alaska State Representative
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Martin:

In reply to a request from your office for a position paper from this department regarding House Bill 703, relating to the use of communications media under the Administrative Procedure Act, we wish to state that this department has no comment to make on this bill.

Sincerely,

Ron B. Lind
Deputy Commissioner

Department of Education
Position Paper
House Bill 703

While the State Board of Education has not had the opportunity to discuss the provisions of Sections 1, 2 and 5, the department administration supports the provisions of Section 4.

As a practical matter, the department has found audio conferencing to be a very effective means of information exchange at a very low cost. This bill could result in substantial savings over the cost of face to face testimony acquisition in public meetings and administrative proceedings, although those savings would not necessarily accrue to the state.

Marshall L. Lind, Commissioner

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB-703
Title "An Act relating to the use of communication media under..."
Requested by House Labor & Commerce Date 3-3-82

II. FISCAL DETAIL
Agency Affected Education
Program Category Affected Elementary and Secondary Education
BRU, Program, Or Subprogram(s) Affected Boards and Commissions
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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 Source)						
		-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This bill has no fiscal impact on this department

IV. DATE 3-3-82 PREPARED BY Steve Nole
AGENCY Education
PHONE 465-2890

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

33-001 (Rev. 12/81)

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

HOUSE BILL #703

"An Act relating to the use of communications media under the Administrative Procedure Act."

House Bill No. 703 allows the use of communications media for hearings and meetings under the Administrative Procedure Act.

Analysis

This bill would enhance the opportunity for public input into state administrative deliberations by allowing use of communications media. People living in remote locations, whether members of administrative bodies or interested citizens, will be able to participate in hearings or meetings with much less trouble and expense if this bill passes. It is a cost effective and efficient way for the department to conduct business and take public testimony on an issue.

Department Position

The Department of Health and Social Services strongly supports House Bill No. 703.

Recommended by: Marsha Hubbard

Marsha Hubbard,
Director, Division
of Management & Budget

Date: 2-16-82

Approved by: Helen D. Beirne

Helen D. Beirne
Commissioner

Date: 2-16-82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB No. 703
Title "An Act relating to the use of communications media under the Admin. Procedure Act."
Requested by Labor & Commerce Committee Date

II. FISCAL DETAIL
Agency Affected Department of Health & Social Services
Program Category Affected Health, Social Services, Justice
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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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 Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

This bill would have no significant fiscal impact on the Department of Health & Social Services

IV. DATE February 8, 1982 PREPARED BY Joanne C. Clark Joanne C Clark
AGENCY Division of Management & Budget
PHONE 465-3331

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 703
Title Relating to the use of communications media
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Fish and Game
Program Category Affected NRMEC
BRU, Program, Or Subprogram(s) Affected Boards of Fish and Game
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
POSITIONS	-0-	-0-	-0-	-0-	-0-	-0-
FULL TIME						
PART TIME						
TEMPORARY						

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

Any costs related to teleconferencing would probably be offset by reductions in travel expenses for board members currently being paid for by the State.

IV. DATE 3/9/82 PREPARED BY J. Green
AGENCY Fish and Game
PHONE 4120

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

Mary Isaac
Belinda
Rm. 211

STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Fish and Game	Hayes	HB 866

Department Position: No Comment

Division Director	Date	Commissioner	Date
Richard Thorn	3/9/82	Ronald O. Skoog	3/9/82

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted	By	Date

SUMMARY

1. a) Related Bills (Similar or Conflicting	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

4. Fiscal Impact: ☐ None ☐ Fiscal Note Attached

5. Amendments Proposed:

6. Comments:

01-009(Rev. 9/80)

HB
704

COMMITTEE REPORT

HOUSE

(5) FURTHER:

1/29/82

Date: 3-10-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 704

"An Act continuing the existence of the Real Estate Commission; and providing for an effective date."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[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

Lane Martin

Bill Cowan

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Lane Martin
CHAIRMAN

H 60 (Rev. 12/78)

Date introduced 1-29-82
" Rec'd: 1-29-82

Expenses none

Comm. hearing 3-1-82 - CS work draft to be prepared.
" action 3-10-82 ✓ CS adopted - proxy mtg of Comm.
Legal Services finding Sent to Chief Clerk @ 4:15 p.m.

with Mr. Greenwich of
Mr. Crosier Realty
Notified 586-1212

Be sending some amendments
be worked like to see part of
the Board. Sending (5) copies that
members can study prior to
meeting.
3-1-82 - Reminder

PROPOSED STATUTORY CHANGES IN AS 08.88 PRESENTED TO THE HOUSE LABOR AND COMMERCE COMMITTEE BY THE ALASKA REAL ESTATE COMMISSION, MARCH 1, 1982:

* Sec. 08.88.091 is amended by adding a new paragraph to read:

(3) The commission may make available to the public manuals, texts or other materials prepared with funds from the surety fund. When these materials are made available the commission may make a reasonable charge for them designed to recover the actual costs of the item provided. Funds collected under this section shall be paid at least once a month into the general fund. These payments shall be credited to the real estate surety fund.

* Sec. 08.88.101 (11) is repealed and reenacted to read:

(11) print and distribute duplicate license certificates to replace lost certificates;

* Sec. 08.88.101 (12) is amended to read:

(12) send notice 30 days before (, BEFORE DECEMBER 1 OF EACH YEAR,) the date that licenses must be renewed;

* Sec. 08.88.201 is repealed and reenacted to read:

08.88.201. REEXAMINATION. A person who fails an examination may apply for a subsequent examination, but shall pay the examination fee each time he applies.

* Sec. 08.88.221 is repealed and reenacted to read:

08.88.221. FEES. Fees for the following categories for a real estate broker, associate broker, or salesman licensee or applicant are established by regulations adopted under AS 08.01.065:

(1) examination;

(2) reciprocity;

(3) initial license;

(4) renewal of an active license;

(5) renewal of an inactive license;

~~(6) amending or transferring a license.~~

* Sec. 08.88.251 is amended to read:

(c) A person who is inactive may become active by applying for an active license and paying the required fees. In the application form he shall state the date on which he intends to become active. His active status begins on the date stated. The commission shall send him a license certificate. A person is entitled to change from an inactive to an active status without examination if he has not been inactive more than two (THREE) years. If he has been inactive more than two (THREE) years, he is required to take an examination.

* Sec. 08.88.261 is repealed:

* Sec. 08.88.361 is amended to read:

Sec. 08.88.361. WHEN COMMISSION IS EARNED. A commission or fee is earned when the real estate broker fulfills the terms of a written personal services contract.

* Sec. 08.88.401 (a) is repealed and reenacted to read:

Sec. 08.88.401 (a) a licensee may not in any way represent that he holds or has been awarded any degree or designation to which he is not entitled nor may he represent himself as being a member or affiliate of any professional organization to which he does not belong.

* Sec. 08.88.401 (b) is repealed and reenacted to read:

Sec. 08.88.401 (b) commissions or fees for performance of acts specified in Section 161 of this chapter may be paid only to a licensed Alaska real estate broker except when a real estate broker properly licensed in another state assists an Alaskan real estate broker, the out-of-state broker's commission or portion of the commission may be paid directly to the out-of-state broker by the seller or escrow holder. Commissions or portions of commissions paid to a licensed real estate salesman must be paid by the broker or under the authorization of the broker with whom the real estate salesman is licensed.

* Sec. 08.88.401 (c) is amended to read:

(c) knowlingly make, authorize, direct or aid in the publication of a false statement or misrepresentation concerning land or a subdivision of other real estate offered for sale or lease;

* Sec. 08.88.401 is amended by adding a new paragraph to read:

E (d) The commission or its executive director may issue a stop order to any person or firm who is or appears to be about to pay a commission or fee for acts specified in Section 161 of this chapter to a person who is not a licensed real estate broker in another state authorized to receive commissions under part (b) of this section.

(E) a person who violates this section or 161 of this chapter is guilty of a misdemeanor.

A PERFORMANCE REVIEW OF THE REAL ESTATE COMMISSION

June 4, 1981

Audit Control Number
08-101-1037-R

Commissioner, Department of Commerce and Economic Development	Charles R. Webber
Deputy Commissioner, Department of Commerce and Economic Development	Pete Jeans
Deputy Commissioner, Department of Commerce and Economic Development	Vacant

Members of the
Real Estate Commission

Chairperson	Lance Youngquist
Member	Karen Morris
Member	Barbara Hill
Member	Frank Austin
Member	Gary Wilken
Member	Ken Calhoon
Member	Gail Glad

STATE OF ALASKA

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

June 4, 1981

Members of the
Legislative Budget and Audit Committee:

In accordance with the intent of Title 24 and 44 of the Alaska Statutes, the attached report is submitted for your review.

A PERFORMANCE REVIEW OF THE
REAL ESTATE COMMISSION

June 4, 1981

Gerald L. Wilkerson

Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE AND SCOPE OF THE REVIEW

Purpose

In accordance with the intent of Alaska Statutes 24.20.271(1) and 44.66.050 (Sunset legislation), an audit of the Real Estate Commission was conducted to review Commission activities and accomplishments to determine if the Commission has been operating in an effective, efficient, and economical manner.

As required by legislative intent, this report shall be considered during the legislative oversight function in determining whether the Real Estate Commission should be reestablished. The law currently specifies that this Commission will terminate on June 30, 1982.

Scope

The major areas reviewed were the Commission's operations and its licensing, examination, administration, complaint and affirmative action functions. Our review consisted of analyzing and evaluating the following:

1. Applicable statutes and Commission regulations.

2. Interviews with Commission members.

3. Tests of records and documents of the Commission and the Division of Occupational Licensing (OL), Department of Commerce and Economic Development.

4. Interviews with OL employees.

5. Complaints filed with OL, the Ombudsman's Office and the Consumer Affairs Agency.

ORGANIZATION AND FUNCTION

The Real Estate Commission (REC) was established and operates under Title 8, Chapter 88 of the Alaska Statutes. It is a regulatory commission composed of five real estate brokers or associate brokers, and two public members.

The Commission regulates licensed real estate agents (brokers, associate brokers, and salespersons) by:

1. Examining and issuing licenses to qualified applicants.

2. Establishing or amending rules and regulations necessary to enforce State statutes.

3. Holding hearings to revoke or suspend the license of a person violating real estate statutes or regulations.

4. Prosecuting through the Department of Law, violators of real estate statutes and regulations.

REC is also authorized to conduct real estate clinics, meetings or educational institutes for the purpose of raising the standards of the real estate business and the competency of licensees.

Real estate brokers and associate brokers must pass an examination, be a resident of the State, have had 24 months of experience as a real estate salesperson, and not have engaged in conduct demonstrating their unfitness to be a broker. A broker differs from an associate broker in that a broker must be an owner of a real estate business or employed as a broker by a corporation. An associate broker has met the statutory qualifications of a broker, but is employed by a real estate broker.

A real estate salesp n must pass an examination, be a resident of the Stat e employed by the owner of a real estate brokerage and be have e gaged in conduct demonstrating unfitness to be a salesperson.

Real estate agents must pay a bond fee when obtaining or renewing their licenses. These fees are deposited in the Real Estate Surety Fund and are to be used for making settlements to victims of fraud, misrepresentation, and deceit by real estate agents. Settlements to damaged parties are made by REC after a hearing is held. If the Surety Fund balance reaches above $250,000, the excess may be appropriated for educational programs put on by REC.

Chapter 167 passed during the 1980 legislative session gave the Commission the power to appoint an executive director, employ assistants and approve the appointment of an investigator or auditor. However, these changes were not funded by the Legislature at that time. Prior to the enactment of this law, the Commission received staff support from the Division of Occupational Licensing (OL).

REPORT CONCLUSION

Policy Issues

This review contains policy issues raised as a result of our evaluation of various Board practices. The final policy decisions affecting these practices are not within the scope of this review but require legislative consideration. In debating these issues the legislative oversight committees should consider the findings and alternatives presented in this report, so that the potential impact of policy changes can be evaluated.

Report Conclusion

In our opinion, the Real Estate Commission (REC) should continue to regulate and license real estate professionals. The regulation and licensing of the profession is necessary because of the potential for substantial economic loss resulting from the business practices of unqualified, incompetent, and dishonest real estate practitioners.

Chapter 167, SLA 1980 significantly changed the powers and responsibilities of the Real Estate Commission. The Commission is now an agency separate from the Division of Occupational Licensing and has the power to hire its own personnel. The Commission has, however, not received sufficient funding for its operations. As a result, it is difficult to draw overall conclusions about the performance of REC.

REC has operated in the public's best interest through its examination and education efforts. For instance, the Commission has taken positive actions to inform and educate licensees and the public by publishing a newsletter. In addition, the Commission has proposed various statutory changes designed to clarify the law and improve services by licensees. Other Board actions have been made which appear to meet public needs and demands reasonably.

Chapter 167 gave REC the power to conduct its own investigations. Due to the lack of funding, REC had to have the Division of Occupational Licensing handle real estate investigations. We suggest that the Commission formalize its investigative procedures to be properly prepared when its investigative function is returned (see Recommendation No. 1).

The statutes specifying procedures for the Real Estate Surety Fund conflict with the Administrative Procedures Act. This is causing payments from the Fund to be delayed. Also, claims in process may become greater than the Fund total (see Recommendation No. 2).

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

Investigative procedures for real estate complaints should be developed to assure an accurate and proper system for handling complaints.

The Real Estate Commission has temporarily delegated its investigative function to the Division of Occupational Licensing due to budgetary constraints. Because of this transfer, REC has not yet established a formal system of handling complaints. In order to be properly prepared when the investigative responsibility is returned to the Commission, REC needs to develop and approve a formal system. The following items should be included.

1. The final disposition of a case should be formally recorded in the Commission's minutes. The case file should reflect these actions.

2. A log should be developed which will track each case from original receipt, through the investigation to the Attorney General's Office and hearing (if applicable), and to the formal Commission action. All cases which have been dropped or have become inactive should be identified.

3. A cross-reference system needs to be developed which will provide a history of complaints against particular individuals or firms. Many investigations involve oral misrepresentation with only the complainant as a witness. Identifying patterns of allegations against a particular company, broker or salesperson will give more effective evidence in cases that are sent to hearings.

4. A manual needs to be developed which documents the procedures used for investigating complaints and documenting case files. REC should define specific procedures to prevent potential conflict of interest situations with Board members and REC employees. The manual will be useful to evaluate staff personnel and help orderly transition in cases of employee turnover.

Recommendation No. 2

Legislation should be introduced to revise the Real Estate Surety Fund (RESF) statutes in order to allow payments to be made from the Fund in an equitable and timely manner.

Procedures for processing claims against RESF are controlled by the provisions of AS 08.88.450-.500 and the Administrative

Procedures Act (APA), AS 44.62.010-.650. APA allows a broker, associate broker or salesperson to file a written statement in opposition to a claim within 15 days after receiving notification of the claim. AS 08.88.465 allows the broker only 10 days to file a statement. Due to this conflict and others, the Attorney General's Office has notified REC not to pay any claims until the statutes have been changed.

RESF exists to protect the public against injuries resulting from malfeasance by licensed real estate agents. Chapter 167 of the 1980 Session Laws of Alaska gave REC the responsibility of making payments out of the RESF in order to get payments to claimants in a more timely manner. Until the statutes are changed to eliminate the conflict with APA, timely payments will not occur.

Time is of the essence in the passage of new legislation. REC has not completed a detailed financial analysis to determine the monetary liability against the Fund. However, we found that the number of claimants seeking reimbursement from RESF has increased in the last two years from five to twenty-four cases. Using the maximum reimbursement of $10,000 per case allowable by law, the twenty-four cases could cost as much as $240,000 or almost two-thirds of the Fund balance of $374,800 as of June 30, 1980. There is a potential that outstanding claims may soon amount to more than the Fund balance.

The maximum reimbursement of $10,000 allowable by law was enacted in 1976. The Surety Fund fees of $125 and $40 paid by brokers and real estate salespersons have also not been adjusted since 1976. "The Alaska Statistical Review 1980" prepared by the Alaska Department of Commerce and Economic Development shows that the Anchorage Consumer Price Index for urban consumers has increased since 1976 by more than 50%. We suggest that REC complete a financial analysis of the Fund and determine if the current fees and maximum reimbursement for claims are sufficient. Legislation should be introduced if changes need to be made.

ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of Commission activities relate to the public need factors defined in the "Sunset" law. These analyses are not intended to be all-inclusive, but addresses those areas we were able to cover within the scope of our review.

I. The extent to which the board, commission or program has operated in the public interest.

1. The Real Estate Commission (REC) has legally implemented several regulations concerning:

   a. Suspension, revocation, and issuance of licenses.

   b. Prohibited conduct by real estate agents.

   c. Accounting for trust accounts by real estate agents.

2. According to OL's files, REC met four times last year and advertised one public hearing on proposed regulations. Examinations were scheduled for each month except December and were held in eight locations around the State.

3. The Commission has sponsored seminars and publications on real estate matters.

II. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

1. Chapter 167, Session Laws of 1980 gave the Board the power to hire its own personnel. Present staffing includes an Executive Director, a License Examiner and a Secretary. However, funding for REC was not substantially increased. As a result, the Commission has not hired an investigator or auditor, a key feature of this legislation. The Division of Occupational Licensing has continued to provide investigative support to REC. However, there is a severe backlog of cases totalling 145 as of January 22, 1981.

2. Chapter 167 also gave the Commission the power to make payments from the Real Estate Surety Fund. Because the procedures enumerated in Chapter 167 conflict with the Administrative Procedures Act, claims against the Fund are being delayed (see Recommendation No. 2).

III. The extent to which the board, commission or agency has recommended statutory changes which are generally or benefit to the public interest.

1. The Commission proposed various changes to State statutes and many of these were enacted in Chapter 167, SLA 1980. REC is continuing its effort to improve the statutes. We believe these efforts are in the public's best interest.

IV. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

1. The Commission has held part of their meetings to specifically meet with interested persons.

2. The Commission published and distributed the "Alaska Real Estate Commission News" which included a plea for public input.

V. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

1. REC, through OL, advertised in newspapers to encourage public participation and also sends notices to interested associations. All meetings and examinations in the past year were publicized.

VI. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

1. Recently the Ombudsman's Office received a complaint about a delay in authorizing payments from the Real Estate Surety Fund.

VII. The extent to which a board or commission which regulates entry into an an occupation or profession has presented qualified applicants to serve the public.

1. As of March 19, 1981, there were 2,386 persons licensed by REC.

2. From July 1, 1977 to February 27, 1981, REC and the Division of Occupational Licensing received 414 real estate complaints. During this time, the Commission denied, revoked or suspended 21 licenses. As of February 27, 1981, 145 cases were still pending investigation.

VIII. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest.

1. We found no evidence of problems in this area.

IX. The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

1. Please refer to the previous section, Findings and Recommendations.

APPENDIXES

APPENDIX A

REAL ESTATE COMMISSION
REVENUES COMPARED WITH EXPENDITURES
Fiscal Year 1980
(UNAUDITED)

Operating	
Average Revenue (See Schedule 1 and Note 1)	$188,600
Expenditures (See Note 2)	112,900
Excess of Revenues Over Expenditures	$ 75,700
Surety Fund	
Revenue (Note 3 and Note 4)	$118,600
Expenditures	55,200
Excess of Revenues Over Expenditures	$ 63,400

CHANGES IN SURETY FUND EQUITY
Fiscal Year 1980
(UNAUDITED)

July 1979 Beginning Balance	$311,400
Fiscal Year 1980 Revenues	118,600
Fiscal Year 1980 Expenditures	55,200
June 30, 1980 Ending Balance	$374,800

Schedule 1
Types of Revenues

Revenues	Amount	Collection Time
Brokers and Associate Brokers		
Initial License Fee	$100	With issuance of license
Biennial Renewal - Active License	100	Biennially
Biennial Renewal - Inactive License	25	Biennially
Examination Fee	50	With taking examination
Reciprocity Fee	50	With granting of license through reciprocity
Fee for Amending a License	5	With license filing to amend license
Salespersons		
Initial License Fee	50	With issuance of license
Biennial Renewal - Active License	50	Biennially
Biennial Renewal - Inactive License	25	Biennially
Examination	50	With taking examination
Reciprocity Fee	50	With granting of license through reciprocity
Fee for Amending a License	5	With licensee filing to amend license

Note 1

Most of the real estate revenues are composed of renewal registration fees. These fees are collected once every two years and cause revenues in one year to be much greater than the revenues collected in the next year. Therefore, we calculated and reported an average of the revenues collected in fiscal years 1979 and 1980 in order to obtain an accurate representation of collected revenues.

Note 2

Expenditures include those made by Commission members, such as travel and per diem and an allocated percentage (estimated) of total administrative expenses of OL. They do not include expenditures for efforts of other departments, such as the Department of Law, that may be assisting the Commission and OL.

Note 3

The Surety Fund is supported by payments from real estate licenses and provides for financial recovery by the public when injured by malfeasance of a licensee. When the Fund is over $250,000 the excess may be appropriated for real estate educational purposes. Fiscal Year 1979 revenue has reported as $17,774.

Note 4

As of April 29, there were 24 claimants seeking reimbursement from the Real Estate Surety Fund. These cases could amount to as much as $240,000. If the number of claims continues to increase, the amount of claims may become greater than the Fund total.

APPENDIX B

EXAMINATION AND ADMINISTRATIVE STATISTICS

Schedule 1
Examination Statistics

	Calendar 1980	Calendar 1979
Brokers and Associate Brokers		
Number of Examinees	192	241
Number of Fails	56	65
Number of Passes	136	176
Percentage Pass Rate	71%	73%
Salespersons		
Number of Examinees	764	1,024
Number of Fails	415	514
Number of Passes	349	510
Percentage Pass Rate	46%	50%

Schedule 2
Administrative Statistics

	Calendar 1980	Calendar 1979
Licenses Issued Per Calendar Year		
Brokers	27	55
Associate Brokers	80	90
Salespersons	358	495
Total	465	640

	As of 03/19/81
Active Licenses	
Brokers	487
Associate Brokers	412
Salespersons	1,487
Total	2,386
Inactive Licenses	
Brokers	47
Associate Brokers	60
Salespersons	711
Total	818

195 South Franklin
Juneau, AK 99801
September 23, 1981

RECEIVED
1981
LEGISLATIVE
AUDIT

Mr. Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit
Pouch W
Alaska Office Building
Juneau, AK 99811

Mr. Wilkerson,

In response to your request, I am addressing the recommendations made in the preliminary report, "A Performance Review of the Real Estate Commission," dated 4 June 1981.

Recommendation No. 1: Agree. As you know, AREC has had difficulty for many years with investigation and handling of cases. The underlying reasons are many and have been debated at length. Under AREC's original Sunset review, major statutory changes were implemented in 1980 which would enable AREC to become a separate entity and hire its own staff. Unfortunately, funding was not available in FY '81 to implement these changes.

The FY '82 budget has given AREC sufficient funds to begin implementation of the proposed changes. The hiring process for an investigative position should be completed within a short period. AREC is aware of the proposed changes and has commenced planning of the investigative procedures and record keeping that will be required. AREC's Executive Director has been preparing for this transition; many policy and procedure decisions have been approved by the Commission. It should be noted that at this time case closures are being done at a more rapid rate, and that any decisions on a case are entered into our minutes.

Recommendation No. 2: Agree. I agree with the problem as it existed at the time of the writing of the report. However, since the time of Legislative Audit's investigation, there have been many changes that should allow AREC to commence Surety Fund hearings in October. The interpretation, by the Attorney General's office, has been that any Surety Fund hearings would fall under APA procedures. For this reason AREC made an attempt to get legislation passed that would provide relief from the APA problems--that attempt was unsuccessful. Since that time new AG opinions have provided AREC with a method to handle the claims hearings and to make payments that do not require conformance with the APA. Numerous meetings were held on this matter with the AG and with legal counsel of pending claimants. As of this writing, we are preparing to hold Surety Fund hearings at AREC's October meeting and, if warranted, should be able to begin making payments. I agree with the importance of monitoring the Surety Fund balance due to the amount of pending claims and possible future claims. This is being done and possible new legislation will be introduced during the next legislative session to assure that the fund remains healthy.

In conclusion, the report does address two of the major problems that exist with the Commission. It is my opinion that the Commission is very aware of these problems and is actively seeking, or has found, the necessary solutions. The funding problems created by the FY '81 budget hindered our implementation of changes; however, it is my feeling that AREC has performed admirably and is making great strides toward becoming an efficient and effective governmental agency. These accomplishments will be addressed in Sunset hearings next year.

I appreciate the opportunity to address the report and am available at any time to assist you in your investigation or to answer any questions that you may have.

Sincerely,

Lance Youngquist, Chairman
Alaska Real Estate Commission

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING
JUNEAU, ALASKA 99811

February 19, 1982

TO: Representative Terry Martin
Chairman
House Labor and Commerce
Committee

FROM: Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

SUBJECT: Discussion of Legislative
Oversight Responsibilities
as Related to Sunset Audits

As required by "sunset" legislation, your Committee has been assigned the oversight review of the Real Estate Commission and the Board of Electrical Examiners. In addition to the audit reports released earlier by this Division, the following information may be helpful.

According to AS 44.66.050, the standing committee of legislative jurisdiction as provided in Rule 20 of the Uniform Rules of the Legislature shall hold one or more hearings to receive testimony from the public and other parties that have associated responsibilities or interests. In addition, the Committee shall consider Legislative Audit's report, the agency's proposed budget, the agency's program performance report, and any other tools that might assist it in evaluating the conduct and activities of the agency being terminated.

* It is important to note that the terminating agency shall have the burden of demonstrating a public need for its continued existence during the public hearings.

The determination of "public need" for continued existence shall take into consideration the following factors set out in AS 44.66.050(c):

1. The extent to which the board, commission or program has operated in the public interest.

2. The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

3. The extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to th public interest.

4. The extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided.

5. The extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions.

6. The efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved.

7. The extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

8. The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest.

9. The extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

The Legislative Audit reports have addressed these issues individually but only to the extent allowed by restricted audit scopes detailed within the reports.

The Law further states that the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of each

house. The report is to include a summary of findings as to compliance with the "public need" factors enumerated above together with recommendations as to each of the following:

1. An identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address.

2. A statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments.

3. An identification of any other programs having similar, conflicting or duplicate objectives.

4. An assessment of alternative methods of achieving the purposes of the program.

5. An assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level.

6. A justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts.

7. Any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

The committee of reference may introduce a bill providing for the reorganization or continuation of the agency being terminated as stipulated in AS 44.66.050(e).

If additional information is needed, please contact this office at 465-3830.

cc: Senator Arliss Sturgulewski
Chairman
Legislative Budget and Audit Committee

PLEASE NOTE

THE ORGINAL FILE CONTAINS AN OVERSIZED DOCUMENT THAT IS UNSUITABLE FOR FILMING. PLEASE REFER TO THE ALASKA STATE ARCHIVES TO VIEW THE ORIGINAL.

"Alaska Real Estate Commission News"

V 3, No. 1 -- 2/1982

HB

722

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY

(5)

2/5/82

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 722

"An Act relating to landlord remedies."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 722 (L-C) [ ] 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

Larry Martin

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bill Rogers Do Not Pass

Larry Martin
CHAIRMAN

H 60 (Rev. 12/78)

Sponsor notified 3-1-82 9:00 Romano Banner - desires Aide Darlene Howell like to be listed as added.

Date Introduced 2-5-82
" Rec'd. 2-5-82
Referrals - Judiciary
Comm. hearing 3-8-82 Sent Comm of Reference. Judiciary & study & report back. CS adopted.
" action CS sent to Chief Clerk.

office

Introduced: 2/5/82
Referred: Labor & Commerce and Judiciary

IN THE HOUSE BY METCALFE

HOUSE BILL NO. 722

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to landlord remedies."

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

* Section 1. AS 34.03 is amended by adding new sections to read:

Remedy & other remedies

Sec. 34.03.225. REMEDY FOR DAMAGE. If a tenant vandalizes or deliberately causes unreasonably excessive damage to the dwelling unit, the landlord may terminate the rental agreement and immediately recover possession of the dwelling unit without regard to AS 34.03.140 or any other requirements of this chapter relating to access.

for destroying property

Sec. 34.03.226. REMEDY FOR BAD CHECKS. (a) If a tenant issues a check in payment of rent for a dwelling unit and that check is not honored by the drawee, the landlord may terminate the rental agreement and recover possession of the dwelling unit as provided in (b) of this section.

(b) If the conditions in (a) of this section are met, the landlord may terminate the rental agreement by giving written notice to the tenant of the dishonored check and of the landlord's intention to terminate the rental agreement effective four days after the notice is given unless the tenant immediately tenders the amount due. If the tenant does not tender the amount due within the four-day period, the tenancy terminates and the landlord may immediately recover possession of the dwelling unit without regard to AS 34.03.140 or any other requirements of this chapter relating to access.

Sec. 34.03.227. REMEDY FOR DISTURBANCES. (a) If a tenant conducts himself or allows other persons on the premises to conduct themselves in

a manner that unreasonably disturbs his neighbors' peaceful enjoyment of the premises, and if that disturbance is verified by a signed complaint from at least one-half of his neighbors in dwelling units immediately adjacent to or above or below the tenant's dwelling unit, the landlord may terminate the rental agreement and recover possession of the dwelling unit as provided in (b) of this section.

(b) If the conditions in (a) of this section are met, the landlord may terminate the rental agreement by giving written notice to the tenant of the disturbance and complaint and of the landlord's intention to terminate the rental agreement effective four days after the notice is given unless the tenant ceases the disturbing conduct within the four-day period. If the tenant does not cease that conduct within the four-day period, the tenancy terminates and the landlord may immediately recover possession of the dwelling unit without regard to AS 34.03.140 or any other requirements of this chapter relating to access. If the tenant ceases the disturbing conduct within the four-day period, but then begins that or similar conduct after the four-day period expires, and the conduct is verified as provided in (a) of this section, the tenancy terminates and the landlord may recover possession of the dwelling unit without regard to AS 34.03.140 or any other requirements of this chapter relating to access by giving written notice of termination to the tenant effective 24 hours after the notice is given.

60 days - include Leg. & Budget & Audit report

Present also Rep D Randolph.

On HB 704 - add in "Proposed sla

Date's

INTRODUCTION OF BILLS (House)

Landlord Remedies

HOUSE BILL NO. 722, by Rep. Metcalfe. Offers legal remedies to landlords for damages, bad checks and disturbances by tenants:

--in the case of excessive damage or vandalism, the landlord may terminate the rental agreement and immediately take over the premisis without regard to statute which limits access without court order or if the tenant is absent for over a week.

--in the case of a bad check, the landlord may terminate the rental agreement and take possession of the rental by giving written notice to the tenant. Termination of agreement is effective after four days unless the tenant immediately tenders the amount due.

--the remedy outlined in the case of a disturbance provides that if the tenant or other persons on the premises conduct themselves in a manner that unreasonably disturbs his neighbors' peaceful enjoyment of the premises, and the disturbance is verified by a single complaint from at least one-half of his neighbors in units immediately adjacent to the tenant's unit, the landlord may terminate the rental agreement by giving written notice of his intention to terminate effective four days after notice is given unless tenant ceases the disturbing conduct within the four-day period. If the tenant does not cease, the tenancy terminates. If disturbances cease for four days, but resume, the tenancy terminates effective 24 hours after notice is given by the landlord.

Does not provide for an effective date.

Introduced February 5 and referred to Labor & Commerce, then to Judiciary.

HB
726

COMMITTEE REPORT

HOUSE

(5) FURTHER:

2/5/82

Date: 3-4-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 726

"An Act providing an exemption from the Alaska Employment Security Act for certain employees of certain corporations."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

D. Rogers

Clyde Houston

B Bunde

MEMBERS HAVING
OTHER RECOMMENDATIONS:

R

Tom Thomas
CHAIRMAN

H 60 (Rev. 12/78)

Date Introduced 2-5-82
Date Rec'd. 2-5-82
Referrals none
Comm Hearing 3-4-82 - Passed as CS with amendments - 3/8/82 Rec'd CS from Legal Service
" action taken & chief Clerks' office @ 3:10 P.M.

Dept of Labor.
Notified
Spoman notified

Similar concept in Workers Comp. Act on Fed. regs.

3,000 small business corporations in AK.
Doug Jenkins

Office Copy

Introduced: 2/5/82
Referred: Labor & Commerce

IN THE HOUSE BY BARNES, HAYES AND CLOCKSIN

Need fiscal note? AS

HOUSE BILL NO. 726

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act providing an exemption from the Alaska Employment Security Act for certain employees of certain corporations."

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

* Section 1. AS 23.20.526 is amended by adding a new paragraph to read:

(21) service performed for a corporation by an employee of the corporation if

(A) the corporation is incorporated under AS 10.05;

(B) the corporation is not a government corporation;

(C) the employee, ~~a executive officer~~ officer of the corporation and owns directly or indirectly, or has the power to vote, 25 percent or more of any [~~class of~~] voting securities of the corporation; and

(D) the employee agrees that the services not be "employment" under this paragraph.

[Rec. Financial Comm.]

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 22, 1982

MEMORANDUM

TO: Representative Ramona Barnes

FROM: David Teal
Research Staff

RE: Unemployment Insurance
Research Request Number 82-6

Dave Stancliffe requested this agency to examine the possibility of exempting shareholder/employees of a corporation from State unemployment insurance taxes. Provisions which currently accomplish this intent in several states are briefly described below.

California — Sole stockholders of corporations are exempt from State unemployment insurance taxes.

Colorado — Corporate officers with a majority or controlling interest in the corporation are exempt from State unemployment insurance taxes.

Iowa — Shareholder/employees are exempt from State unemployment insurance taxes only if the employer is not subject to the Federal Unemployment Tax Act (FUTA). Attachments to this memorandum define employee for the purpose of FUTA coverage.

Minnesota — Shareholder/employees of family agricultural corporations are exempt from State unemployment insurance taxes.

Delaware — Officers of corporations performing civil or social functions are exempt from State unemployment insurance taxes if the officers work on a part-time basis and are paid no more than $75 per week.

Washington — Corporate officers may elect exemption from State unemployment insurance taxes if the corporation is not a non-profit or government corporation.

Primary differences among State laws concern the requirements for exemption and whether the exemption is mandatory or optional. Corporate officer status and/or controlling, majority, or sole interest in the corporation are minimum qualifications in most states. The degree of corporate control required for exemption was not specified for Iowa.

In all cases, the exemption is accompanied by loss of FUTA tax credits on services performed by those exempted from State taxes. That is, if the exemption were in effect, the federal unemployment insurance tax rate would increase from a rate of .7 percent to a rate of 3.4 percent on the first $6,000 of earnings. Assuming annual earnings exceed Alaska's taxable wage base of $14,600, exemption would provide a net gain to the shareholder/employee of $118 to $650 per year, depending on the State tax rate assigned. The table below describes the effects of exemption on employers with minimum and maximum tax rates assigned by the Alaska Department of Labor.

Effect of Exemption from State Unemployment Insurance Taxes
Alaska 1982

	minimum tax rate (1.22%)		maximum tax rate (4.86%)	
	current law	with exemption	current law	with exemption
FUTA tax	$ 42	$204	$ 42	$204
employer share	178	0	710	0
employee share	102	0	102	0
TOTAL	$322	$204	$854	$204
net change	$118		$650	

As you are aware, unemployment insurance is an extremely complex subject. If the terminology or law require further explanation, I will be happy to offer my assistance.

Attachments

The employer covered is determined by the number of days or weeks a worker is employed or the amount of the employer's quarterly or yearly payroll. Originally, most State laws covered only those employers who, within a year, had eight or more workers in each of 20 weeks. This was due largely to the coverage provisions of the FUTA. As the States gained experience in administering unemployment insurance and as a result of the 1954 and 1970 amendments to the FUTA smaller firms have been brought under the acts in all States.

Thirty-one States have adopted the Federal definition of employer; i.e., a quarterly payroll of $1,500 in the calendar year or preceding calendar year or one worker in 20 weeks. Eight States provide the broadest possible coverage by including all employers who have any covered service in their employ. The other States have requirements of less than 20 weeks or payrolls other than $1,500 in a calendar quarter (Table 100).

110 Coverage by Reason of a Federal Requirement

The 1970 and 1976 amendments to the FUTA added to the types of services which, as a condition for approval of the State law, must be covered under the State law. This Federal requirement for the extension of coverage differs from an extension of coverage by reason of Federal coverage. If a State law fails to cover services that are covered under the FUTA, the employer must pay the full Federal tax and the employee may get no benefits based on such services, but certification of the State law is unaffected. If, however, a State law fails to cover services which the Federal law requires the State to cover, or excludes services from coverage, the State law would not be approved for purposes of tax credits against the Federal tax and no employer in the State would receive a tax credit for State contributions.

110.01 Coverage of nonprofit organizations.--Service for nonprofit organizations continues to be excluded from coverage under the FUTA, but some service is required to be covered under the State laws. Coverage under State laws is required for service for nonprofit organizations which employ four or more workers in 20 weeks, are organizations which are described in section 501 (c)(3) of the Federal Internal Revenue Code of 1954, and which are exempt from Federal income tax under section 501 (a) of the code. However, a number of States have covered nonprofit organizations under the regular coverage provisions. The State law is required to give each nonprofit organization that must be covered an option on financing benefits. Such nonprofit organizations must be given the right either to reimburse the State for benefits paid or pay contributions under the State law's regular tax provisions.

110.02 Coverage of governmental entities.--The Federal law requires that States cover most services for the State and its political subdivisions. When service is performed for an instrumentality owned by more than one State or political subdivision, coverage is determined based on the location of the work. See section 120. States are required to pay compensation based on service with a governmental entity or a nonprofit organization under the same terms and conditions as for other covered services. There are, however, special provisions applicable to school personnel between school terms. See section 450.03 for a discussion of these special provisions. The States are required to provide local governmental entities a choice of financing benefits either through reimbursement, contributions, or any other method deemed feasible by the State (Table 209).

Since the Federal law includes no size-of-firm restrictions for governmental entities as it does for nonprofit organizations, all governmental entities, regardless of size, must be covered. There are, however, certain types of services which the

MEMORANDUM State of Alaska

TO: A. G. Zillig, Director
Employment Security Division
Department of Labor

DATE: March 4, 1982

FILE NO:

TELEPHONE NO: 465-3603

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: HB 726 and 863

By: Gary I. Amendola
Assistant Attorney General

You requested an opinion whether passage of HB 726 or HB 863 would cause our state unemployment laws to be out of conformity with a portion of the Federal Unemployment Tax Act, 26 U.S.C. § 3306(c).

26 U.S.C. § 3306(c) defines "employment" and exemptions therefrom for purposes of the federal act. AS 23.20.526 parallels the exemptions of the federal act and would be amended by passage of HB 726 or HB 863 as follows:

(a) In this chapter, unless the context otherwise requires, "employment" does not include

(21) service performed for a corporation by an employee of the corporation if

(A) the corporation is incorporated under AS 10.05;

(B) the corporation is not a government corporation;

(C) the employee owns directly or indirectly, or has the power to vote, 25 percent or more of any class of voting securities of the corporation (HB 726); or

(C) the employee is the sole owner of the corporation (HB 863); and

(D) the employee agrees that the services not be "employment" under this paragraph.

AS 23.20.005 and 010 state the purpose and policy of the Alaska Employment Security Act. One of Alaska's stated purposes is to cooperate with other state and federal programs to establish and promote employment systems throughout the several states and to obtain grants and privileges available from the federal government under the Federal Unemployment Tax Act.

The public policy of the State of Alaska is declared to be as follows:

> "Economic insecurity due to involuntary unemployment is a serious menace to the health, morals and welfare of the people of the state. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the Legislature to prevent its spread ..." AS 23.20.010.

In State Department of Labor v. Boucher, 586 P2d 660 (Alaska 1978), the Supreme Court indicated that the primary purpose of the Alaska Employment Security Act is to ameliorate the negative effects that involuntary unemployment has on both the unemployed individual and society as a whole. See also Estes v. Department of Labor, 625 P2d 293 (Alaska 1981).

Another general purpose of the federal act (and the state act) and other social welfare acts of its kind is to protect those dependent upon others for employment during periods of high unemployment and times of unemployment due to other personal circumstances. Fahs v. Treegold Co-op Growers of Florida, 166 F2d 40 (CA5 1948); Usury v. Pilgrim Equipment Company, Inc., 527 F2d 1308 (CA Texas 1976).

Non-eligibility for certification under 42 U.S.C. § 503 or nonapproval of a portion of an employment security law of our state under 26 U.S.C. § 3304 would prevent the transfer of certain funds to Alaska from the federal government under 42 U.S.C. § 1103. It is our opinion that although HB 726 and HB 863 would create an additional exemption from the Alaska Employment Security Act, the exemption is not of such a nature that would cause any fiscal sanction against the State of Alaska.

The persons to be exempted from participation in the Alaska Employment Security Act, do not appear to be of the class of persons the act was meant to protect. These

persons are, by definition, substantial stockholders in the corporations in which they perform the services which they consent should not be deemed employment for the purposes of the act.

In conclusion, although HB 726 and HB 863, if passed, would expand the list of exemptions in the Act beyond that contained in its federal counterpart, the expansion is not such that would give rise to noncertification under 42 U.S.C. § 503 or nonapproval under 26 U.S.C. § 3304.

GTA/bap

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

HB 726 Fil

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for House Bill 726 (L & C)

Title "An Act providing an exemption from the Alaska Employment Security Act . . . ."

Requested by House Labor and Commerce Committee Date 3/5/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Social Services

BRU, Program, or Subprogram(s) Affected Employment Security

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

The provisions of this bill would not have a measurable effect on the administrative costs for unemployment insurance nor employer rates for purposes of the Unemployment Insurance Trust Fund.

IV. DATE 3/5/82 PREPARED BY Nico Bus

AGENCY Department of Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Spons (First Legislator Named)

33-001 (Rev. 12/81)

blished in House Journal Supplement No. 22

March 8, 1982

HB
741

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

(5)

2/8/82

Date: 2-3-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 741

"An Act relating to certificates of fitness."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

P.B. Cowan
Terry Martin
Bill Rogers

MEMBERS HAVING
OTHER RECOMMENDATIONS:

D. Mitchell Req.
Tony Gordon Letter of Intent

Terry Martin
CHAIRMAN

H 60 (Rev. 12/78)

NOTE Work Draft of C.S
Version rec'd.

C.S rec'd. 2/10/82
F/N requested

Date Introduced 2-8-82
" Rec'd. 2-8-82
Referrals Finance
Comm. Hearing 3-3-82 - Passed with amendment / Sent to legal services for finalize.
Comm Action 3/9/82 sent to chief Clerks' office @ 9:25 A.M.
9-10-82 Today Exempt pending a revised F/N to Finance.

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, 1982

SUBJECT: Certificates of fitness
(CSHB 741)

TO: Representative Terry Martin
Chairman, House Labor and
Commerce Committee

FROM: Diane T. Colvin
Legislative Counsel

You submitted to us a request for a Committee Substitute for HB 741, incorporating certain amendments approved by the Labor and Commerce Committee. It is not clear to me, after reviewing the draft you submitted and discussing the draft with your staff, the intent of the committee in regard to certificate renewal. It appears that you intend that a certificate be valid for a period of five years and when that period expires, to require the certificate holder to apply for a new certificate rather than simply renewing the certificate. I have drafted the CS accordingly.

JOAN did [illegible] JEFF

If this is not your intent, please contact us and we will prepare another draft for your review.

DTC:ljb

Enclosure

Colvin

Original sponsor: Labor and Commerce Committee

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 741 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to certificates of fitness."

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

* Section 1. AS 18.62.010 is amended to read:

Sec. 13.62.010. CERTIFICATE OF FITNESS REQUIRED. A person may not perform, nor may a person employ another person to perform, work [IN CONNECTION WITH WORK PERFORMED] subject to the standards established in AS 18.60.580 and 18.60.705 [, A PERSON MAY NOT BE EMPLOYED] without a valid certificate of fitness to perform the work, except that a certificate of fitness may not be required of employees of an electric utility which does not have within its service area any portion of a city, or unified municipality having more than ~~2,500~~ 1,000 population.

* Sec. 2. AS 18.62.030 is amended to read:

Sec. 18.62.030. FEE. An applicant shall pay a [AN INITIAL] fee of $50 at the time of [$15 WITH HIS] application.

* Sec. 3. AS 18.62.040 is amended to read:

Sec. 18.62.040. DURATION OF CERTIFICATE. The department may cancel a certificate for cause. [Certificates, if not cancelled for cause, are renewable upon payment of a [AN ANNUAL RENEWAL] fee of $15 once every [three] five years [$5].]

* Sec. 4. AS 18.62.060 is amended to read:

Sec. 18.62.060. POWER OF THE DEPARTMENT. The department shall issue orders [, RULES] and adopt regulations necessary to carry out the purposes of this chapter.

* Sec. 5. AS 18.62.070 is amended by adding a new section to read:

Sec. 18.62.075. EXEMPTION FOR WORK ON RESIDENCE. Nothing in this chapter prohibits a person from performing electrical or plumbing work on that person's single-family residence. if the work is performed in accordance with the standards established in AS 18.60.580 and in AS 18.60.705.

* Sec. 6. AS 18.62.050(b) is repealed.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M

December 29, 1981

SUBJECT: Amendments relating to certificates of fitness (Work Order No. 12-2186)

TO: Representative Terry Martin, Chairman
House Labor and Commerce Committee
Attn: Ray Tyson, A.A.

FROM: Diane T. Colvin
Legislative Counsel

You asked us to draft a bill incorporating certain amendments to Chapter 62, Certificates of Fitness. The draft you submitted to us was not prepared by this office. The attached draft bill which we prepared follows closely, with one exception, your draft. We have made minor changes in wording for purposes of uniformity and clarity.

The exception referred to is sec. 5 of the draft you submitted. It added a new subsection to AS 18.62.070 to exempt from Chapter 62 persons who perform plumbing work on their own homes. This is not incorporated in the attached draft bill because it is already provided by law. AS 18.60.715(c) reads as follows:

> Nothing in secs. 705 - 740 of this chapter prohibits a person from performing plumbing work on his own property.

This exemption is contained in Chapter 60, Article 8, Plumbing Code. This is a more appropriate place for an exemption of this type than in Chapter 62.

If for some reason this exemption does not meet your requirements, or, if you believe AS 18.60.715(c) should be amended, please let us know.

DTC:ljb

Attachment

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 741

Title "An Act relating to Certificate of Fitness"

Requested by Labor and Commerce Committee Date 3/3/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Labor Standards and Safety

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Program Receipts	0	38.0*	38.0	38.0	38.0*	38.0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

The initial fee for Certificate of Fitness for plumbers and electricians will be increased by $35. The current new applications for both plumbers and electricians average 760 per year. This average number of new applications is used for our projection.

Assumes and effective date of July 1, 1982.

*The impact of this bill is estimated to generate $56.3 in revenues in FY '83 and FY '86. It is anticipated that the renewal fees will average out for the next five years.

IV. DATE 3/3/82 PREPARED BY Nico Bus

AGENCY Department of Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

Certificates of Fitness (plumbers & electricians)

HOUSE BILL NO. 741, by the Labor & Commerce Committee. Amends statutes governing the issuance of Certificates of Fitness for plumbers and electricians.

Clarifies language in AS 18.62.010 stating when a certificate is required. Currently reads: "In connection with work performed subject to the standards established in AS 18.60.580 [minimum electrical standards] and 18.60.705 [plumbing code], a person may not be employed without a certificate of fitness . . ." Would be amended to read: "A person may not perform, nor may a person employ another person to perform, work subject to the standards in AS 18.60.580 and 18.60.705 without a valid certificate of fitness . . ."

Would increase application fee from $15 to $50 (amends AS 18.62.030, Fee) and would change renewal period from once a year ($5 fee) to once every three years ($15 fee).

Amends the powers of the Department of Labor in AS 18.62.060 by deleting the power to issue rules necessary to carry out the purposes of chapter (Dept. may still issue orders and adopt regulations).

HB 741 (cont'd)

Repeals AS 18.62.050(b) which allows the Department to issue Certificates of Fitness without an examination for those who can prove that they were engaged in their trade in Alaska for at least one year prior to January 1,1973.

Does not provide for an effective date.

Introduced February 9 and referred to Labor & Commerce and Finance.

HB
806

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

(5)

2/15/82 Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 806

"An Act relating to hazardous or toxic substances."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 806 [Lee] [ ] same title [ ] new title

and recommends _____

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

(3)

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Bruce Rogers

Tony Mazzola

MEMBERS HAVING OTHER RECOMMENDATIONS:

Barbara Wolfe

Tony Mazzola
CHAIRMAN

H 60 (Rev. 12/78)

(2)

ite Introduced 2-15-82
te Rec'd. 2-16-82
ferred Finance
mm. Hearing 3-15-82 - held (3/30/82 Rec'd finalized CSHB 606 (L+C)) - 4/1/82 CS adopted.
" action 4-2-82 Terry to Clerk's Office.

2nd CS rec'd from Rogers office
2F/N - HSS
LABOR Dept

Get F/N
Environmental Conservation
Judy Knight will be in attendance asked for F/N
None.
Notify Jeff Peterson - next hearing
3/22/82 called to be on vacation
(Economic Labs)
St. Paul, Minn.
ph: (612) 293-2557 (re-called 3-22-82)
Notify Bartlett (Jim Burns) when set for hearing.
GLEN AKINS - Dept of Envir Conser.
2600 - will be there.
{Jim Burns - notified
Bartlett Memorial Hosp.}
Ben Ward (Arco)

Need new fiscal note

Original sponsor: Rogers

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR HOUSE BILL NO. 806 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to hazardous or toxic substances."

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

* Section 1. AS 18.60.030 is amended by adding a new paragraph to read:

(12) adopt regulations further defining "hazardous substance" (AS 18.60.105(11)) and "toxic substance" (AS 18.60.105(12)) and excluding from those definitions, substances that because of their physical state, volume, or concentration do not pose a health risk upon exposure.

* Sec. 2. AS 18.60 is amended by adding new sections to read:

Sec. AS 18.60.051. MANUFACTURER TO PROVIDE HAZARDOUS OR TOXIC SUBSTANCE INFORMATION. (a) The manufacturer of a hazardous or toxic substance shall prepare and provide a person who purchases the hazardous or toxic substance from the manufacturer with information specified in (b) of this section that, to the best of the manufacturer's knowledge, is current, accurate, and complete, based on information then reasonably available to the manufacturer.

(b) The information that a manufacturer shall provide as required in (a) of this section includes

(1) the chemical name, common name, and the CAS number of the hazardous or toxic substance;

(2) the hazards or other risks in the use of the hazardous or toxic substance, including

(A) the potential for fire, explosion, or reactivity;

(B) the known or suspected acute and chronic health effects or risks from exposure;

(C) the potential avenues of exposure and symptoms of overexposure;

(3) the proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the substance;

(4) the emergency procedures for spills, fire, disposal, and first aid;

(5) a description in lay terms, if not otherwise provided, on either a separate sheet or with the body of the information specified in this section, of the specific potential health risks posed by the substance intended to alert a person reading the information;

(6) the month and year that the information was compiled and the name and address of the manufacturer responsible for preparing the information.

Sec. AS 18.60.052. WHOLESALER TO PROVIDE HAZARDOUS OR TOXIC SUBSTANCE INFORMATION. (a) Except as provided in (b) of this section, a wholesaler who sells a hazardous or toxic substance shall provide a purchaser of the hazardous or toxic substance at the time of sale with a copy of the most recent information listed under AS 18.60.051 unless the purchaser indicates that

(1) he possesses this information; or

(2) he does not intend to use the substance in a workplace frequented by persons other than the purchaser.

(b) The commissioner shall adopt regulations identifying the types of hazardous or toxic substances that are required by federal law to be labeled in a manner equivalent to the requirements of (a) of this section. Those types of hazardous or toxic substances are excepted from the provisions of (a) of this section.

Sec. 18.60.071. EMPLOYER TO PROVIDE HAZARDOUS SUBSTANCE INFOR-

MATION AND TRAINING. (a) An employer shall post in the workplace of his employees the information listed in AS 18.60.051 if, as a result of workplace operations, there is a hazardous or toxic substance present in the workplace in a manner that employees may be exposed

(1) under normal conditions of work; or

(2) in a reasonably foreseeable emergency resulting from workplace operations, including but not limited to equipment failure, rupture of containers, or failure of control equipment, that may or do result in a release of a hazardous or toxic substance into the workplace.

(b) An employer required to comply with (a) of this section shall furnish each new employee and, on request, any other employee with

(1) a copy of the information posted in accordance with (a) of this section; and

(2) training at the employer's expense calculated to candidly inform the employee of

(A) the location, properties, and known or suspected acute and chronic health effects of the hazardous or toxic substances to which the employee is routinely exposed in the workplace;

(B) the nature of the operations that could result in exposure to these hazardous or toxic substances as well as any necessary handling or hygienic practices or precautions;

(C) the purpose, proper use, and limitation of personal protective equipment required by another occupational safety and health standard or otherwise used in the workplace; and

(D) information required by AS 18.60.051.

Sec. 18.60.072. REPORTS TO BE FILED WITH DEPARTMENT. (a) A manufacturer, wholesaler, and employer who are subject to the requirements

of AS 18.60.051, 18.60.052, and 18.60.071, respectively, shall file with the department an annual report that includes

(1) the information provided to purchasers and employees in accordance with AS 18.60.051, 18.60.052, or 18.60.071 for each hazardous or toxic substance specified by the department under (d) of this section;

(2) the safety procedures and equipment actually used in the workplace;

(3) the quantities of hazardous or toxic substances being used or produced for those substances required by the department under (d) of this section to be reported; and

(4) other information considered appropriate by the department.

(b) A change in circumstances that would require modification of the report filed under this section shall be immediately reported to the department.

(c) The department shall comply with AS 18.60.099 to ensure protection of trade secrets divulged in the reports filed under this section.

(d) The department shall adopt regulations specifying the hazardous or toxic substances that are to be reported under this section.

Sec. 18.60.073. ACCESS TO RECORDS. (a) An employee, prospective employee, or former employee of a manufacturer or employer subject to AS 18.60.072 and physicians designated by any of these persons may examine and copy a report filed with the department under AS 18.60.072 except for that information considered a trade secret under AS 18.60.099.

(b) An employee, prospective employee, former employee, a representative of the commissioner, and physicians designated by any of these persons may examine and copy exposure measurements taken to monitor

employee exposure to hazardous or toxic substances in the workplace.

(c) The department may require an employee or former employee of a manufacturer or employer subject to AS 18.60.072 to furnish health and exposure records and other information pertinent to an investigation by the department of violations of AS 18.60.051, 18.60.052, or 18.60.071 - 18.60.073.

(d) The commissioner shall adopt regulations pertaining to access to records and information that is required by AS 18.60.051, 18.60.052, and 18.60.071 - 18.60.073. The regulations shall ensure that the department, a purchaser of hazardous or toxic substances, and an employee exposed to or who believes he is exposed to hazardous or toxic substances have ready access to all information that is relevant to the purposes of AS 18.60.051, 18.60.052, or 18.60.071 - 18.60.073 and not exempted from disclosure as trade secrets.

Sec. 18.60.074. PUBLIC DISCLOSURE OF HAZARDOUS OR TOXIC SUBSTANCE INFORMATION. The department may disclose to the public information concerning hazardous or toxic substances and the circumstances under which the public might be affected.

* Sec. 3. AS 18.60.105 is amended by adding new paragraphs to read:

(6) "CAS number" means the unique identification number assigned by the Chemical Abstracts Service to specific chemical substances;

(7) "chemical name" means the scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service;

(8) "common name" means a designation or identification such as code name, code number, trade name, or brand name used to identify a substance other than by its chemical name;

(9) "expose" or "exposure" means a situation arising from work operation or usage where an employee or purchaser may ingest, inhale, absorb through the skin or eyes, or otherwise come into contact with a hazardous or toxic substance;

(10) "manufacturer" means a person who produces, synthesizes, extracts, or otherwise makes a hazardous or toxic substance in the state;

(11) "hazardous substance" means a chemical that

(A) is listed in the United States Department of Transportation Hazardous Materials Table, 49 C.F.R. 172.101; and

(B) meets one or more of the following criteria for hazard class:

(i) is a combustible substance;

(ii) is a compressed gas;

(iii) is an explosive;

(iv) is a flammable substance;

(v) is an organic peroxide; or

(vi) is an oxidizer; or

(C) is listed in a regulation adopted by the department under AS 18.60.030(12);

(12) "toxic substance" means a chemical that is

(A) listed in the Toxic and Hazardous Substances section of the regulations of the Occupational Health and Safety Act in 29 C.F.R. Part 1910, Subpart Z;

(B) listed in the most recent edition of the National Institute for Occupational Safety and Health Registry of Toxic Effects of Chemical Substances; or

(C) listed in a regulation adopted by the department under AS 18.60.030(12);

(13) "wholesaler" means a dealer, distributor, or jobber who sells a hazardous or toxic substance in the state to a person for use in a workplace in a manner that subjects an employer to the requirements of AS 18.60.071 or to a person who sells, or intends to sell, directly to the consumer.

SO 4. - Jan 1, 1953

Draft CS for HB 806 (L&C)

Sectional Analysis

HB 806 was drafted to conform with model "right-to-know" legislation from other states. The basis for the legislation is that Alaskan workers have the right to know about hazardous or toxic substances with which they work and that it is an employer's responsibility to supply that information.

18.60.051 requires an in-state manufacturer of a hazardous or toxic substance to make available certain information including the name of the substance, its hazards, proper handling procedures, and health risks.

18.60.052 requires a seller of a hazardous or toxic substance to provide the same information.

18.60.071 requires an employer to post in the workplace where a hazardous or toxic substance is present the same information, and to provide training at his own expense about the potential hazards and proper handling of the substances.

18.60.072 requires manufacturers, sellers, and employers to file annual reports with the Department of Labor. Trade secrets are protected.

18.60.073 allows past, present, and future employees access to reports filed with the department and to exposure measurements. The department may require employees to furnish health and exposure records pertinent to an investigation. Regulations shall be adopted to ensure that an employee has ready access to all relevant information about hazards and exposure.

18.60.074 allows for the department to disclose to the public information about hazardous and toxic substances and the circumstances under which the public might be affected.

Section 2 provides definitions.

ALASKA PUBLIC INTEREST RESEARCH GROUP
Post Office Box 1093/Anchorage, Alaska 99510/(907) 278-3661

26 March 1982

Representative Terry Martin
House Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Martin:

The Alaska Public Interest Research Group has had a long standing interest in the issue of toxic substances and public health and we are very supportive of the efforts being made by the House Labor and Commerce Committee to pass out a worker right-to-know act. It is our understanding that the hearings to date have generally produced favorable testimony on House Bill 806 and AkPIRG would like to add its support to this bill.

More specifically, it is our hope that you will take a personal interest in seeing that this bill does not get lost as the session heads into its final days. Quite realistically, the issue of worker right-to-know may not have the charisma of some of the issues before the legislature but there can be little dispute that a worker should have the right to be appraised of toxic substances encountered on the job.

Once again, we commend the efforts of the Labor and Commerce Committee and encourage you to make the Alaska worker's health a priority for this session.

Sincerely,
Margaret Ann Kehrer

Margaret Ann Kehrer, Director
Alaska Public Interest Research Group

cc: Nancy Lord

Municipality of Anchorage

POUCH 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4111

TONY KNOWLES,
MAYOR

DEPARTMENT OF PLANNING

March 26, 1982

The Honorable Tony Knowles
Mayor, Municipality of Anchorage
Pouch 6-650
Anchorage, AK 99502

Dear Mayor Knowles:

At the March 24, 1982 meeting, the Anchorage Municipal Health Commission voted to approve a resolution on House Bill 806 "The Worker Right To Know". The Commission wishes to forward this resolution to the Anchorage legislative delegation in Juneau. The resolution reads as follows:

> "Whereas, the Municipal Health Commission has a responsibility to address issues on matters of Public Health;
>
> Whereas, the Commission believes in the right of an individual to know if he/she is exposed to any hazardous materials in the working environment;
>
> Whereas, H.B. 806 provides for the rights of workers and the community to know about hazardous and toxic materials to which they are exposed.
>
> Be it resolved that the Municipal Health Commission supports the intent and objectives regarding "The Workers Right To Know" as expressed in H.B. 806."

We appreciate the opportunity to provide you with this resolution. If we may be of any assistance, please let us know.

Sincerely,

Stephen P. Lesko
Chairman
Municipal Health Commission

SPL:MR:bd

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for House Bill 806 (L&C)

Title "An Act relating to hazardous or toxic substances."

Requested by House Labor and Commerce Committee Date 4/1/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Worker Protection

BRU, Program, or Subprogram(s) Affected Occupational Safety & Health

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0	36.1	66.0	72.6	79.9	87.9
200 TRAVEL	0	6.9	5.2	5.7	6.3	7.0
300 CONTRACTUAL	0	12.6	24.2	26.7	29.3	32.2
400 COMMODITIES	0	1.0	1.7	1.8	2.0	2.2
500 EQUIPMENT	0	2.0	0	0	0	3.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	58.6	97.1	106.8	117.5	132.3

FUNDING (Thousands of Dollars)

GENERAL FUND	0	58.6	97.1	106.8	117.5	132.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	0	1	1	1	1	1
PART TIME SEASONAL	0	1	1	1	1	1
TEMPORARY						

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

Assumes that the intent of the bill is to minimize harmful exposures to toxic and hazardous substances in work places in the state, and that the Department of Labor is to take a lead role in this effort.

As a result of this bill, two poisitions, an industrial hygienist and a seasonal (6 months) clerk typist, will be required.

This note assumes an effective date of January 1, 1983 and inflation rate of 10% per year.

IV. DATE 4/1/82 PREPARED BY Nico Bus

AGENCY Department of Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION	GOV.	APPROV.	DISAPP.
1	Industrial Hygienist (Voluntary Compliance)			50B	LTC	Anchorage			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LHG.		
2	PFT	6	CSHB806 AM	NOT ASSIGNED		N/A			

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
3	PERSONAL SERVICES:		
4	SALARY 3,146/month X 6 months	18,876	
5	BENEFITS 15.92%	3,005	
6	SBS	1,094	
7	FIXED BENEFITS	960	
8	TOTAL PERSONAL SERVICES 01		23,935
9	TRAVEL 02		6,875
10	CONTRACTUAL 03		7,850
11	COMMODITIES 04		500
12	EQUIPMENT 05		2,000
13	OTHER		
14	TOTAL COST		41,160

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	41,160
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

The Industrial Hygienist will evaluate and follow-up on the data filed with the department under the provisions of AS 18.60.072; will conduct research into which hazardous and toxic substances should be covered by the bill and develop the necessary regulations to carry out the intent of the bill; and will respond in a timely manner to the increase in requests for consultation and training services that will be experienced as a result of the focus this bill places on toxic and hazardous substances.

Included in the contractual services costs are $1,600 for space rent and 15.97% of salary for Management Services support.

One time costs are $4,000 for moving expenses, $500 in travel costs for training and $2,000 for equipment.

AGENCY Labor PROGRAM Worker Protection

BRU Occupational Safety & Health

COMPONENT Occupational Safety & Health

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 83

01 113 (7/81)

DL-

	POSITION TITLE								
1	Clerk Typist III				BB	G	Anchorage	GOV.	
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY		FORM 12 PAGE/LINE		
2	Seasonal	6	CSHB806	Not Assigned			N/A	LEG.	

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES:		
4	SALARY 1,530/month x 6	9,180	
5	BENEFITS 1592%	1,461	
6	SBS	563	
7	FIXED BENEFITS	960	
8	TOTAL PERSONAL SERVICES	01	12,164
9	TRAVEL	02	
10	CONTRACTUAL	03	4,734
11	COMMODITIES	04	500
12	EQUIPMENT	05	
13	OTHER		
14	TOTAL COST		17,398

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS	
16		GF MATCH	
17	100	GEN FUND	17,398
18		I/A RCPTS	
19		PGM RCPTS	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

A seasonal clerk typist position will be needed to process the reports and other documents which will result from this bill.

Included in the contractual services costs are $1,600 for space rent and 15.97% of salary for Management Services support.

AGENCY Labor PROGRAM Worker Protection

BAU Occupational Safety & Health

COMPONENT Occupational Safety & Health

13 REQUEST FOR NEW POSITION

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
CS for House Bill No. 806 (L&C)

"An Act relating to hazardous or toxic substances."

House Bill No. 806 requires the manufacturer and seller of hazardous or toxic substances to provide to the purchasers of these substances complete information as to the characteristics and precautions required when using. Any employer utilizing a substance included under this act must post a copy of the information for the employees to review plus provide training and safety gear. The employer must file with the Department of Labor annually, complete disclosures with regards to his activities and usage of the hazardous and toxic substances.

This bill imposes reasonable guidelines concerning handling of toxic and hazardous substances in manufacture and selling.

Minor recommendations include the following:

1) Under Section 18.60.051 consider adding "significant levels of toxic impurities if they exist in a mixture."

2) Under Section 18.60.071 consider change of mandatory requirements depending on size of employer e.g. less than ten.

3) Under Section 18.60.105 consider substances manufactured outside of the State and shipped in.

4) Under Section 18.60.073c the confidentiality of medical records may be breached if it is left that the Department may "require."

The Department supports the passage of this Bill.

Recommended by: E. S. Rabeau

E. S. Rabeau, M.D., Director
Division of Public Health

Date: March 15, 1982

Approved by: Helen O Beirne

Helen D. Beirne Commissioner
Department of Health and
Social Services

Date: 3-16-82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill No. 806
Title "An Act relating to hazardous or toxic substances."
Requested by Rogers Date 2-22-82

II. FISCAL DETAIL
Agency Affected Department of Health and Social Services
Program Category Affected Health/Public Health
BRU, Program, Or Subprogram(s) Affected Communicable Disease Control/Epidemiology
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		6				
200 TRAVEL		3.0	3.3	3.6	4.0	4.4
300 CONTRACTUAL		3.0	3.3	3.6	4.0	4.4
400 COMMODITIES		3.0	3.3	3.6	4.0	4.4
500 EQUIPMENT		1.0	1.2	1.3	1.5	1.6
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		10.0	11.1	12.1	13.5	14.8

FUNDING (Thousands of Dollars)

GENERAL FUND		10.0	11.1	12.1	13.5	14.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

All inflation at 10%

This fiscal note covers the travel costs, training seminars, commodities and testing equipment that must be utilized by our Epidemiologists in investigating the effects of exposure in humans. As the petrochemical industry develops in Alaska more and more problems will develop, very little of the acute and chronic health effects will be known and when the risks are known they tend to be understated. As problems develop it will be incumbent upon the Epidemiologist to do in depth investigations.

The fiscal impact of this bill on the Department of Health and Social Services is due to the fact that the Department of Labor uses the epidemiological section of this department as a consultant on the hazards of toxic substances.

IV. DATE 2-22-82 PREPARED BY David Bruce
AGENCY Dept. of Health & Social Services
PHONE 465-3090

jcc

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

Draft CS for HB 806 (L&C)

Sectional Analysis

HB 806 was drafted to conform with model "right-to-know" legislation from other states. The basis for the legislation is that Alaskan workers have the right to know about hazardous or toxic substances with which they work and that it is an employer's responsibility to supply that information.

18.60.051 requires an in-state manufacturer of a hazardous or toxic substance to make available certain information including the name of the substance, its hazards, proper handling procedures, and health risks.

18.60.052 requires a seller of a hazardous or toxic substance to provide the same information.

18.60.071 requires an employer to post in the workplace where a hazardous or toxic substance is present the same information, and to provide training at his own expense about the potential hazards and proper handling of the substances.

18.60.072 requires manufacturers, sellers, and employers to file annual reports with the Department of Labor. Trade secrets are protected.

18.60.073 allows past, present, and future employees access to reports filed with the department and to exposure measurements. The department may require employees to furnish health and exposure records pertinent to an investigation. Regulations shall be adopted to ensure that an employee has ready access to all relevant information about hazards and exposure.

18.60.074 allows for the department to disclose to the public information about hazardous and toxic substances and the circumstances under which the public might be affected.

Section 2 provides definitions.

Bill No. Committee Substitute for House Bill 806

Date March 12, 1982

Title "An Act relating to hazardous or toxic substances."

Contact: Judy Knight
465-270

Richard Arab
465-4856

As part of its occupational safety and health program, the Department of Labor enforces regulations to protect employees from certain hazardous and toxic substances, and provides consultation and training services to employers and employees on the safe handling and use of these substances. The department's occupational safety and health staff can presently only cover approximately seven percent of Alaska worksites during a year. Because it has historically been difficult to identify specific workplaces in the state where toxic and hazardous substances are present, the reporting provisions of this bill would enhance the department's efforts to direct its limited occupational safety and health resources to those workplaces where hazardous exposures actually exist.

Often employers and employees are not aware of the toxic or other harmful qualities of a particular substance being used or handled in the workplace. The labeling and training requirements provided in this bill would go a long way toward filling this void. This would, in turn, effect implementation of protective measures or controls by the employer to safeguard his employees.

Many employees would, no doubt, look to the Department of Labor for assisting them in providing the required training and in implementing effective protective measures. Accordingly, if this bill is passed, we would anticipate an increase in the demand for consultative and training services. A fiscal note is attached which reflects the costs associated with providing the increased services.

POSITION PAPER/Department of Labor

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for House Bill 806

Title "An Act relating to hazardous or toxic substances."

Requested by House Labor and Commerce Date 3/16/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Worker Protection

BRU, Program, or Subprogram(s) Affected Occupational Safety and Health

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100	PERSONAL SERVICES	0	74.4	78.1	85.9	94.5	103.9
200	TRAVEL	0	9.3	4.8	5.3	5.8	6.4
300	CONTRACTUAL	0	23.9	26.3	28.9	31.8	35.0
400	COMMODITIES	0	2.0	2.2	2.4	2.7	2.9
500	EQUIPMENT	0	2.0	0	0	0	3.0
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	0	111.6	111.4	122.5	134.8	151.2

FUNDING (Thousands of Dollars)

GENERAL FUND	0	111.6	111.4	122.5	134.8	151.2
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	0	2	2	2	2	2
PART TIME						
TEMPORARY						

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

Assumes that the intent of the bill is to minimize harmful exposures to toxic and hazardous substances in work places in the state, and that the Department of Labor is to take a lead role in this effort.

As a result of this bill, two positions, an industrial hygienist and a clerk typist, will be required.

This note assumes an effective date of July 1, 1982 and inflation rate of 10% per year.

IV. DATE 3/16/82 PREPARED BY Nico Bus

AGENCY Department of Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Industrial Hygienist (Voluntary Compliance)			50B	LTC	Anchorage	GOV.		
	TYPE OF POSITION	STAFF MONTHS	RP No. / PCN No.	PRIORITY		FORM 12 PAGE/LINE			
2	PFT	12	CSHB806 / NOT ASSIGNED			N/A	LBG.		

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 20.44/hour	40,011	
5	BENEFITS 15.92%	6,370	
6	SBS	2,188	
7	FIXED BENEFITS	1,574	
8	TOTAL PERSONAL SERVICES	01	50,143
9	TRAVEL	02	9,250
10	CONTRACTUAL	03	16,060
11	COMMODITIES	04	1,000
12	EQUIPMENT	05	2,000
13	OTHER		
14	TOTAL COST		78,453

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	78,453
18		I/A RCPTS. 1005	
19		PGM RCPTS 1007	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER ..... COLUMN NO. .....

JUSTIFICATION:

The Industrial Hygienist will evaluate and follow-up on the data filed with the department under the provisions of AS 18.60.072, and to respond in a timely manner to the increase in requests for consultation and training services that will be experienced as a result of the focus this bill places on toxic and hazardous substances.

Included in the contractual services costs are $3,200 for space rent and 15.97% of salary for Management Services support.

One time costs are $4,000 for moving expenses, $500 in travel costs for training and $2,000 for equipment.

AGENCY Labor PROGRAM Worker Protection

BRU Occupational Safety & Health

COMPONENT Occupational Safety & Health

13 REQUEST FOR NEW POSITION

Page 1 of 2 REVISED DATE

FY 83

01-

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION	GOV.	APPROV.	DISAPP.
1	Clerk Typist III			8B	G	Anchorage			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		
2	PFT	12	CSHB806	NOT ASSIGNED		N/A			

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
3	PERSONAL SERVICES:		
4	SALARY 1,530/month	18,360	
5	BENEFITS .1592%	2,923	
6	SBS	1,125	
7	FIXED BENEFITS	1,920	
8	TOTAL PERSONAL SERVICES	01	24,328
9	TRAVEL	02	
10	CONTRACTUAL	03	7,800
11	COMMODITIES	04	1,000
12	EQUIPMENT	05	
13	OTHER		
14	TOTAL COST		33,128

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	33,128
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR R&M USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

A clerk typist position will be needed to process the reports and other documents which will result from this bill.

Included in the contractual services costs are $3,200 for space rent and 15.97% of salary for Management Services support

AGENCY Labor PROGRAM Worker Protection

BRU Occupational Safety & Health

COMPONENT Occupational Safety & Health

13 REQUEST FOR NEW POSITION.

Page 2 of 2 REVISED DATE _____

FY 83

ARCO Alaska, Inc.
Post Office Box 360
Anchorage, Alaska 99510
Telephone 907 277 5637

March 24, 1982

Nancy Lord
Administrative Assistant
c/o Representative Brian Rogers
Pouch V
Juneau, Alaska 99811

Dear Ms. Lord:

To follow-up on our March 17 conversation after the public testimony on HB 806 I believe we agree on many aspects of the bill. However, there are portions of the bill that require changes which will retain the objective(s) of this bill but limit the unnecessary burden that is present in this bill. Enclosed is a copy of the testimony that has been forwarded to the committee. As my attempt to document the items we discussed, the following points are forwarded. Please realize these points have not been reviewed by ARCO and should be considered as ideas for suggested changes and not an ARCO position. These comments are submitted to address the draft dated March 15, 1982.

1. Page #1, line #15 - I support the change made to the 3/15/82 draft. The 2/15/82 draft seemed to develop another definition for "hazardous."

2. Page #2, line #9 - Recommend you add a reference to OSHA form number twenty (20) or its equivalent as an item number seven (7). OSHA form #20 is a reasonable format to follow and that guidance could be added to the bill. I stress "or its equivalent" because several manufacturers use a similar form which is equivalent and there should not be a need to rewrite that information on one standard state or federal form.

3. Page #2, line #10 - This section requires issuance of a MSDS for all wholesale and retail sales transactions. I don't believe the purpose of this bill is to require a gas station or grocery store operator to supply the customer with a MSDS. Clarification of what is desired would be valuable to the bill.

4. Page #2, line #23 - The requirement to "post" this information is burdensome, potentially expensive, and marginally effective. A reasonable alternative is to require that the information be made available to the employees, (e.g. ...employer shall supply, or make otherwise available, in the workplace ...)

5. Page #2, line #23 - My testimony on "workplace" applies.

6. Page #3, line #5 - The requirement to "furnish" this information "on an annual basis" is unnecessary. Suggest ...shall furnish, by providing the information, training or similar method, each new...

7. Page #3, line #7 - If comment #4 above is added to the bill, a similar change will be needed here. E.g. ...the information described by section (a); and ...

8. Page #3, line #25 - What is desired by this annual report? As written the bill requires information that may have been previously submitted by the "manufacturer, seller and employer" and part of the information required may have been submitted by another manufacturer, seller or employer. I realize you want adequate reports but the bill doesn't provide intent nor direction in order to determine what is adequate.

9. Page #4, line #10 - The "prospective" employee language of the bill may authorize anyone to review the medical files of all individuals working in Alaska. Also, I believe section 073 needs to be modified to allow access only by "documented, need to know" language. The section seems to over stress "freedom of information" and inadequately addresses "confidentiality of personnel records" including employee health records.

10. Page #5, line #25 - The term "hazardous substance" is a very popular but ill-defined term. I believe the bill is designed to protect employees and should address only those items that apply to the employee work place. There are several lists available which could apply but this bill should be limited to documented occupational hazard(s). Adding the DOT regulations to this bill may be a quick answer to a definition but it is also an incorrect answer. I recommend that you delete section (11)(B) and add guidance and authorization for DOSH to develop a list that is important in Alaska.

11. Page #6, line #7 thru 13 - The first portion of this definition seems good but subsection (C), beginning on line #14, is basically a catch-all statement which distracts from rather than enhances this bill. Many chemicals induced in man or experimental animals can have an affect on either man or animal but the concentration,

method of transfer, availability in the work place etc. aren't considered in this portion of the definition. I recommend you either delete subsection (C) or, if you believe it is necessary, expand on the idea so that it is interpretable by the employer and enforceable by DOSH.

Note on comments #10 & 11 - Words such as hazardous, toxic, environmental and subsistence are all terms that are constantly being used in Alaska. Unless meaning definitions are provided there is a good chance that misuse of these words will continue.

Sincerely,

P. N. Hellstrom

Peter N. Hellstrom
Environmental Coordinator

PNH:jms

Enclosure

cc: Representative Terry Martin, Chairman
Representative Bernie Bylsma
Representative Terry Gardiner
Representative Dick Randolph
Representative Brian Rogers
Jeff Barry

STATEMENT OF PETE N. HELLSTROM

FOR

ARCO ALASKA, INC.

TO

HOUSE LABOR AND COMMERCE COMMITTEE

MARCH 17, 1982

This testimony is submitted to confirm the verbal testimony that was given on March 17. There are several items contained in this material that were not included in my testimony and if there is any question about my verbal comments and this material, please consider this material to be the most accurate.

House Bill 806 is apparently aimed at the regulation of hazardous or toxic substances in the work place and the safe use of these substances by customers (wholesale and retail).

The limited background information I was able to gather on this bill makes me believe it is targeted toward what many call "Employee Right-to-Know." This bill is similar to other bills that are being considered in may other states. I believe California has recently passed a similar bill and West Virginia, New York and other states are reviewing language that is very close to House Bill 806. The disappointing aspect about the flurry of activity concerning this bill is: the Federal Government through OSHA is in the process of developing regulations for this same "right-to-know-concern." In some respects, the effects of this bill are or could be minimal to both ARCO Alaska, Inc. and ARCO Exploration Company. In fact, Atlantic Richfield Company has, for the past few months, been developing a policy statement for this subject.

My reason for providing testimony it two-fold. First, is a suggestion that the committee delay action on this bill until the Federal Regulation is published. Secondly, to request modification of the language of this bill, which will limit the degree of burden and expense that is duplicative and unnecessary.

The reason I suggest that the Labor and Commerce Committee delay action on this bill is a request that the State of Alaska wait and allow the Federal Government to issue what I hope will be overview regulations for the right-to-know concern. There are several advantages to this request, such as:

1. Allows regulatory consistency for all 50 states.

2. Allows DOSH to work with OSHA rather than starting from ground zero to develop their own regulations, and;

3. DOSH, after review of the OSHA regulations, can define any weak areas that remain a concern to Alaska and develop regulations that may be missed by OSHA but important to the State of Alaska.

The only disadvantage would be the priority that should be assigned to this concern. I believe DOSH should express and define their concerns and the associated priorities. If there is a high priority, as interim recourse for the priority, this committee could support emergency regulations and allow OSHA and DOSH to establish a manageable course of action for the remaining concerns that would not be duplicative.

While many of the requirements of this bill are or will be fulfilled by ongoing programs within Atlantic Richfield Company, the scope of this legislation is much too broad.

As it presently is worded, ARCO Alaska, Inc., and ARCO Exploration Company would be affected in all activities associated with the extraction of crude oil and natural gas as well as sale of arctic heating fuel (diesel fuel), jet fuel and gasoline on the North Slope. Even California has removed gasoline from the list of substances classified as hazardous, eliminating the requirement to distribute Material Safety Data Sheets (MSDS) during sales. Because diesel and jet fuel have lower flash points, I hope these products can continue to be treated as combustible materials but not classed as "hazardous."

To help reduce the impact of this proposed legislation on oil and gas operations, it is strongly recommended that the definition of "Manufacturer" be changed to exempt oil and gas exploration and production activities since there is no change in the "product" as sold from that found in nature. Additionally, it is recommended that the definitions of hazardous substance and toxic substance include references to lists developed by the Federal Government or State of Alaska after review of the scientific literature and not rely on lists, taken out of the federal regulations from the Transportation and Labor Departments, which have not undergone a current scientific review. These issues along with others will be addressed further in the specific comment portion of this letter.

Of further concern, is the potential that the hazardous substance definition included in House Bill 806 could become the basis of future state hazardous waste legislation. We would strongly object to such use of this definition. In this regard, it should be noted that the listing of drilling muds, produced waters and associated wastes as hazardous wastes under the Resource Conservation and Recovery Act (RCRA) has been deferred by Congress in its 1980 amendments to RCRA. Further, the federal EPA has been directed by Congress to conduct an in depth study of these wastes and report its finding to Congress for a final decision.

Following are specific comments on House Bill 806 on a section by section basis.

Section AS 18.60.051 Manufacturer to Provide Hazardous or Toxic Substance Information and Section AS 18.60.052 Seller Other Than Manufacturer to Provide Hazardous or Toxic Substance Information.

We strongly recommend that crude oil and natural gas not be covered by this bill but if they are, we recommend that their MSDS be generic and not be required to list each component, associated health, safety and environmental effects, and their physical and chemical properties. If such a requirement is promulgated, hundreds of addendum sheets would be necessary for each crude oil MSDS.

As requested, I have included the list of generic products which ARCO Oil and Gas Company produces:

Crude Oil	Propane
Diesel Fuel	Propane-Butane Mix
Residuum Oil	Isobutane
Naptha	Commercial Butane
Jet Fuel	Mixed Butane
Carbon Dioxide	Normal Butane
Sulphur	De-Propanized Gasoline
Plant Residue Gas	Gasoline
Ethane	Condensate
Ethane-Propane	Drip Gasoline
Propane	Propane-Butane Mix
Scrubber	

Additionally, ARCO Oil and Gas Company, in order to operate its Prudhoe Bay installations, runs a topping plant to produce diesel fuel, jet fuel and gasoline; the excess products are sold to others. The provisions in House Bill 806 would impact our operations by requiring that each

customer be given a MSDS each time they purchased gasoline, diesel fuel or jet fuel. Further, Section AS 18.60.052 would affect our operations since we blend octane enhancers with naptha to produce gasoline on the North Slope. While the impact on our operations as a result of the above sales might not be great, the impact of such sales statewide could have a substantial impact. Accordingly, we recommend that serious consideration be given to exempting such frequently sold fuels.

Section AS 18.60.071 Employer to Provide Hazardous Substance Information and Training.

This section would require posting in all work areas information for each hazardous substance utilitized in that work area. This would impose a burden since the oil and gas industry is scattered and diversified in its daily operations with low manpower requirements. Further, operations and an oil and/or gas facility could change daily requiring different substances be used that are not always stored at a work site. Accordingly, it is recommended that this section be changed since it would be more reasonable to require that the desired information be made available at the point where employee(s) report to work.

Concerning the training of employees and disclosure of hazards that may be encountered at the work place that this section addresses, we agree with the training provisions. However, the provision in the bill that requires that employees be provided annually with handouts on the substances, which might not be read, could prove to be highly burdensome and costly due to the volume of paper that would be handled. We support the concept of training and providing the information but we think it should be provided to the employee upon request. A central file or similar requirement would be more functional.

Section AS 18.60.072 Reports to be Filed with the Division.

This section's requirements to file all information supplied to purchasers and employees, the safety procedures utilized in the work place and the quantities of hazardous substances actually used or produced are overly burdensome and costly. As ARCO Alaska, Inc. uses some 2,000 purchased stock items, supplying the required information on each would require a significant increase to manpower by ARCO Alaska, Inc. and would result in no increase in worker safety. The value of sifting through the filed reports and making effective use of the data by the State is questionable, but the cost would also be high. For these reasons this section should be either deleted or modified extensively.

Section 18.60.073 Access to Records.

These access to record requirements should be modified to allow employees and their authorized representatives to obtain the records pertaining to that employee. These exposure records should not be used to establish a violation but used only to assist the division in incident investigation. This section also fails to specify the security and confidentiality concerns associated with employer records including health records. What will be used by DOSH or the employer to insure that the employees right to privacy will be maintained.

Section 2, AS 18.60.105 Definitions.

Because of the language contained in section AS 18.60.052, House Bill 806 appears to be aimed at the regulation of hazardous or toxic substances both in the work place and the safe use of those substances by customers (wholesale or retail). Additionally, if you combine the definitions of "manufacturers", "hazardous substance" and "toxic substance" these definitions could be confused with or misused as the

foundation to define hazardous waste. I don't believe the intent of this bill is to address sales or hazardous waste but this is a possible/probable secondary effect.

The definition of "Manufacturer" should be changed to adequately address or delete oil and gas exploration and development activities. By review of the previous testimony it is clear that we recognize the need to ensure a safe work place. However, since there is no change in the "product" as sold from that found in nature, it is difficult to interpret our operations as "a person who produces... or makes a hazardous or toxic substance." We believe the definition should be modified to exempt oil and gas exploration and production activities.

The definitions for hazardous and toxic substances are a conglomeration of Department of Transportation (DOT) and Department of Labor (DOL) definitions and create "new" definitions that are not correct for the use intended by House Bill 806. The DOT table was not intended to be used as a list of substances hazardous to employees. Its purpose was to list potentially hazardous material as they relate to the transportation, not employee "exposure." We recommend that section (11) (B) be deleted from the bill and, if necessary, DOSH be authorized/required to develop hazardous and toxic substance lists based on potential hazard to employees in the occupational environment. Hopefully, any item contained in a State of Alaska list will be defined as hazardous or toxic using a reasonable degree(s) of hazard and supported by scientific research.

HB
835

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

(5)

Date: 3-8-82

2/16/82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 835

"An Act establishing the Alaska Safety Advisory Council."

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

[ ] do pass [ ] do not pass

[X] do pass with attached amendments(s)

[ ] 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

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MEMBERS HAVING
OTHER RECOMMENDATIONS:

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VICE CHAIRMAN

H 60 (Rev. 12/78)

Rayford Councilor

Date Introduced 2-16-82
" Rec'd. 2-17-82
Referral: Finance
Comm. Hearing 3-8-82 passed with amendment
" action Taken to chief Clerk @ 3:10 p.m.

allyn/Lotsoff N herein Request
Kelly Knight Position: O
Sponsors' certified 3/5/82
Position paper herein
A/N hereto

Alaska State Legislature

MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783

OFFICIAL BUSINESS

House of Representatives

LABOR AND COMMERCE COMMITTEE

AMENDMENTS TO HB 835

Passed by the House Labor & Commerce Committee on 3/8/82.

House Bill 835

Page 2, after line 26, add new subsection:

(5) make recommendations on methods to reduce Alaska's high rate of aircraft accidents.

Page 2, line 3, delete word "his" and insert "the commissioner's".

Bill No. House Bill No. 835

Date February 22, 1982

Title "An Act establishing the Alaska Safety Advisory Council."

Contact: Judy Knight
465-2700

At the present time, a number of state, federal, and local government agencies have responsibilities for providing safety and health protection to Alaskans in the work place, on the highways, in the home, and in recreational pursuits. Establishment of an Alaska Safety Advisory Council as proposed in House Bill 835 would provide a needed and effective vehicle for formal coordination of the efforts of the various government agencies which administer safety and health programs.

The bill provides for the council to be comprised of a cross section of Alaska's citizens. This is an excellent approach inasmuch as it will provide the council with the diversification needed when recommendations are formulated for addressing safety and health issues which are of concern to all Alaskans. Despite vigorous attempts by government agencies to involve Alaska's public in the development and delivery of safety and health programs, it is often difficult to obtain input from all segments of the population. The council, as proposed in this bill, is a positive step towards filling this void.

In the Department of Labor, our Workers' Compensation, Occupational Safety and Health, and Mechanical Inspection programs would all be favorably impacted by this bill.

The proposed annual safety conference will also provide an excellent forum for a meaningful exchange of information among Alaska's citizens and state, federal, and local government agencies who are concerned with or have responsibilities for safety and health in the state.

This bill should do much to assist the department in meeting its goal of protecting workers from work-related safety and health hazards. The department supports this bill and urges its passage.

EP:kmb
1101:42

POSITION PAPER/Department of Labor

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 835

Title "An Act Creating the Alaska Safety Advisory Council."

Requested by Representative Halford Date 1/25/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Worker Protection

BRU, Program, or Subprogram(s) Affected Commissioner's Office

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	14.2	15.3	16.5	17.8	19.2
300 CONTRACTUAL	0	16.4	17.7	19.1	20.6	22.2
400 COMMODITIES	0	.4	.4	.5	.5	.6
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	31.0	33.4	36.1	38.9	42.0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	19.7	20.3	21.1	23.9	25.1
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	11.3	13.1	15.0	15.0	16.9
Program Receipts (Conference Fees)						

POSITIONS

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

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

This fiscal note is based on the following assumptions:

1. Contractual Costs: Administrative Costs 3.0 (note 2)
   Conference Costs 13.4 (note 5)

2. The Department of Labor will provide clerical/administrative support through its word processing center and its clerical staff.

   Cost 300: $1,500 Reimbursable service agreement with Department of Labor, Word Processing Center
   Code 300: $1,500 Telephone/mailing costs
   Code 400: $ 400 Office Supplies

   Total Administrative Costs $3,400

IV. DATE February 4, 1982 PREPARED BY Nico Bus

AGENCY Department of Labor

PHONE (907) 465-2720

Original: Legislative Finance

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

33-001 (Rev. 12/81)

3. There should not be much need for the Council to request legal advice as it will not be involved, as the bill is presently drafted, in any adjudication.

4. Travel: It is anticipated that the Council will meet three times during the year. One of these meetings will be in conjunction with the annual safety conference. It is assumed that at least five of the ten members representing industry and labor will be from Anchorage and, therefore, for purpose of this fiscal note, we are assuming that five members will require transportation.

Three meetings x $350.00/trip x five members = $5,250.00

As far as the three members representing government agencies, we are assuming that two will be stationed in Anchorage, and, therefore, only one of these members will require transportation.

Three meetings x $350.00/trip x one member = $1,050.00

Industry and labor members will receive the current per diem rate. This per diem is paid all members regardless of whether travel is required to attend the meeting.

Per diem $80.00/day x three days x three meetings x ten members = $7,200.00

Government employees are paid per diem when on travel status.

$80.00/day x three days x three meetings x one member = $720.00

Travel:	Transportation	$ 6,300
	Per Diem	7,920
	Total	$ 14,220

5. Cost of annual Governor's Safety Conference.

The cost of holding an annual Governor's Safety Conference can vary depending on how many topics will be included, the quality of conference speakers, the length of the conference, and the facilities provided for the conference.

In order to come up with a realistic estimate, the following assumptions are made:

A. The conference will be held in one of the major hotels in Anchorage.

B. It will be two days in length.

C. Only the keynote speaker will be paid - all other speakers and trainers will volunteer their services.

D. A banquet and two luncheons will be included in the registration fee.

E. A reasonable registration fee will be assessed in order to encourage maximum participation.

Hotel facilities (main room and 3 training rooms)	2,400
Banquet	3,000
Luncheons (two)	2,000
Cost of keynote speaker	1,000
Printing of agenda & other conference materials	3,000
Miscellaneous costs such as coffee service, etc.	2,000
Total Cost for Conference	$13,400
Registration Fee $75.00	
Anticipated participation (150 x $75.00)	(11,250)
Cost to Council	2,150

6. We are assuming an inflation rate of eight percent in estimating costs after FY '83. In FY '84 we are assuming 175 conference participants, in FY '85 and FY '86, 200 participants and in FY '87, 225 participants.

7. Assumes an effective date of July 1, 1982.

ALASKA SAFETY ADVISORY COUNCIL

History:

In 1977 Commissioner Edmund Orbeck asked a group of industry leaders to organize a Governor's Safety Conference. Mr. Vern Smith of 3M Company and Mr. Richard Pittenger of the Alaska Associated General Contractors were instrumental in organizing a committee of industry and labor leaders to work with the departments of Labor and Transportation and Public Facilities to hold the first conference in 1977. Conferences were also held in 1978 and 1979.

Legislation to form an Alaska Safety Advisory Council was first introduced in 1978.

OSHA - Savings and Federal Relations:

The formation of an Alaska State Advisory Council will not replace the need for a state occupational safety and health program and, therefore, no direct money savings will occur. However, such a council will do much in assisting the Department of Labor in assuring more and better public participation in the development of regulations, policies, and procedures of its occupational safety and health program. It will also assist in helping the department to make employers and employees more cognizant of the importance for safety and health on the job. This will help in improving the voluntary consultative and training services that the Department provides.

This council will not change the state-federal relationship of the occupational safety and health program. This relationship is set out in Section 23 of the Federal Occupational Safety and Health Administration (OSHA) when the latter agency recommends changes that affect the operations of the state programs.

HB
862

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

(5)

2/16/82

Date: 3-18-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 862

"An Act making the repeal of AS 39.35.545 retroactive to July 1, 1968; and providing for an effective date."

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

[X] do pass with letter of intent [ ] 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

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MEMBERS HAVING
OTHER RECOMMENDATIONS:

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VICE - CHAIRMAN

H 60 (Rev. 12/78)

te Introduced 2-16-82
Rec'd. 2-17-82
errals Finance
nm. hearing 3-18-82 passed with letter of intent
n action passed with letter of intent taken chief clerks office by
Rep. Bylsma's office 3/24/82

advise Paul Arnoldt in retirement director introduced by Sandstrom Civil Revenue when scheduled

Position proper leg F.N. requested.

Paul Arnoldt on aide & he in attendance
Ken Humphries appeared for Retirement.
3/26/82 called for F/N on statement of Fiscal impact.

Alaska State Legislature

House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

March 18th, 1982

L E T T E R O F I N T E N T

Reporting HB 862 from committee the members desire that bill be limited to the specific circumstances that resulted in bill being introduced. It is not the intent passage be allowed to pyramid benefits.

Rep. B. C. Bylsma - Vice-Chrm.
HOUSE LABOR-COMMERCE COMMITTEE

(4) the adjustment was not the result of erroneous information supplied by the member or beneficiary;

(5) before the adjustment was made, the member or beneficiary received confirmation from the administrator that his records were correct; and

(6) the member or beneficiary had no reasonable grounds to believe his records were incorrect before the adjustment was made.

(b) In order to obtain consideration of a waiver under this section, the affected member or beneficiary must appeal to the board in writing within 30 days after receipt of notice that his records have been adjusted. The board shall rule on his appeal in writing within 120 days after its receipt.

(c) The board may, at its discretion, conduct a hearing on an appeal under this section. In reaching a decision on an appeal, the board may issue subpoenas, administer oaths, compel the attendance and testimony of witnesses, compel the taking of depositions and the submission of affidavits, and compel the production of documents and records.

(d) The board may impose conditions on the granting of a waiver which it considers equitable. These conditions may include requiring the member or beneficiary to make additional contributions to the system.

(e) The board may reconsider a ruling under this section upon request of the member or beneficiary or the administrator if the request is received within 30 days after the initial ruling. Any modification of the initial ruling must be made within 30 days after receipt of a request for reconsideration.

(f) Rulings and modifications of rulings under this section shall be by a majority of a quorum of the board.

(g) Rulings on appeals and requests for reconsideration under this section may be appealed by an aggrieved member or beneficiary to the superior court for abuse of discretion. (§ 9 ch 174 SLA 1978; am § 41 ch 13 SLA 1980)

Effect of amendment. — The 1980 amendment inserted "or beneficiary" following "member" wherever it appeared throughout the section; in subsection (a), inserted "or any portion of an adjustment" following "adjustment" in the introductory paragraph, inserted "or portion of the adjustment" following "the adjustment" at the beginning of paragraph (1), added "or the beneficiary was eligible to receive or was receiving benefits under this chapter before the adjustment" at the end of paragraph (2), substituted "benefits" for "retirement" following "eligibility for" near the beginning of paragraph (3), and substituted "being" for "already" following "reduction of benefits" near the end of paragraph (3).

Sec. 39.35.525. Limitation on use of credited service as peace officer or fireman. For the purpose of computing benefits for an employee enrolled as a peace officer or fireman, no more than 30 years of credited service may be considered, except for the purpose of computing average monthly compensation and then the three consecutive years during the entire period of credited service which produced the highest total compensation shall be used. (§ 16 ch 109 SLA 1970)

Sec. 39.35.530. Limit on pension. No employee may simultaneously receive a pension under more than one section of this chapter. (§ 42 ch 143 SLA 1960)

Sec. 39.35.535. Medical benefits. Each person who is entitled to receive a monthly benefit from the retirement system shall be provided with major medical insurance coverage. Coverage shall become effective on the same date as retirement benefits commence and cease when the retired employee or survivor is no longer eligible to receive a monthly benefit. The level of coverage for persons over age 65 shall be the same as that available prior to reaching age 65 except that the benefits payable shall be supplemental to those afforded under the federal Old Age Survivor and Disability Insurance Program, if any. (§ 2 ch 200 SLA 1976)

Editor's note. — Provisions relating to federal old-age, survivors, and disability insurance benefits may be found in 42 U.S.C. § 401 et seq.

Sec. 39.35.540. Minimum benefit. The actuarial equivalent of minimum aggregate benefits payable to or on behalf of an employee may not be less than the total of the balances of his employee contribution account and voluntary savings account as of the date of the termination of his employment. (§ 43 ch 143 SLA 1960)

Sec. 39.35.545. Duplicate benefits.
Repealed by § 6 ch 81 SLA 1976.

Editor's note. — The repealed section derived from § 11, ch. 235, SLA 1968.

Sec. 39.35.546. Tax exemption. Benefits of this chapter are exempt from Alaska state and municipal income taxes. (§ 17 ch 109 SLA 1970; am § 50 ch 128 SLA 1977)

Effect of amendment. — The 1977 amendment inserted "Alaska."

Sec. 39.35.547. Effect of amendments. (a) An amendment of this chapter is not retroactive unless its retroactivity is expressly stated in the amendment.

(b) The monthly amount of a benefit payable under this chapter shall be determined in accordance with the provisions of this chapter in effect on the date of termination of the member's last segment of employment. (§ 5 ch 81 SLA 1976; am § 42 ch 13 SLA 1980)

(4) the adjustment was not the result of erroneous information supplied by the member or beneficiary;

(5) before the adjustment was made, the member or beneficiary received confirmation from the administrator that his records were correct; and

(6) the member or beneficiary had no reasonable grounds to believe his records were incorrect before the adjustment was made.

(b) In order to obtain consideration of a waiver under this section, the affected member or beneficiary must appeal to the board in writing within 30 days after receipt of notice that his records have been adjusted. The board shall rule on his appeal in writing within 120 days after its receipt.

(c) The board may, at its discretion, conduct a hearing on an appeal under this section. In reaching a decision on an appeal, the board may issue subpoenas, administer oaths, compel the attendance and testimony of witnesses, compel the taking of depositions and the submission of affidavits, and compel the production of documents and records.

(d) The board may impose conditions on the granting of a waiver which it considers equitable. These conditions may include requiring the member or beneficiary to make additional contributions to the system.

(e) The board may reconsider a ruling under this section upon request of the member or beneficiary or the administrator if the request is received within 30 days after the initial ruling. Any modification of the initial ruling must be made within 30 days after receipt of a request for reconsideration.

(f) Rulings and modifications of rulings under this section shall be by a majority of a quorum of the board.

(g) Rulings on appeals and requests for reconsideration under this section may be appealed by an aggrieved member or beneficiary to the superior court for abuse of discretion. (§ 9 ch 174 SLA 1978; am § 41 ch 13 SLA 1980)

Effect of amendment. — The 1980 amendment inserted "or beneficiary" following "member" wherever it appeared throughout the section; in subsection (a), inserted "or any portion of an adjustment" following "adjustment" in the introductory paragraph, inserted "or portion of the adjustment" following "the adjustment" at the beginning of paragraph (1), added "or the beneficiary was eligible to receive or was receiving benefits under this chapter before the adjustment" at the end of paragraph (2), substituted "benefits" for "retirement" following "eligibility for" near the beginning of paragraph (3), and substituted "being" for "already" following "reduction of benefits" near the end of paragraph (3).

Sec. 39.35.525. Limitation on use of credited service as peace officer or fireman. For the purpose of computing benefits for an employee enrolled as a peace officer or fireman, no more than 30 years of credited service may be considered, except for the purpose of computing average monthly compensation and then the three consecutive years during the entire period of credited service which produced the highest total compensation shall be used. (§ 16 ch 109 SLA 1970)

Sec. 39.35.530. Limit on pension. No employee may simultaneously receive a pension under more than one section of this chapter. (§ 42 ch 143 SLA 1960)

Sec. 39.35.535. Medical benefits. Each person who is entitled to receive a monthly benefit from the retirement system shall be provided with major medical insurance coverage. Coverage shall become effective on the same date as retirement benefits commence and cease when the retired employee or survivor is no longer eligible to receive a monthly benefit. The level of coverage for persons over age 65 shall be the same as that available prior to reaching age 65 except that the benefits payable shall be supplemental to those afforded under the federal Old Age Survivor and Disability Insurance Program, if any. (§ 2 ch 200 SLA 1975)

Editor's note. — Provisions relating to federal old-age, survivors, and disability insurance benefits may be found in 42 U.S.C. § 401 et seq.

Sec. 39.35.540. Minimum benefit. The actuarial equivalent of minimum aggregate benefits payable to or on behalf of an employee may not be less than the total of the balances of his employee contribution account and voluntary savings account as of the date of the termination of his employment. (§ 43 ch 143 SLA 1960)

Sec. 39.35.545. Duplicate benefits.
Repealed by § 6 ch 81 SLA 1976.

Editor's note. — The repealed section derived from § 11, ch. 235, SLA 1968.

Sec. 39.35.546. Tax exemption. Benefits of this chapter are exempt from Alaska state and municipal income taxes. (§ 17 ch 109 SLA 1970; am § 50 ch 128 SLA 1977)

Effect of amendment. — The 1977 amendment inserted "Alaska."

Sec. 39.35.547. Effect of amendments. (a) An amendment of this chapter is not retroactive unless its retroactivity is expressly stated in the amendment.

(b) The monthly amount of a benefit payable under this chapter shall be determined in accordance with the provisions of this chapter in effect on the date of termination of the member's last segment of employment. (§ 5 ch 81 SLA 1976; am § 42 ch 13 SLA 1980)

HB 866

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

(5)
2/15/82

Date: 2-19-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 866

"An Act establishing a special investment tax credit; and providing for an effective date."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for ____ _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Note (5)

[X] reports it back without recommendation individual

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martin - No Rec
AC Bylaws - Note

Terry Martin
CHAIRMAN

H 60 (Rev. 12/78)

Date Introduced 2-16-82
" Rec'd 2-17-82
Referred to Finance
Comm. hearing 3-10-82 - held - 3-9-82 - passed
" action passed out with no dir. Recommendation - taken chg/Clerks office 3:15 by Rep Martin

3/9/82 → Bradley in Legal
will be here ASAP for hearing.
3/9/82 notified
Sponsor notified. Dept of Revenue FN - Position requested
3/9/82 Stevenson pending F/N & Ltr.
Finance
Fish & Game notified
Resources

Audit Div. F/N Received
Dept Rev. F/N Received

Kellie Terrell
Cape Fox Corp. 789-9999
notified of hearing for 3-9-82

Per R.R. Kesel, Department of Revenue, during testimony given 3/29/82 at a House Labor & Commerce Committee hearing on HB 866:

Reading from the U.S. Master Tax Guide, referring to what is Section 38 property:

The investment credit is available only for expenditures on Section 38 property. Section 38 property is either recovery property or other depreciable or amortizable property having a useful life of three years or more; that is,

1) tangible personal property;

2) other tangible property used as an integral part of manufacturing extraction production.

Terry - definition you requested.

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811

March 9, 1982

The Honorable Terry Martin
Chairman
House Labor and Commerce Committee
Room 211 - Behrends Building
Juneau, Alaska

Dear Mr. Martin:

Re: House Bill No. 866

House Bill No. 866, an Act establishing a special investment tax credit, was introduced in the House on February 16, 1982 and was referred to the House Labor and Commerce and Finance Committees.

For the consideration of the House Labor and Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Robert R. Kessel, Director, Audit Division and Mr. Vince Wright, Chief, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson

R. D. Stevenson
Special Assistant

Enclosures

cc: The Honorable Albert P. Adams
Chairman
House Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Robert R. Kessel, Director
Audit Division
Department of Revenue

Vince Wright, Chief
Research Section
Department of Revenue

04-D2LH

MEMORANDUM

State of Alaska
Department of Revenue

TO: R. D. Stevenson
Special Assistant

DATE: February 24, 1982

FILE NO:

TELEPHONE NO:

FROM: Robert R. Kessel RK
Director, Audit Division

SUBJECT: HB 866

The bill would substantially expand the Investment Tax Credit for certain corporations. However, the bill falls short of its intended purpose to promote the development of farming, fishing, timber and mining and, in addition, is potentially very expensive.

There are many more qualified farmers than there is farmland available. The additional investment tax credit would give the existing farmers additional tax benefits but would do little to expand ownership to a new influx of farmers.

Most timber related companies already have more tax credits and carry-over losses than they can utilize. It is markets, not tax credits, that are needed.

For fisheries, all except bottom fishing appears overly crowded. That fact is witnessed by the limited entry system controlling the harvest of fishery resources. Tax credits would not expand the market nor provide higher prices.

Mining, in general, is a highly capital intensive industry. The expanded investment tax credit would serve the purpose of providing almost permanent assurance that no tax would be due because of the fifteen year carry-over provision available for the investment tax credit.

Finally, the expanded credit could be very costly particularly in one instance. If U. S. Borax develops its Ketchikan Molybdenum mine to the extent publicly indicated, the investment tax credit to that corporation would be $100,000,000 (based on investment cost of $1 billion). With the fifteen year carry-over provision for the investment tax credit, the investment tax credit of $100,000,000 could equate to the following revenue loss to Alaska:

Investment Credit applied against tax liability - per current law	
$1,000,000,000 x 10% Investment Credit amount x 18% currently allowed for Alaska corporations	$ 18,000,000
Investment Credit applied against tax liability per this bill	
$1,000,000,000 x 10%	100,000,000
Net Loss in revenue	$ 82,000,000

RRK/gb

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 866
Title An Act establishing a special investment tax credit.
Requested by House Labor & Commerce and Finance Committees Date 03/09/82

II. FISCAL DETAIL
Agency Affected Department of Revenue
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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL						

FUNDING (~~Thousands~~ Millions of Dollars)

GENERAL FUND	(2.5)	(11.5)	(13.0)			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

If it is assumed that the investment tax credit cannot exceed net income tax payable, then the maximum possible loss in revenue to the state would approximate 33 percent of the Department's revenue projections. The amounts would approximate $2.5 million in FY 82, $11.5 million in FY 83, and $13 million in FY 84. The FY 82 figure incorporates the retroactive provision of the proposed tax legislation which applies to only part of that year.

IV. DATE 03/08/82 PREPARED BY Vince Wright
AGENCY Department of Revenue
PHONE 465-2173

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 866
Title An Act establishing a special investment tax credit
Requested by Hayes Date February 24, 1982

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
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) None

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL						

FUNDING (Thousands of Dollars) None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

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

See memo to R. D. Stevenson dated February 24, 1982.

Robert R Kessel

IV. DATE February 24, 1982 PREPARED BY Robert R. Kessel
AGENCY Audit Division
PHONE 465-2320

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

Investment Tax Credit (natural resources)

Monday March 29th

HOUSE BILL NO. 866, by Rep. Hayes. Would establish a special investment tax credit to promote the development of farming, fishing, timber, mining, wells, and other natural deposits (other than oil and gas), to provide increased employment opportunities, and provide an incentive for investment in the state. Provides a taxpayer may apply as a credit against his tax liability 100 percent of the investment credit allowed as to federal taxes under Internal Revenue Code sec. 38 (U.S.C. 38) upon the full amount of qualified investment put into use in the state for each taxable year for exploration, development, or mining of listed deposits (sec. 613(b) Internal Revenue Code) and for farming or clearing of land for farming, soil or water conservation, or for the prevention of erosion. Also would include fishing or cultivation and harvesting of timber. Provides Act is retroactive to January 1, 1982, and applies to taxable years beginning after 12/31/81. Provides Act takes effect immediately.

Introduced February 16 and referred to Labor & Commerce, then to Finance.

Date: March 18, 1982

To: Joe Hayes,
Speaker of the House

From: Steven C. Levi,
Staff

With specific regard to HB 866:

1) Legislative Finance has informed me that under the proposed language (yours), investment tax credits from previous year's projects may not be included under a previous year's coverage. Investment tax credits may be carried forward and backward but only if they have been generated after January 1, 1982.

2) Legislative Finance has informed me that the unitary structure of taxation, for which the Department of Revenue is pressing, has no bearing on investment tax credits. The unitary structure simply allows the State of Alaska to examine a multi-national industry as a total entity and assess taxes appropriately. Unitary taxation basically states that the companies total income, worldwide, will be examined and a appropriate tax on their total income will be assessed.

3) Legislative Finance has informed me that the under the proposed language (yours), investment tax credits may only be taken against corporate income taxes, not against the mining license tax. Legislative Finance could not find a "minimum tax." Staff suspects that a "minimum tax" is a state tax applied to mining operations in other states but not in Alaska.

4) The Fiscal Note gives the revenue loss to the State at $27 million for three fiscal years: $2.5 for FY82, $11.5 for FY83 and 13.5 for FY84. Please note that FY82 is artificially low because the proposed language only allows the investment tax credit to begin on January 1, 1982, the second half of FY82.

However, it should be stated that this amount is expected to rise simply because an investment tax credit will stimulate development which in turn will generate more investment tax credits.

5) On March 8, 1982, the Department of Revenue sent a memo to the Legislative Finance, attached. Staff response to the memo is as follows.

a) The contention that "the bill falls short of its intended purpose," is a speculative statement. The purpose of the bill is to stimulate long term taxable income. The memo, however, deals specifically with the short term economic impact of this bill as conditions are now.

The primary point missed in the first paragraph is that with each increment of advantage, the Alaskan theater of operations becomes more profitable. If, overnight, Anaconda could suddenly 'pick up' the option of an investment tax credit which would increase their aftertax revenue by several million dollars, operations in Alaska would become a higher priority. In short, the more profitable it is for the companies doing the investment, the more profitable it will be for the State of Alaska in the long run.

b) With regard to the farming industry, the memo stated that the investment tax credit would only benefit existing farmers and would not provide an incentive to new farmers. This statement is a a bit premature considering that more Delta plots have been put out to bid. If HB 866, as worded, passed, it would provide an added incentive to bid on land for the purpose of farming.

c) With regard to the timber industry, the memo stated that the primary problem realting to time was a lack of markets. The economic hardships faced in the timber industry are due more to a lack of a long term supply of lumber and State and Federal regulations than to a lack of markets. The turmoil over land conveyance, coupled with the disparity of timber regulations on Federal, State and private lands, has made it difficult for the industry to negotiate for long term timber contracts. An investment tax credit would, in the long run, make an investment in Alaskan timber a better bargain.

d) With regard to fishing, the memo states that "Tax credits would not expand the market nor provide higher prices." Staff notes that an expansion of the market is achieved through the dynamic process of supply or demand. An investment tax credit is not intended to 'expand the market.' An investment tax credit is not intended to provide higher prices either. Thus, staff notes, the statement by the Department of Revenue is true, but it has no bearing on the effect of an investment tax credit on the fishing industry.

e) Finally, the statement concerning U. S. Borax is one-sided. Mathematically the numbers are correct and the total 'loss' to the state would be $82 million over 15 years. But this does not take into account the amount of money that U. S. Borax would be pumping into the economy on the local level. Of course if U.S. Borax chooses to mine elsewhere, the State would not 'lose' $82 million. But it would not gain the corporate income tax and subsequent dollar turnover in the economy either.

MEMORANDUM

State of Alaska
Department of Revenue

TO: R. D. Stevenson
Special Assistant

DATE: February 24, 1982

FILE NO:

TELEPHONE NO:

FROM: Robert R. Kessel
Director, Audit Division

SUBJECT: HB 866

The bill would substantially expand the Investment Tax Credit for certain corporations. However, the bill falls short of its intended purpose to promote the development of farming, fishing, timber and mining and, in addition, is potentially very expensive.

There are many more qualified farmers than there is farmland available. The additional investment tax credit would give the existing farmers additional tax benefits but would do little to expand ownership to a new influx of farmers.

Most timber related companies already have more tax credits and carry-over losses than they can utilize. It is markets, not tax credits, that are needed.

For fisheries, all except bottom fishing appears overly crowded. That fact is witnessed by the limited entry system controlling the harvest of fishery resources. Tax credits would not expand the market nor provide higher prices.

Mining, in general, is a highly capital intensive industry. The expanded investment tax credit would serve the purpose of providing almost permanent assurance that no tax would be due because of the fifteen year carry-over provision available for the investment tax credit.

Finally, the expanded credit could be very costly particularly in one instance. If U. S. Borax develops its Ketchikan Molybdenum mine to the extent publicly indicated, the investment tax credit to that corporation would be $100,000,000 (based on investment cost of $1 billion). With the fifteen year carry-over provision for the investment tax credit, the investment tax credit of $100,000,000 could equate to the following revenue loss to Alaska:

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$1,000,000,000 x 10% Investment Credit amount x 18% currently allowed for Alaska corporations	$ 18,000,000
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$1,000,000,000 x 10%	100,000,000
Net Loss in revenue	$ 82,000,000

RRK/gb

In a Time of Storm, Save the Safe Harbor

In this period of economic uncertainty, it is perhaps natural for patience to run thin and the hunt for scapegoats to intensify, and one should not be too surprised that this sometimes leads to superficial thinking and snap judgments. A case in point is the current storm over the leasing provisions of the Economic Recovery Tax Act that Congress passed and the President signed last year.

The subject is complicated and not easily explained, and this makes it liable to misleading analysis and false conclusions. But the mining industry shoud not throw up its hands in frustration and hope for the best, because its cause is right and its case is just. Its stake in the leasing provisions is enormous, and it must mount a vigorous defense of their retention.

The 1981 tax legislation liberalized depreciation rules for the purpose of accelerating capital investment by American industry, thereby making this nation more competitive in the marketplace of the globe, creating more and better jobs, and broadening the government's tax base in a vibrant and freshly reindustrialized economy.

A major problem with this worthy intention was that a number of highly capital-intensive industries, including mining, were earning little or no profits and consequently paying low corporate income taxes. More liberal depreciation rules would do little good for companies that couldn't afford to invest in the first place in needed new plants and equipment, and new tax breaks wouldn't mean much for those whose tax obligations were already low.

The leasing provisions were consciously devised to get around these problems by letting firms use their tax benefits through leasing that would generate the money for capital investments.

Since then, the press has carried sensationalist stories about companies "selling their tax breaks" to flourishing corporations, which reaped huge gains at the expense of the U.S. Treasury. Because the facts are complicated, these stories seldom gave an accurate account of the transactions and left some distinct and distasteful impressions.

Let's set the record straight.

- If capital-intensive enterprises with low earnings cannot gain access to financing, the incentives of the 1981 law become meaningless.

- The government itself has imposed tremendous capital requirements on many of these industries through such means as mandated pollution controls, which seldom contribute an iota to profitability.

- No matter how the tax credit is divided, it cannot exceed what the government allows for a capital investment.

- This capital investment—the very reason for the tax change—must be made, before any benefits accrue. And this is exactly what's been happening. Money is being infused into necessary improvements in the mining industry. Jobs are being preserved. Technology is being advanced. The industry is gradually gaining the firmer footing it requires to serve the needs of American society. It is a process that must not be reversed.

- The companies that make available the cash for the investment, often when it cannot be obtained from banks or other institutions, are entitled to a return on their money and some reward for their risks.

In times of widespread economic distress, it is easy to single out so-called faceless corporations for special abuse and call upon them to bear more of the burden. But this evades the problem, instead of going to the heart of it.

A *Wall Street Journal* survey earlier this month comparing fourth quarter 1981 earnings with those of 1980, showed a 91 percent drop for the mining and nonferrous metals industries.

As I've pointed out many times, these industries are at the bedrock of modern society. They are crucial to our national defense. All other industries and jobs ultimately depend on their vitality; they produce the stuff from which things are made. They have had the most severe proportional costs thrust upon them for environmental protection of all industries in the nation. They face increasing competition from foreign producers who labor under fewer burdens and often with governmental subsidies to yield foreign exchange.

In short, the mining industry of the United States is in serious straits and trying to ride out a rough storm. The leasing provisions of last year's tax legislation were aptly named a "safe harbor," and they now offer the chance for refuge and replenishment when these are needed most.

All members of the mining fraternity should immediately make vigorous representations to the Congress, especially where personal contacts and constituent interests obtain, on behalf of retaining the leasing provisions of the Economic Recovery Tax Act as they apply to the mining industry.

If this nation will not provide a "safe harbor" for its most basic industries in the troubled present, it may well end up scuttling its more promising future.

J. Allen Overton Jr.

J. Allen Overton, Jr., President
American Mining Congress

From the American "Mining Congress Journal"

SUBSTITUTE FOR HOUSE BILL NO. 866

A BILL

For an Act entitled: "An Act establishing a special investment tax credit; and providing for an effective date."

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

*Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that the establishment of a special investment tax credit will assist the state by diversifying its economy, provide increased employment opportunities, and provide an incentive for investment in the state.

*Sec. 2. AS 43.20.021(d) is amended to read:

(d) Except as provided in AS 43.20.036(b), where [WHERE] a credit allowed under the Internal Revenue Code is also allowed in computing Alaska income tax, it is limited to 18 percent for corporations of the amount of credit determined for federal income tax purposes which is attributable to Alaska.

*Sec. 3. AS 43.20.036(b) is amended to read:

(b) For purposes of calculating income tax payable under this chapter the taxpayer may apply as a credit against his tax liability 100 percent of the investment credit allowed as to federal taxes under Internal Revenue Code sec. 38 (26 U.S.C. 38) upon the full amount of qualified investment put into use in the state for each taxable year.

*Sec. 4. This Act is retroactive to January 1, 1982, and applies to tax years beginning after December 31, 1981.

*Sec. 5. This Act takes effect immediately in accordance with AS 01.10.070(c).

PHIL R. HOLDSWORTH, P.E.
CONSULTING ENGINEER & LEGISLATIVE COUNSEL
MINING — GEOLOGY — LANDS

PHONE 907-586-1383

326 FOURTH STREET, No. 1009
JUNEAU, ALASKA 99801

March 25, 1982

MEMORANDUM

TO: Steven Levi

FROM: Phil Holdsworth P.H.

SUBJECT: HB 866

Would suggest the following amendment to the subject bill to eliminate the potential problem of the "sale" of tax credits by the actual developer to others. A new Sec. 3 could be inserted between lines 17 and 18, page 2 as follows:

→ Limit to either State

Sec. 3. The investment tax credit allowed under sec. 2 of this Act may be claimed only by the taxpaying entity actually conducting the qualifying activity, and is not transferable.

(Renumber following sections accordingly)

Stops Transfers of these credits to others -

Yes bill gives 100% credit of Federal maybe delete this? decrease in State for investments not subject is current a % of investments.

AMENDMENT Proposed

Constitutional ?

ALASKA STATE CHAMBER OF COMMERCE
STATEMENT IN SUPPORT OF HB 866
HOUSE LABOR & COMMERCE COMMITTEE
MARCH 10, 1982

Mr. Chairman, my name is George Krusz. I am president of the Alaska State Chamber of Commerce. The ASCC is the largest statewide federation of Alaska business, with a membership of some 500 firms and individuals. Our membership represents the spread of Alaska business form individually owned and operated firms to the largest employers in the state. Georgraphically, representation ranges from Alaska and the Pacific Coast to the Southwest and East Coast. For more than twenty years, the State Chamber has been representing the interest of all Alaskan business in Juneau. The chamber traditionally has been supportive of legislation fair to large and small concerns alike.

Our support of HB 866 could probably be described as conceptual. We strongly support the concept of legislation allowing investment tax credit under 43.20.036 at 100% of the tax credit allowed under federal statutes. As a matter of fact, this very idea is part of the chamber's 1982 legislative program adopted at our annual Prelegislative Conference in December 1981.

However, it escapes us as to why this credit should be descriminatory as in HB 866. Why should it be limited just to the farming, fishing, timber, and mining industries and not to construction, manufacturing, and other Alaska businesses who

wish to invest heavily in Alaska's future. And that certainly includes the oil and gas industry.

To quote liberally from Section 1, HB 866:

"The Legislature finds and declares that the establishment of a special investment tax credit . . . will assist to state by diversifying its economy to make it less dependent on oil and gas, provide increased employment opportunities and provide an incentive for investment in the state." I'm sure even the oil and gas people would agree with that statement, so why not give all Alaska businesses the same investment incentives in order that we truly can diversity our economy and increase employment.

HB 866 is certainly a step in the right direction and for that reason, the ASCC does support it, but it would be so much stronger if it allowed all Alaska businesses to participate.

Thank you for this opportunity to express our viewpoint.

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811

March 9, 1982

The Honorable Terry Martin
Chairman
House Labor and Commerce Committee
Room 211 - Behrends Building
Juneau, Alaska

Dear Mr. Martin:

Re: House Bill No. 866

House Bill No. 866, an Act establishing a special investment tax credit, was introduced in the House on February 16, 1982 and was referred to the House Labor and Commerce and Finance Committees.

For the consideration of the House Labor and Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Robert R. Kessel, Director, Audit Division and Mr. Vince Wright, Chief, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assis

Enclosures

cc: The Honorable Albert P. Adams
Chairman
House Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Robert R. Kessel, Director
Audit Division
Department of Revenue

Vince Wright, Chief
Research Section
Department of Revenue

04-D2LH

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 866
Title An Act establishing a special investment tax credit
Requested by Hayes Date February 24, 1982

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
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) None

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL						

FUNDING (Thousands of Dollars) None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

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

See memo to R. D. Stevenson dated February 24, 1982.

IV. DATE February 24, 1982 PREPARED BY Robert R. Kessel
AGENCY Audit Division
Original: Legislative Finance PHONE 465-2320
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

MEMORANDUM

State of Alaska
Department of Revenue

TO: R. D. Stevenson
Special Assistant

DATE: February 24, 1982

FILE NO:

TELEPHONE NO:

FROM: Robert R. Kessel
Director, Audit Division

SUBJECT: HB 866

The bill would substantially expand the Investment Tax Credit for certain corporations. However, the bill falls short of its intended purpose to promote the development of farming, fishing, timber and mining and, in addition, is potentially very expensive.

There are many more qualified farmers than there is farmland available. The additional investment tax credit would give the existing farmers additional tax benefits but would do little to expand ownership to a new influx of farmers.

Most timber related companies already have more tax credits and carry-over losses than they can utilize. It is markets, not tax credits, that are needed.

For fisheries, all except bottom fishing appears overly crowded. That fact is witnessed by the limited entry system controlling the harvest of fishery resources. Tax credits would not expand the market nor provide higher prices.

Mining, in general, is a highly capital intensive industry. The expanded investment tax credit would serve the purpose of providing almost permanent assurance that no tax would be due because of the fifteen year carry-over provision available for the investment tax credit.

Finally, the expanded credit could be very costly particularly in one instance. If U. S. Borax develops its Ketchikan Molybdenum mine to the extent publicly indicated, the investment tax credit to that corporation would be $100,000,000 (based on investment cost of $1 billion). With the fifteen year carry-over provision for the investment tax credit, the investment tax credit of $100,000,000 could equate to the following revenue loss to Alaska:

Investment Credit applied against tax liability - per current law	
$1,000,000,000 x 10% Investment Credit amount x 18% currently allowed for Alaska corporations	$ 18,000,000
Investment Credit applied against tax liability per this bill	
$1,000,000,000 x 10%	100,000,000
Net Loss in revenue	$ 82,000,000

RRK/gb

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 866
Title An Act establishing a special investment tax credit.
Requested by House Labor & Commerce and Finance Committees Date 03/09/82

II. FISCAL DETAIL
Agency Affected Department of Revenue
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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL						

FUNDING (~~Thousands~~ Millions of Dollars)

GENERAL FUND	(2.5)	(11.5)	(13.0)			
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
If it is assumed that the investment tax credit cannot exceed net income tax payable, then the maximum possible loss in revenue to the state would approximate 33 percent of the Department's revenue projections. The amounts would approximate $2.5 million in FY 82, $11.5 million in FY 83, and $13 million in FY 84. The FY 82 figure incorporates the retroactive provision of the proposed tax legislation which applies to only part of that year.

IV. DATE 03/08/82 PREPARED BY Vince Wright
AGENCY Department of Revenue
PHONE 465-2173

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

HB
886

COMMITTEE REPORT

HOUSE

(5) FURTHER:

2/16/82

Date: 3-17-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 886

"An Act relating to financial statements of corporations."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

VICE CHAIRMAN

H 60 (Rev. 12/78)

Bpte. introduced 2-16-82
" Rec'd. 2-18-82
Referred - none
Comm. hearing - 3-17-82 Passed - sent to Chief clerks office @ 3:P.m.
" action

Atty Wilkerson FN + Position will obtain ↗ Paper
3/17/82 Opinion notified

Alaska State Legislature

House of Representatives

Albert P. Adams
Chairman
Committee on Finance

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

HOME - DISTRICT 21
P.O. Box 271
Kotzebue, Alaska 99752
(907) 442-3320

Official Business

TO: Representative Terry Martin, Chairman
House Labor and Commerce Committee

FROM: Representative Albert P. Adams, Chairman
House Finance Committee

DATE: March 17, 1982

SUBJ: HB 886, "An Act relating to financial statements of corporations"

The phrase, "financial statements of the corporation," found in the Alaska State Business Corporation statutes (AS 10.05), needs to be defined to protect the directors, creditors, and shareholders of coporations from any liability associated with payment of excessive dividends. AS 10.05.219 (1) protects directors of Alaska business corporations from such liability, both jointly and severally, only if he relied in good faith on the financial statements of the corporation for his analysis in determining a legal dividend. Confusion exists in the present phrase "financial statement of the corporation," upon which the directors rely when determining dividend amounts. Under AS 10.15.216 (a), directors become liable to the corporation when excessive dividends are made.

Therefore HB 886 amends and adds a new subsection to AS 10.15.825, defining the phrase "financial statements of the corportation." The clarification and legal definition of the phrase would not only protect the directors, creditors and shareholders, but would also alleviate common concerns and fears of possible liability if excessive dividends were disposed according to the directors determination.

This concept has also been incorporated by the Code Revision Commission, in its working draft of the corporation statutes. The American Institute of Certified Public Accountants, the SEC and the Code Revision Commission, all endorse this concept because they produce economically meaningful data. Also, it protects the shareholders and creditors from the manipulation of financial data.

I urge your support for HB 886. Thank you.

Bristol Bay Native Corporation
445 E. 5TH AVENUE / P. O. BOX 220 / ANCHORAGE / ALASKA 99510 / PH. (907) 278-3602

March 10, 1982

Honorable Terry Martin
House of Represenatives
Chairman - Labor and Commerce Committee
State of Alaska
Pouch V, Mail Stop 3100
Juneau, Alaska 99811

Dear Mr. Martin:

I am writing to you in support of House Bill 886. House Bill 886 amends the profit corporation statutes to specifically define the phrase "financial statements of the corporation." Why is this definition needed?

"Financial statements of the corporation" is a key phrase in determining a director's defense against personal liability for dividend payments. AS 10.05.219(1). Yet the phrase is ambiguous. This ambiguity creates unnecessary risks for directors attempting to comply with statutory requirements. Clarity would serve to protect directors from ex post facto definitions and liability.

The definition of "financial statements of the corporation" in House Bill 886 contains two basic concepts. The first is that the financial statements will be prepared according to generally accepted accounting principles then applicable. The second is that the statements will be consolidated, where appropriate. Both of these concepts are basic to the published financial statements required by the Securities Exchange Commission to be sent to all shareholders. Both concepts have also been incorporated by the Code Revision Commission, in its working draft of the corporation statutes. The American Institute of Certified Public Accountants, the SEC and the Code Revision Commission, all endorse these concepts because they produce economically meaningful data and because they protect shareholders and creditors from the manipulation of financial data.

In short, I support the definition because it will protect directors and it will protect creditors and shareholders as well.

Very truly yours,

Elizabeth B. Johnston
General Counsel

cc: Representative Al Adams

HOUSE BILL 886

Alaska corporate law makes directors of a profit corporation jointly and severally liable for excessive dividend payments. AS 10.05.216(a). However, this same law also provides a defense or a safe harbor. A director is not liable for excessive dividends if he in good faith relied on the financial statements of the corporation for his analysis of a legal dividend source. AS 10.05.219(1).

The problem is that the scope of this defense is ambiguous. The meaning of "financial statements" is unclear and therefore, creates unnecessary risks for directors as they try to comply with dividend requirements.

The solution is to define the "financial statements of the corporation." The definition proposed in House Bill 886 includes, where appropriate, consolidated balance sheets and income statements prepared according to generally accepted accounting principles. While other financial documents are useful for other corporate purposes, only the preceding are useful for an analysis of a legal source for dividends under AS 10.05.219(1).

TO: REPRESENTATIVES BYLSMA, GARDINER, MARTIN, RANDOLPH AND ROGERS

FROM: JOHN HOPKINS
431 MELLOW PL
ANCHORAGE 99504 (H) 338-4447

I.B.E.W. SUPPORTS HB 864 FOR THE HEALTH OF THE WORKING MAN.

re. Hazardous & toxic substances.

MONDAY BRIEFING

National

Joint space labs possible

Cocoa, Fla. — The administrator of the American space program says the United States may join with Japan and Europe within the next five years to build an orbiting space station. James Beggs of the National Aeronautics and Space Administration told the newspaper Cocoa TODAY in an interview published Sunday that the station would use European Space Agency technology in building spacelabs and Japanese computer expertise. He said habitable modules connected by steel beams would be designed at the Johnson Space Center in Houston and launched piece-by-piece from the Kennedy Space Center in Florida.

Nuclear sub protest planned

Tacoma, Wash. — A Roman Catholic archbishop says he will take part in a blockade designed to prevent a Trident nuclear submarine, the USS Ohio, from reaching the Bangor Naval Base. Raymond Hunthausen, archbishop of Seattle, said at a rally Sunday he would participate this summer in the effort to keep the submarine out of the the Kitsap Peninsula base west of Seattle.

Boat house collapses

Gilford, N.H. — Boats drawn out of Lake Winnipesaukee to protect them from winter ice fell victim to heavy snow when a boathouse collapsed on 169 pleasure craft valued at $3 million. Gerald Fagan, owner of the Gilford Marina building which collapsed Friday night, said it would take up to six weeks to remove the boats that were stored five-high on racks. Damage to the 300-foot metal shed was estimated at $700,000.

Car crashes into bus

Los Angeles — When a bus was struck in the rear by a car, bystanders in southwest Los Angeles jumped onto the Rapid Transit Authority vehicle and claimed to be injured, police say. The driver of the car, Shelton Eugene Knight, 34, was arrested Saturday for investigation of felony driving under the influence of drugs. Sgt Roger Lindsay said the injury count, which jumped to 26 when bystanders jumped on the bus, dropped to nine when they found out the bus driver was not at fault.

Factories emit cancerous gas

Akron, Ohio — There are no regulations to stop tire manufacturers from emitting thousands of pounds a year of a cancer-causing gas, a lobbying group says. The National Clean Air Coalition said in a report Sunday that Goodyear and B.F. Goodrich plants in Akron release more than 350,000 pounts of acrylonitrile a year. The companies acknowledged the substance is emitted from their plants, but said they were in compliance with all federal, state and local law.

HR

17

COMMITTEE REPORT

HOUSE

(5)

FURTHER: JUDICIARY
FINANCE

2/3/82

Date: 2-23-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HR 17

Requesting AHFC, AIDA, and the Department of Community and Regional Affairs to obtain and analyze statistical data on unlawful discrimination in state loan programs.

under consideration and reports it back as follows:

[ ] do pass with individual recommendations [ ] 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

Steve Martin

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Rogers

Steve Martin
CHAIRMAN

H 70 (Rev. 3/81)

Re: Hopkins and Reilly statistical

F/N Rep.
Rod Mortensen

Date Introduced 2-3-82
" Rec'd. 2-3-82
Referrals Judiciary & Finance
Comm. Hearing 2-23-82
" Action Passed out of committee Martin, Landreth do pass } to Sen. chief clerks office 2:30 p.m. 2-23-82.
Hogue, Byram - no rec. }

HR0017.A DOCUMENT= 1 OF 1 NUMBER OF LINES = 57
BILLS = HR0017
BILL NUMBER
HR0017
SPECIAL INFO

Introduced: 2/3/82
Referred: Labor & Commerce, Judiciary and Finance

SPONSOR
IN THE HOUSE
BY THE LABOR AND COMMERCE COMMITTEE

BILL HEADING

CS for HOUSE RESOLUTION NO. 17
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION

RELATING TO

Requesting AHFC, AIDA, and the Department of Community and Regional Affairs to obtain certain data on state loan programs.

TEXT BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES:

WHEREAS the Alaska House of Representatives has received allegations that some lenders participating in state loan programs have discriminated against some loan applicants in violation of AS 18.80.250; and

WHEREAS the House of Representatives is concerned about the allegations, and believes it to be in the Public Interest to determine whether discrimination is actually taking place in state loan programs; and

WHEREAS the principal state loan programs in which discrimination is alleged to have occurred are those administered by the Alaska Housing Finance Corporation (AHFC), the Alaska Industrial Development Authority (AIDA), and the Department of Community and Regional Affairs, nonconforming housing loan program; and

WHEREAS AHFC, AIDA, and the Department of Community and Regional Affairs can generate statistical data on the financial

characteristics of qualified applicants for loans under their respective programs; and

WHEREAS acceptable statistical methods exist that can be used to indicate if there are patterns of discrimination toward applicants for state loans under AHFC, AIDA, and the Department of Community and Regional Affairs;

BE IT RESOLVED that the Alaska House of Representatives requests AHFC, AIDA, and the Department of Community and Regional Affairs nonconforming housing loan program to generate current statistical data on the subject and present the resulting information be made available no later than April 1, 1983 to the House Special Committee on Banking, established by House Resolve No. 3 of the Twelfth Legislature - Second Session.

AMBA
ALASKA MORTGAGE BANKERS ASSOCIATION
ANCHORAGE, ALASKA

February 19, 1982

The Honorable Terry Martin
Chairman, Labor and Commerce
Committee
Pouch V
State Capital
Juneau AK 99811

Re: House Resolution No. 17

Dear Representative Martin:

The Equal Credit Opportunity Act became a national law in October 1974. There have been several amendments since that date. Section 701 of the law reads, in part:

"Prohibited discrimination; reasons for adverse action

(a) It shall be unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction--

(1) on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract);

(2) because all or part of the applicant's income derives from any public assistance program; or

(3) because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. ...."

In addition, Alaska lending institutions have, by policy, prohibited discrimination. We are always concerned and would appreciate any specific cases being brought to our attention.

Section 704 of the law reads, in part:

"Administrative enforcement

(a) Compliance with the requirements imposed under this title shall be enforced under:

(1) Section 8 of the Federal Deposit Insurance Act, in the case of --

(A) national banks, by the Comptroller of the Currency.

(B) member banks of the Federal Reserve System (other than national banks), by the Board.

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

(2) Section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) in the case of any institution subject to any of those provisions.

(3) The Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal Credit Union.

(4) The Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts.

(5) The Federal Aviation Act of 1958, by the Civil Aeronautics board with respect to any air carrier or foreign air carrier subject to that Act.

(6) The Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

(7) The Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, and production credit association;

(8) The Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to brokers and dealers; and

(9) The Small Business Investment Act of 1958, by the Small Business Administration, with respect to small business investment companies. ...."

If specific instances of discrimination have occurred, complaints should be directed to the proper regulatory agency for investigation.

Sincerely,

Richard E. Dolman

Richard E. Dolman,
Alaska Mortgage Brokers Assoc.
Legislative Affairs Committee

RED:rds

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

DIVISION OF ADMINISTRATIVE SERVICES

POUCH B
JUNEAU, ALASKA 99811

February 23, 1982

The Honorable Terry Martin
Chairman
House Labor and Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Martin:

As requested, enclosed is a fiscal note for House Resolution No. 17 "Requesting AHFC, AIDA, and the partment of Community and Regional Affairs to obtain and analyze statistical data on unlawful discrimination in state loan programs."

Should you have any questions concerning this note please contact me at 465-4709.

Sincerely,

for Rod Mourant, Director
Division of Administrative Services

cc: Keith Specking, Legislative Assistant
Office of the Governor

Ron Lehr, Director
Division of Budget & Management
Office of the Governor

Elmer Lindstrom, Fiscal Analyst
Legislative Finance Division
Legislative Affairs Agency

21-PGLH

Currently the Department is not collecting the data necessary to asscertain the presence of discrimination as contemplated by House Resolution 17. Therefore, it will be necessary to contract with an objective third party to survey rejected and accepted loan applicants. Since the implementation of the Nonconforming Housing Loan Program in FY'81, 384 applications have been approved and 51 applicants have been rejected.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Resolution No. 17
Title AHFC & DCRA to obtain and analyze...data...discrimination in State loan programs.
Requested by Representative Martin Date 2/22/82

II. FISCAL DETAIL
Agency Affected Department of Community & Regional Affairs
Program Category Affected Development
BRU, Program, Or Subprogram(s) Affected Housing Assistance
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		20.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		20.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		20.0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS -0-

FULL TIME						
PART TIME						
TEMPORARY						

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

The Department of Community & Regional Affairs is prohibited by AS 18.80.250(a)(2) from making "a written or oral inquiry or record of the sex, marital status, changes in marital status, pregnancy, parenthood, race, religion, color or national origin of a person seeking the institution's financial assistance or credit, unless the inquiry is for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit and is not made or used in order to discriminate in a determination of credit-worthiness."

(Continued)

IV. DATE 2/23/82 PREPARED BY Rod Mourant
AGENCY Department of Community & Regional Affairs
PHONE 465-4709

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

AMBA
ALASKA MORTGAGE BANKERS ASSOCIATION
ANCHORAGE, ALASKA

February 19, 1982

The Honorable Terry Martin
Chairman, Labor and Commerce
Committee
Pouch V
State Capital
Juneau AK 99811

Re: House Resolution No. 17

Dear Representative Martin:

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(2) because all or part of the applicant's income derives from any public assistance program; or

(3) because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. ...."

In addition, Alaska lending institutions have, by policy, prohibited discrimination. We are always concerned and would appreciate any specific cases being brought to our attention.

Section 704 of the law reads, in part:

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(a) Compliance with the requirements imposed under this title shall be enforced under:

(1) Section 8 of the Federal Deposit Insurance Act, in the case of --

(A) national banks, by the Comptroller of the Currency.

(B) member banks of the Federal Reserve System (other than national banks), by the Board.

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Director of the Federal Deposit Insurance Corporation.

(2) Section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) in the case of any institution subject to any of those provisions.

(3) The Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal Credit Union.

(4) The Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts.

(5) The Federal Aviation Act of 1958, by the Civil Aeronautics board with respect to any air carrier or foreign air carrier subject to that Act.

(6) The Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

(7) The Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, and production credit association;

(8) The Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to brokers and dealers; and

(9) The Small Business Investment Act of 1958, by the Small Business Administration, with respect to small business investment companies. ...."

If specific instances of discrimination have occurred, complaints should be directed to the proper regulatory agency for investigation.

Sincerely,

Richard E. Dolman
Alaska Mortgage Brokers Assoc.
Legislative Affairs Committee

RED:rds

A PERFORMANCE REVIEW OF THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

November 23, 1981

Audit Control Number
08-022-0024-R

Commissioner, Department of Commerce and Economic Development	Charles R. Webber
Deputy Commissioner, Department of Commerce and Economic Development	Edward W. Eboch
Deputy Commissioner, Department of Commerce and Economic Development, Acting	Lois Cook

Board of Directors

Chairman	Thomas K. Williams
Member	Charles R. Webber
Member	Lee McAnerney
Member	Lee Coffman
Member	Mike Harper

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

JUNEAU, ALASKA 99811

November 23, 1981

Members of the
Legislative Budget and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

A PERFORMANCE REVIEW OF THE
DEPARTMENT OF COMMERCE
AND ECONOMIC DEVELOPMENT
ALASKA INDUSTRIAL
DEVELOPMENT AUTHORITY

November 23, 1981

Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

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PURPOSE OF THE REVIEW

In accordance with the provisions of Title 24 of the Alaska Statutes and Chapter 18 of the 1980 Session Laws of Alaska, a performance review of the Department of Commerce and Economic Development, Alaska Industrial Development Authority (AIDA), was conducted to:

1. Evaluate program goals and objectives relative to AIDA's statutory mandates.

2. Determine the extent to which program objectives are being accomplished.

3. Evaluate AIDA's operating efficiency and effectiveness.

ORGANIZATION AND FUNCTION

Title 44, Chapter 88 of the Alaska Statutes created AIDA in 1967, yet it was not functional until 1978. The intent was to provide a vehicle to import outside capital to Alaska, creating jobs and economic diversification. However, AIDA remained a concept which lacked funding, staff, and impetus for eleven years until revived in 1978 by legislation which expanded its purpose to include financing air and water transportation, pollution control, gas, and electrical facilities.

From 1978 to 1980 the Authority's sole means of providing financing to industrial and manufacturing enterprises was through the tax-exempt Stand-Alone Revenue Bond Program. Under the Stand-Alone Bond Program, AIDA acts as a conduit for businesses seeking to utilize the tax-exempt bond market. Revenue bonds are secured solely by the revenues of the financed project and not by the full faith and credit of AIDA. As of October 20, 1981, the Authority had funded 15 projects aggregating $120.5 million under this program.

In 1981 the Legislature authorized a similar program, the Supported Stand-Alone Bond Program. Under this program the originating financial institution must retain at least twenty percent of the loan and the bonds are an obligation of AIDA. No bonds have yet been issued under this program.

The Umbrella Bond Program was created following a $183.0 million appropriation to fund the Authority's Enterprise Development Fund on July 1, 1980. Under this program AIDA issues revenue bonds which are secured by the Authority's full faith and credit and uses the proceeds to purchase a portion of lending institutions' loans for projects up to a maximum of $1.0 million. Until prohibited from doing so by an Internal Revenue Service (IRS) ruling in August 1981, AIDA pooled the projects together into large bond issues. AIDA has held two bond sales under this program, aggregating $76,140,000 for 271 projects. The IRS has ruled that such poolings will be treated as a single large issue and the capital asset expenditure limitation of $10.0 million for the previous and subsequent three years will be applied to the combined borrowers rather than individually. This ruling has eliminated the large issues and the related economies. AIDA may offer this program on a much smaller scale, pooling five or six issues.

Uncertainty surrounding tax-exempt financing has caused AIDA to develop alternative strategies involving taxable financing. Another program has been developed under 1981 legislation which permits AIDA to purchase, from available funds, the Federally guaranteed portions of loans made by financial institutions up to a maximum amount of $500,000. No financings had been effectuated at the conclusion of our review under these two programs.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

AIDA should adopt a policy to defer bond sales if possible until market conditions are favorable.

AIDA issued its first general obligation bonds in April 1981, during a week in which it was reported that the bond market registered its biggest single day loss in 14 months with prices on government securities reaching all-time lows.

AIDA's second general obligation bond issue was held in the Fall of 1981 when the bond market was "bearish" and many would-be borrowers were refusing to issue new bonds because of high interest rates.

On both occasions, AIDA's financial strength was such that it was not necessary to issue bonds at that particular time. AIDA should time its bond sales to coincide with favorable market conditions.

Recommendation No. 2

AIDA should comply with the provisions of the Alaska Administrative Code.

1. Title 3, Chapter 99, Section 260(c) of the Alaska Administrative Code requires AIDA to determine loan interest rates after the related bond sales. AIDA placed a limit on the amount of interest that could be charged for 166 loans before bonds were sold to finance the loans. The effect of this decision was an estimated loss of approximately $7,000,000 as poor market conditions in 1981 resulted in higher bond interest rates than anticipated. This $7,000,000 subsidy represents the difference between actuarial loan and bond yields as calculated by AIDA personnel.

2. Title 3, Chapter 99, Section 300(b) of the Alaska Administrative Code requires lending institution originators of AIDA loans to provide a bond to ensure against errors, omissions and fraud. We could find no evidence that 6 of 19 originators had obtained this bond.

3. Title 3, Chapter 99, Section 120 of the Alaska Administrative Code requires Stand-Alone Revenue Bond applications to contain audited financial statements (unless waived by resolution), project descriptions, and business histories of persons owning at least 10% of the enterprise. Twenty of 43 files tested did not contain one or more of these items. Audited financial statements were waived for one project without a resolution.

4. Title 3, Chapter 99, Section 140(a) of the Alaska Administrative Code requires Stand-Alone Revenue Bond applicants to pay a $2,500 application fee. Twenty-nine of 43 fees tested amounted to less than $2,500 as follows: 12 twelve applicants paid no fee, 4 applicants paid $100, 12 applicants paid $500, and 1 applicant paid $2,100. No resolution was issued to waive or modify these 29 exceptions, which resulted in a loss of application fee revenue amounting to $59,000.

5. Title 3, Chapter 99, Section 230(b) of the Alaska Administrative Code requires Umbrella Bond applications to contain certain information, which can be waived. We reviewed 26 of 106 funded loan files and noted the following regulation exceptions:

   a. 65% did not contain financial statements prepared by a Certified Public Accountant;

   b. none contained soil tests;

   c. 25% of the files to which the requirement applies did not contain signed loan agreements with the bank;

   d. 27% of the files to which the requirement applies did not contain copies of lease agreements; and,

   e. 33% of the files to which the requirement applies did not contain a loan summary.

While AIDA has the authority to waive requirements, waivers should be documented and should be the exeption rather than the rule.

Recommendation No. 3

Members of AIDA's Board of Directors should comply with the provisions of the Alaska Statutes.

AS 39.20.180 authorizes transportation expenses for Board members according to the provisions of AS 39.20.110-170. AS 39.20.140 requires the lowest tourist class fare to be used for out-of-state travel. AIDA's Board members use first class fare when travelling outside of Alaska. AIDA's employees also travel using first class fare when on out-of-state trips. While no statutory prohibition prevents AIDA employees from doing so, such travel may not be appropriate for public representatives when tourist class is available.

Recommendation No. 4

Internal control over assets should be strengthened.

1. AIDA employees are permitted to charge personal travel to AIDA accounts. On one occasion AIDA paid for an employee's Hawaii airfare and did not discover the mistake until months later when the employee resigned. Personal and business travel charges should not be commingled.

2. Employees receive salary advances with unlimited time for repayment. During our review, records had to be reconstructed from disbursement and deposit records to determine which employees had advances. Three employees had advances which had been oustanding from five months to one year without repayment. Salary advance agreements should be obtained from employees and repayment required in monthly installments not to exceed six months.

3. Board, operating, and investment policies and procedures are unwritten, causing incorrect and inconsistent treatment of transactions. For example, an undefined investment policy resulted in the investment of $3,900,000 of bond proceeds in low-yield securities instead of AIDA's customary investment in repurchase agreements. Lost interest income is estimated at more than $19,000. We also noted inconsistent per diem payments to employees with six instances of overpayment and two of underpayment. We believe this resulted from varying policy assumptions of employees making the calculations.

4. Long distance telephone bills of approximately $1,000 per month are paid without verifying whether calls represent authorized business activity by AIDA personnel.

   Underwriters were paid $94,550 for out-of-pocket expenses without an accounting. This amount included $32,700 for travel and entertainment, and $4,250 for miscellaneous expenses. AIDA also paid its financial advisor $17,500 for travel and entertainment without requiring an itemized accounting of the dates, personnel, or activities which resulted in this expense.

In order to safeguard its assets, check the accuracy and reliability of its accounting records, ensure operational efficiency and effectiveness, and promote adherence to managerial policy, AIDA should review and improve its system of internal controls.

Recommendation No. 5

AIDA should adopt a loan assumption policy.

Federal law prohibits the use of tax-exempt bond proceeds for inventory, that is, items purchased for resale. AIDA sold tax-exempt bonds to finance the acquisition of a motel which appears to have been purchased for resale. According to records in AIDA's files, the borrower stated an intention to resell the facility several times before receiving the funds, yet AIDA made the loan. AIDA is presently attempting to respond to potential buyers of this facility, however they lack a definite assumption policy which, for example, would require a minimum holding period for loans. If AIDA allows an assumption, the loan could be declared an inventory loan and the bonds might lose their tax-exempt status, yet AIDA has no assumption regulations on which to base a denial.

Recommendation No. 6

AIDA should develop a Seller/Servicer Guide to assist lending institutions in complying with program requirements.

Four of 13 lending institutions responded as follows to the question of whether AIDA provides adequate information on its requirements for purchasing loans:

1. In many cases changes are made in commitment procedures and funding methods with no explanation.

2. There is no written communication on internal policy changes, which happen frequently.

3. Communication between AIDA and bank participants could be better. AIDA periodically changes its practices, and we find out only after the fact.

4. The requirements have been changed so many times we have difficulty in determining exactly what is needed on any one application.

Presently AIDA's only written program guidelines are its regulations, which are not consistently applied. To avoid confusion and ensure consistent treatment of borrowers, AIDA should provide lending institutions with written program requirements.

Recommendation No. 7

Electronic recording devices should be visible and their use should be disclosed to affected persons at the time of such use.

During the audit AIDA employees and other individuals expressed concern that conversations might be tape recorded by AIDA's Executive Director without the knowledge or consent of those affected. To alleviate these concerns and ensure compliance with Federal and State laws governing their use, electronic recording devices should be displayed and notification given of their use.

APPENDIXES

APPENDIX A

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY
TYPE OF LOAN INFORMATION
For the Fiscal Year Ended June 30, 1981
(UNAUDITED)

Loan Types and Terms

AS 44.88 establishes AIDA's authority to finance loans.

Type	Limit	Current Interest Rate	Terms	Purpose
Tax-exempt Umbrella Bond Loans	$1,000,000 - Mining, Small Business, Tourism	12%-13%	Real Estate - 1-25 years or 75% of estimated economic life. Equipment - 1-10 years or 75% of estimated economic life.	To finance the cost of small business, tourism, mining or commercial fishing enterprise projects.
Appropriated Loans (Note 1)	$150,000 - Commercial Fishing $500,000 - Small Business $3,000,000 - Tourism	7.5%-9.5%	Fishing - 1-15 years Small Business - 1-25 years Tourism - 1-20 years	To finance the cost of small business, tourism, and commercial fishing projects at a low interest rate.

Note 1: Appropriated loans are loans transferred to AIDA by Chapter 120, 1980 Session Laws of Alaska.

APPENDIX B

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
ALASKA INDUSTRIAL D[illegible]LOPMENT AUTHORITY
GENERAL LOAN INFORMATION
For the Fiscal Year Ended June 30, 1981
(UNAUDITED)

	1981			
	Number of Loans	$ Amount of Loans	Percent of Number Loans O/S	Percent of $ Amount Loans O/S
Loans Outstanding (O/S) (Note 1)				
Fishing	170	$ 15,823,049	20%	10%
Tourism	22	13,224,358	3%	9%
Small Business	489	79,226,346	57%	50%
Special Programs	169	49,167,596	20%	31%
Total Loans Outstanding	850	$157,441,349	100%	100%
Loans Delinquent (Note 2)				
30-60 Days Past Due		$ 5,423,000		3.44%
61-90 Days Past Due		$ 1,098,000		.70%
Over 90 Days Past Due		$ 4,454,000		2.83%
Total Loans Delinquent		$ 10,975,000		6.97%

Note 1: At June 30, 1981, the Authority had received approximately 800 loans from the State of Alaska and had made an additional 39 loans from the proceeds of its bond sale or from its own funds which will be reimbursed from the proceeds of future bond sales. Loans selected by the Authority but not yet transferred from the State of Alaska amounted to $8,878,000.

Note 2: None of the 39 loans made by the Authority were delinquent at June 30, 1981.

Note 3: There were no Loans in Foreclosure or Loans Written Off at June 30, 1981.

APPENDIX C

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY
APPLICATIONS CONSIDERED DURING YEAR
For the Fiscal Year Ended June 30, 1981
(UNAUDITED)

	1981			
	Number of Loans	$ Amount of Loans	Percent of Number	Percent of $ Amount
Applications in Process (Beginning of Year)				
Tax-Exempt Umbrella Bond Loans	-0-	$ -0-	-0-	-0-
Appropriated Loans	-0-	-0-	-0-	-0-
Total Applications in Process (Beginning of Year)	-0-	-0-	-0-	-0-
Applications Received During Year				
Tax-Exempt Umbrella Bond Loans	195	$ 66,585,525	19%	29%
Appropriated Loans (Note 1)	850	166,000,000	81%	71%
Total Applications Received During Year	1,045	$232,585,525	100%	100%
Applications Approved				
Tax-Exempt Umbrella Bond Loans	150	$ 48,550,000	16%	24%
Appropriated Loans	811	157,122,000	84%	76%
Total Applications Approved	961	$205,672,000	100%	100%
Applications Denied/Withdrawn				
Tax-Exempt Umbrella Bond Loans (Note 2)	14	$ 3,960,000	100%	100%
Appropriated Loans	-0-	-0-	-0-	-0-
Total Applications Denied/Withdrawn	14	$ 3,960,000	100%	100%
Applications In Process (End of Year)				
Tax-Exempt Umbrella Bond Loans	31	$ 14,075,525	44%	61%
Appropriated Loans	39	8,878,000	56%	39%
Total Applications In Process (End of Year)	70	$ 22,953,525	100%	100%

(continued next page)

APPENDIX C

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY
APPLICATIONS CONSIDERED DURING YEAR
For the Fiscal Year Ended June 30, 1981
(UNAUDITED)

Applications Processed Per Loan Examiner (Note 3)	25.6 Loans Per Examiner
Average Processing Time Per Application In Sample	21 Days Per Loan
Cost Per Application and Loan O/S	
Administrative Expenses	$1,667,354
Number of Applications Processed (Note 4)	975
Cost Per Application (Note 5)	$ 1,710
Cost Per Loan O/S (Note 6)	$ 1,962

Note 1: "Applications" for appropriated loans means loans selected.

Note 2: Nine applications amounting to $3,030,000 were denied by AIDA; 5 applications amounting to $930,000 were withdrawn by applicants.

Note 3: 195 umbrella bond applications divided by 3 loan examiners. Loan examiners did not process appropriated loan applications.

Note 4: 150 umbrella bond applications approved plus 14 denied plus 311 appropriated loans selected equals 975. Appropriated loans are included because administrative expenses were incurred in their selection.

Note 5: $1,667,354 divided by 975 equals $1,710.

Note 6: $1,667,354 divided by 850 (Appendix B) equals $1,962.

APPENDIX D

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY
RETURN ON INVESTMENT/COST ANALYSIS
For the Fiscal Year Ended June 30, 1981
(UNAUDITED)

Rate of Return on Total Assets	1981
Total Revenues Per Income Statement	$ 18,150,393
Total Expenses Per Income Statement	1,667,354
Net Income	$ 16,483,039
Average Total Assets	$204,215,255
Rate of Return (Note 1)	8.0%

Loans O/S Per Employee Month	
Total Number of Loans O/S	850
Total Number of Employee Months	156
Number of Loans O/S Per Employee Month	5.5

Note 1: Rate of Return is defined as follows:

$$\frac{\text{Net Income}}{\text{Average Total Assets}}$$

Note 2: 13 employees at June 30, 1981, times 12 months equals 156.

APPENDIX E

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY
SUMMARY OF LOAN TRANSACTIONS TESTED
Funded Umbrella Bond Loans at August 31, 1981
(UNAUDITED)

Criteria Tested	Number of Loans Tested	$ Amount of Loans	Percent of Number Tested	Percent of $ Amount Tested
1. Note which represents evidence of debt.	26	$6,270,000	25%	25%
2. Letter of intent identifying purpose of the loan.	26	6,270,000	25%	25%
3. Application form.	26	6,270,000	25%	25%
4. Description of collateral including an independent appraisal or survey.	26	6,270,000	25%	25%
5. Proof of current insurance coverage for collateral.	26	6,270,000	25%	25%
6. Financial statements for three preceding years.	26	6,270,000	25%	25%
7. Federal and State income tax returns for previous three years.	26	6,270,000	25%	25%
8. Proforma financial statements.	26	6,270,000	25%	25%
9. Approval by loan committee.	26	6,270,000	25%	25%
10. Credit checks and reports.	26	6,270,000	25%	25%
11. Compliance with statutory and regulatory requirements.	26	6,270,000	25%	25%
12. Properly recorded security agreements.	26	6,270,000	25%	25%
13. Assignments or guaranties are proper.	26	6,270,000	25%	25%
14. Corporate or partnership borrowing authorizations.	26	6,270,000	25%	25%

APPENDIX F

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY
SCHEDULE OF DELINQUENT LOANS
At September 30, 1981
(UNAUDITED)

	1981			
	Number of Loans	$ Amount of Loans	Percent of Number Loans O/S	Percent of $ Amount Loans O/S
Total Loans Outstanding (O/S)				
Umbrella Bond Loans	120	$ 28,331,259	13%	16%
Appropriated Loans	829	143,530,459	87%	84%
Total Loans Outstanding	949	$176,861,718	100%	100%
Loans Delinquent				
Umbrella Bond Loans				
30-60 Days Past Due		$ -0-		
61-90 Days Past Due		-0-		
Over 90 Days Past Due		-0-		
Appropriated Loans				
30-60 Days Past Due		1,674,689		
61-90 Days Past Due		1,612,747		
Over 90 Days Past Due		3,495,063		
Total Loans Delinquent		$6,782,499		

Loans More Than 90 Days Delinquent

1. Ackland Helicopters
   - Interest Rate: 9.5%
   - Date of Loan: 01-17-80
   - Original Amount: $104,400
   - Current Balance: $81,900
   - Maturity Date: 12-01-84
   - Amount of Payment: $2,083.34/mo.
   - Payments Past Due: $10,416.70

2. Alaska Central Airways
   - Interest Rate: 9.5%
   - Date of Loan: 01-14-80
   - Original Amount: $281,250
   - Current Balance: $276,326.93
   - Maturity Date: 01-20-95
   - Amount of Payment: $2,939/mo.
   - Payments Past Due: $20,573

3. Clark, Martin H.
   - Interest Rate: 9.5%
   - Date of Loan: 01-31-80
   - Original Amount: $500,000
   - Current Balance: $482,780.92
   - Maturity Date: 02-01-95
   - Amount of Payment: $5,221.12/mo.
   - Payments Past Due: $31,326.72

4. Arctic Mechanical, Inc.
   - Interest Rate: 8%
   - Date of Loan: 10-17-78
   - Original Amount: $150,000
   - Current Balance: $138,280.33
   - Maturity Date: 11-01-93
   - Amount of Payment: $1,434/mo.
   - Payments Past Due: $10,038

5. Preising, Wilmer
   - Interest Rate: 8%
   - Date of Loan: 12-01-78
   - Original Amount: $300,000
   - Current Balance: $283,774.09
   - Maturity Date: 11-01-93
   - Amount of Payment: $2,867/mo.
   - Payments Past Due: $17,202

6. Howell, Charles
   - Interest Rate: 8%
   - Date of Loan: 05-01-79
   - Original Amount: $285,000
   - Current Balance: $261,995.38
   - Maturity Date: 04-01-94
   - Amount of Payment: $2,724/mo.
   - Payments Past Due: $16,344

7. Stromme, Zana
   - Interest Rate: 8%
   - Date of Loan: 06-01-79
   - Original Amount $235,000
   - Current Balance $221,663.99
   - Maturity Date: 05-01-94
   - Amount of Payment: $2,246/mo.
   - Payments Past Due: $20,214

8. Mt. Susitna Broadcasting
   - Interest Rate: 8%
   - Date of Loan: 08-01-79
   - Original Amount: $280,000
   - Current Balance: $246,678.05
   - Maturity Date: 07-01-89
   - Amount of Payment: $3,398/mo.
   - Payments Past Due: $16,990
   - (Note: During the first week of November this loan was in current status).

APPENDIX F

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY
SCHEDULE OF DELINQUENT LOANS
At September 30, 1981
(UNAUDITED)

9. Moore, Jeffery

Interest Rate:	8%
Date of Loan:	10-01-79
Original Amount:	$167,000
Current Balance:	$158,892.62
Maturity Date:	10-01-94
Amount of Payment:	$1,596/mo.
Payments Past Due:	$11,172

10. Gene's Auto Service

Interest Rate:	9.5%
Date of Loan:	11-14-79
Original Amount:	$187,500
Current Balance:	$166,862.61
Maturity Date:	11-14-94
Amount of Payment:	$2,427/mo.
Payments Past Due:	$9,708

(Note: During the first week of October this loan was in current status).

11. Switzerland, Inc.

Interest Rate:	9.5%
Date of Loan:	11-18-79
Original Amount:	$391,900.29
Current Balance:	$376,470.66
Maturity Date:	11-19-94
Amount of Payment:	$4,095.19/mo.
Payments Past Due:	$16,380.76

12. College Utilities

Interest Rate:	9.5%
Date of Loan:	11-30-79
Original Amount:	$171,000
Current Balance:	$165,418.71
Maturity Date:	11-30-94
Amount of Payment:	$1,787/mo.
Payments Past Due:	$8,935

13. Aaron, Inc.

Interest Rate:	9.5%
Date of Loan:	06-25-80
Original Amount:	$246,667
Current Balance:	$216,929.38
Maturity Date:	06-25-85
Amount of Payment:	$5,200/mo.
Payments Past Due:	$17,535

14. Cramer, Robert

Interest Rate:	8%
Date of Loan:	04-10-78
Original Amount:	$298,500
Current Balance:	$263,314.37
Maturity Date:	04-01-93
Amount of Payment:	$2,853/mo.
Payments Past Due:	$14,265

15. Chena View Hotel

Interest Rate:	7%
Date of Loan:	11-14-73
Original Amount:	$75,000
Current Balance:	$74,840.87
Maturity Date:	When principal and interest are fully paid.
Amount of Payment:	$1,593.75/mo.
Payments Past Due:	$15,937.50

16. Stikine Development Corporation

Interest Rate:	7%
Date of Loan:	05-29-70
Original Amount:	$10,000
Current Balance:	$6,095.90
Maturity Date:	Until principal and interest are fully paid.
Amount of Payment:	$232.59/mo.
Payments Past Due:	$465.18

(Note: This payment is due quarterly. During the last week in October this loan was in current status.

17. Zerembe Native Corporation

Interest Rate:	7%
Date of Loan:	08-15-72
Original Amount:	$5,750
Current Balance:	$4,633.70
Maturity Date:	Until principal and interest are fully paid.
Amount of Payment:	$122.19/mo.
Payments Past Due:	$366.57

18. Royal Fisheries

Interest Rate:	7%
Date of Loan:	05-23-73
Original Amount:	$7,265
Current Balance:	$5,177.96
Maturity Date:	Until principal and interest are fully paid.
Amount of Payment:	$347.26/mo.
Payments Past Due:	$1,041.78

19. Fireside Lounge

Interest Rate:	7%
Date of Loan:	01-17-74
Original Amount:	$18,556
Current Balance:	$18,523.08
Maturity Date:	Until principal and interest are fully paid.
Amount of Payment:	$394.32/mo.
Payments Past Due:	$1,182.96

20. Southeastern Cedar Products

Interest Rate:	7%
Date of Loan:	09-04-74
Original Amount:	$25,000
Current Balance:	$25,000
Maturity Date:	Until principal and interest are fully paid.
Amount of Payment:	$531.25/mo.
Payments Past Due:	$14,875

21. International Banquet House

Interest Rate:	7%
Date of Loan:	01-18-74
Original Amount:	$20,000
Current Balance:	$19,503.18
Maturity Date:	Until principal and interest are fully paid.
Amount of Payment:	$425/mo.
Payments Past Due:	$5,525

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811

February 1, 1982

RECEIVED
FEB 01 1982
LEGISLATIVE
AUDIT

Mr. Gerald L. Wilkerson, C.P.A.
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, AK 99811

Re: Preliminary Audit Report -- Alaska Industrial Development Authority (AIDA)

Dear Mr. Wilkerson:

This responds to your Preliminary Audit Report of November 23, 1981 on AIDA, which you transmitted to me with your cover letter of January 29, 1982.

Before discussing the recommendations of the Preliminary Audit Report, I would like to make a few observations about its description of AIDA's organization and function (pp. 2-3 of the Report). The first regards the statement,

> "However, AIDA remained a concept which lacked funding, staff, and impetus for eleven years until revived in 1978 by legislation which expanded its purpose to include financing air and water transportation, pollution control, gas, and electrical facilities."

While it is true that AIDA lay asleep like an enchanted maiden for 11 years before the legislation referred to was enacted, I believe the handsome prince who awoke AIDA from this slumber was AIDA's first Executive Director, David A. Rose. He was the right man in the right place for the first job, and without his ability and untiring efforts to make the program succeed, AIDA might still be lacking impetus.

My second observation concerns the statement, "No bonds have yet been authorized under [the Supported Stand-Alone Bond Program authorized by the Legislature in 1981]." This is true, but without any explanation of why this is so, it seems unnecessarily negative. The Supported Stand-Alone Bond Program was intended simply to allow "umbrella" bonds to be issued by AIDA for projects larger than $1,000,000 (just as it would in its regular "umbrella" bond program for projects of $1,000,000 or less), provided the originating financial institution retained at least 20 per-

cent of the loan to be financed. The reason no Supported Stand-Alone Bonds have been issued is the same as the reason described in the Preliminary Audit Report as having caused some difficulty in the regular "umbrella" bond program. Under the recent IRS Revenue Ruling, projects that are pooled together for an "umbrella" bond sale are aggregated and treated as a single project for purposes of the IRS limitations on capital expenditures in the three-year periods before and after the bond sale. While "umbrella" bonds still make sense for pools of projects not over $1,000,000, the larger size of the projects for the Supported Stand-Alone Bond Program (plus the usually larger size of the businesses proposing such projects) makes it virtually infeasible to combine these projects for an "umbrella" bond issue and still comply with the IRS rules limiting capital expenditures. However, these larger projects can be and are being financed under AIDA's original bond program, the ordinary Stand-Alone Bond Program.

My third observation pertains to the statement,

> "No financings had been effectuated at the conclusion of our review under these two programs [i.e., a taxable bond program which AIDA is developing, and a program to purchase from available funds within AIDA the federally guaranteed portions of business loans up to $500,000 in size]."

As long as AIDA is able to meet its customers' needs through its various tax-exempt financing programs, there is no need to finance projects by taxable bonds with their higher interest rates. As for AIDA's not purchasing any federally guaranteed loans when your review was concluded (which I presume was November 23, 1981), AIDA had the necessary regulations adopted and was ready to receive applications under this program in October 1981. By December 1, 1981, some 13 of these loans had been purchased by AIDA totaling $2,447,000 (of which the federally guaranteed portions, which is all AIDA is allowed to purchase, came to $2,202,300).

Having made these observations, I would not like to take up and address the various recommendations contained in the Preliminary Audit Report.

Recommendation No. 1. AIDA should adopt a policy to defer bond sales if possible until market conditions are favorable.

As a general rule, AIDA would like nothing better than to see the timing of its bond sales coincide with periods when interest rates are at their lows. Unfortunately, we did not have much success in achieving this objective with our first two "umbrella" bond sales, as the Preliminary Audit Report points out. However, we did have good reasons to proceed with the sales when we did, even though we were under no financial duress to do so.

AIDA's first "umbrella" bonds were sold in April 1981, eight months after the legislation enabling AIDA to issue such bonds took effect. This unusually long delay in implementing new legislation was particularly embarrassing for AIDA, which had made a firm commitment to the Legislature that it would get the "umbrella" bond program up and running quickly and successfully. In order to re-affirm its commitment and to demonstrate that such a bond program would work well for both AIDA and the Alaskan public served by AIDA, the AIDA board believed it was important that we proceed with our first "umbrella" bond sale as soon as we could.

Even though in retrospect it appears that we could scarcely have picked a worse week in which to go to the bond market, that sale was a significant success. The 50 projects that were financed by that sale all received interest rates significantly below the prevailing level for any other financing source, and -- equally important, I believe, to those borrowers -- the rates of interest were fixed for the entire period of the loans. Most other sources of financing would have required some type of floating interest rate. Thus, the borrowers were benefitted by the sale, and of course, the feasibility of an "umbrella" bond program was conclusively demonstrated.

Our second "umbrella" bond sale was held despite the adverse market last fall because of the considerable uncertainty that had arisen about the future of tax-exempt financing of the type done by AIDA. First, the Internal Revenue Service issued a Revenue Ruling (No. 81-216) that reverses a long-standing position by the IRS and considerably restricts the ability of bond issuers like AIDA to pool borrowers together for purposes of issuing "umbrella" bonds. At the same time several important Congressmen and Senators in Washington, D.C. were reported to be considering amendments to the Internal Revenue Code to severely limit or end altogether the tax-exempt status of industrial development bonds. The Reagan Administration was also rumored to be considering making a similar proposal as part of its comprehensive tax package.

In light of these threats to the AIDA "umbrella" program, the board decided to proceed as rapidly as possible to a bond sale for the applications that had been "in the mill" when the Revenue Ruling was issued, since under that Ruling those applications were "grandfathered." The sense of urgency was very strong because the proposed tax amendments were reliably reported to have effective date clauses running either from the date of their introduction or from the end of calendar year 1981. Thus, if AIDA didn't hold the sale promptly while it still could under the "grandfather" provision in the Revenue Ruling, there was a real risk that the new legislation would prevent the issuance of tax-exempt bonds for even the "grandfathered" borrowers once that legislation was introduced. Thus, even though we recognized that the bond market was indeed rather "bearish," we decided it was more important to get the bond sale

concluded before any more harm could be done by either Congress or the IRS.

Although so far no legislation limiting or ending the tax-exempt status of industrial development bonds has been introduced in Congress, there are still reliable reports that something is in the wings and will be introduced shortly. To be ready "just in case," AIDA has authorized an underwriting team to prepare the necessary documentation for a taxable bond program. Meanwhile, we have developed a modification of the "umbrella" bond program to allow it to continue under the restrictions imposed by the Revenue Ruling and have also created a "mini-stand-alone" program for additional flexibility under the present IRS rules.

Recommendation No. 2. AIDA should comply with the provisions of the Alaska Administrative Code.

The Preliminary Audit Report cites five areas in which AIDA did not appear to have complied with its own regulations. Let me discuss each of these areas in turn.

1. "Title 3, Chapter 99, Section 260(c) of the Alaska Administrative Code requires AIDA to determine loan interest rates after the related bond sales. AIDA placed a limit on the amount of interest that could be charged for 166 loans before bonds were sold to finance the loans. The effect of this decision was an estimated loss of approximately $7,000,000 as poor market conditions in 1981 resulted in higher bond interest rates than anticipated. This $7,000,-000 subsidy represents the difference between actuarial loan and bond yields as calculated by AIDA personnel."

I have the following comments to make regarding this area. First, I do not believe that 3 AAC 99.260(c) was actually violated by AIDA's practice of committing to loans at an interest rate not to exceed some specified rate. The regulation states in pertinent part:

> The rate of interest on the authority's participation in a real property or tangible personal property loan will be determined after sale of the authority's bonds and may not exceed the interest rate paid by the authority on the bonds by more than the percentage permitted under the arbitrage rules of the Internal Revenue Service. . . .

AIDA's commitment not to impose an interest rate higher than a specified amount did not, strictly speaking, "determine" at that time what the rate of interest would be for the loan. After the bonds were sold, it became apparent that the maximum rate permitted under the arbitrage rules would be greater than the "ceiling" rate that AIDA had promised, and conse-

quently, the loans were made at the "ceiling" rate. At no time before the bond sale was the rate for these loans actually fixed at the "ceiling," however, since there was always the possibility that the interest rates for bonds could drop and we could fulfill the commitment at a rate below the "ceiling."

While this practice does not therefore seem to have violated the letter of 3 AAC 99.260(c), I would nevertheless agree that it was a spiritual violation.

This brings me to my second comment, which is that the practice of committing to loans at not more than a specified rate of interest has been discontinued and will not be resumed.

Finally on this point, I would note that while AIDA's early calculations indicated that this practice had in fact cost the Authority about $7,000,000, subsequent analysis by Lehman Brothers Kuhn Loeb, Inc. (AIDA's financial advisor) indicates that the total cash flow from each "umbrella" bond sale is positive (i.e., there is no actual cash loss from either sale), although the return on AIDA's committed funds in both cases is significantly below what AIDA would have earned on those funds at then-prevailing market rates. The "loss" therefore is not a realized loss, but rather an opportunity cost in terms of foregone income from alternative action. But, had interest rates moved a little higher than they did, we might well have been looking at negative-value total cash flows, and then there would have been realized losses as well.

2. "Title 3, Chapter 99, Section 300(b) of the Alaska Adminrative Code requires lending institution originators of AIDA loans to provide a bond to ensure against errors, omissions, and fraud. We could find no evidence that 6 of 19 originators had obtained this bond."

The protection required by 3 AAC 99.300(b) is actually provided both by fidelity bonds and by errors and omissions insurance. It is true that no evidence of a fidelity bond was on file with AIDA for six institutions, although one of those six has never sold any loans to AIDA. Of the six, two did have adequate errors and omissions insurance on file with us. These deficiencies in our files are acknowledged and are being corrected.

One of the benefits of your audit has been the discovery that a number of the bonds and insurance policies on file with AIDA would seem to have expired, based solely on what was in AIDA's files. Consequently, a "tickler" system has been established to keep those records current and to ensure that there are no expirations of bonds or insurance in the future.

3. "Title 3, Chapter 99, Section 120 of the Alaska Administrative Code requires Stand-Alone Revenue Bond applications to contain audited financial statements (unless waived by resolution), project descriptions, and business histories of persons owning at least 10% of the enterprise. Twenty of 43 files tested did not contain one or more of these items. Audited financial statements were waived for one project without a resolution."

According to AIDA's Executive Director, all of the stand-alone files contain project descriptions.

In the case of the project for which the audited financial statements were allegedly waived without a resolution, we were advised by counsel that audited financial statements of one of the partners in the project satisfied the purpose of the regulation because they showed that the one partner alone was sufficiently creditworthy to finance the project. Thus, under this legal opinion, sufficient financial statements were on file and no waiver was in order.

It is true that business histories of persons owning at least 10% of a project are not present in all of the stand-alone files. The AIDA board will consider what to do about this situation at its next monthly meeting.

4. "Title 3, Chapter 99, Section 140(a) of the Alaska Administrative Code requires stand-alone revenue bond applicants to pay a $2,500 application fee. Twenty-nine of 43 fees tested amounted to less than $2500 as follows: 12 applicants paid no fee, four applicants paid $100, 12 applicants paid $500, and 1 applicant paid $2,100. No resolution was issued to waive or modify these 29 exceptions, which resulted in a loss of application fee revenue amounting to $59,000."

The regulation (3 AAC 99.140(a)) referred to reads as follows:

Unless waived by a resolution of the authority for good cause, an applicant shall pay a nonrefundable application fee of $2500 when the application is submitted. An application will not be finally considered by the authority until the application fee is paid. The amount paid as an application fee will be credited against the financing fee required under (b) of this section. (emphasis added)

This regulation is not skillfully drafted -- the first sentence explicitly declares that the nonrefundable application fee must be paid at the time the application is submitted to AIDA; however, the second sentence's

reference to final consideration implies that preliminary consideration could be given even though the fee is not paid. This ambiguity was discussed with AIDA's bond counsel, who opined that AIDA did not actually have to demand full payment of the $2500 by an applicant until AIDA was ready to give final consideration to the application (i.e., passage of the actual bond sale resolution). On the basis of this opinion, the AIDA board decided initially to process applications without payment of this fee in cases where it appeared likely that the project would be proceeding promptly to sale, at which time AIDA would collect a financing fee under 3 AAC 99.140(b) against which the application fee would be credited anyway.

Accordingly, until December 1, 1980, AIDA did not require the payment of application fees at the time stand-alone applications were submitted. At that time the board decided to change this policy, so as to require partial payment ($500) of the fee at the time of submission in order to defray AIDA's out-of-pocket costs for the legal review and preparation of the initial "SOSOA" resolution for the applicant (the SOSOA action is the first official action taken by the AIDA board in the course of processing an application and is important primarily for determining when expenditures for a project may begin to be incurred that are permitted under the Internal Revenue Code and IRS regulations to be eventually financed on a non-interim basis with the proceeds of tax-exempt bonds). The remaining $2000 was to be paid when AIDA was ready to conduct the financial review of the application, which would generally be followed shortly by the passage of the bond sale resolution (assuming everything still looked all right with the application after the financial review had been completed). The effect of the policy adopted in December 1980 is that applicants paid only for the services they received from AIDA, while assuring at the same time that AIDA was more or less reimbursed for its actual expenses in reviewing and processing the applications. This reimbursement was, after all, the purpose in adopting this regulation; without some such fee arrangement AIDA would simply be "out the money" for its costs of reviewing and processing an application if the applicant later changed his mind or for other reasons the project failed to go successfully to a bond sale.

The foregoing explains the 12 instances in which the applicant paid no application fee and the 12 other ones where $500 was paid. This leaves the four occasions where a $100 fee was paid and the one case of $2100.

The first two of the $100 fee payments were for stand-alone projects whose SOSOA resolutions were approved on October 3, 1980. Note that this was before the board adopted the policy of requiring $500 at the time of submission, with payment of the balance to be made when AIDA is ready to begin its financial review of the project. Until that time no fees had been collected from earlier stand-alone applicants. The departure from the no-fee practice reflected the AIDA board's growing

uneasiness about the possibility of incurring significant costs in reviewing applications and then never actually being reimbursed for them if the projects did not proceed all the way to a bond sale. In a sense, then, these cases might be characterized as reflecting a transitional phase in the board's policy on the matter. However, I agree that a greater formality in modifying the policy or in adapting it on a case by case basis would have been preferable to what actually happened in these cases.

The other two instances where $100 fees were paid were projects whose SOSOA resolutions were approved in October 1981. On August 31, 1981, the AIDA board adopted emergency regulations repealing subsection (a) of 3 AAC 99.140, amending subsection (b) to provide for a financing fee of $10,000 payable at the time bonds are issued, and amending subsection (c) to require the applicant to pay "other costs and fees prescribed by law or agreement". See Register 79 of the Alaska Administrative Code, Appendix A (p. ER-3). By "agreement" these two applicants paid $100 to AIDA at the time they submitted their applications.

This leaves the unique instance in which only $2100 was collected. I admit that this case was irregular -- $2500 is what should have been paid. I am advised by Norm Levesque that AIDA encountered difficulty in collecting this particular fee from the applicant. Proper procedure should have been not to allow the project to come to the board for a bond sale resolution until the fee had been fully paid. This was not done, however, and on July 27, 1981, a bond sale resolution for the project was approved by the board. This did not result in a loss of revenue to the Authority, however, since the applicant paid a financing fee to AIDA pursuant to 3 AAC 140(b) when the bond sale closed. This financing fee was greater than the $2500 that should have been received as the application fee. Since the application fee under 3 AAC 140(a) is credited against the financing fee, AIDA ultimately received (at the bond closing) the full sum to which it was entitled as its fee for conducting the transaction.

5. "Title 3, Chapter 99, Section 230(b) of the Alaska Administrative Code requires Umbrella Bond applications to contain certain information, which can be waived. We reviewed 26 of 106 funded loan files and noted the following regulation exceptions:

    "a. 65% did not contain financial statements prepared by a Certified Public Accountant;

    "b. None contained soil tests;

    "c. 25% of the files to which the requirement applies did not contain signed loan agreements with the bank;

"d. 27% did not contain copies of lease agreements.

"e. 33% did not contain a loan summary.

"While AIDA has the authority to waive requirements, waivers should be documented, and should be the exception rather than the rule."

AIDA generally waives the requirement for a C.P.A.-prepared financial statement in the case of individuals, sole proprietorships and Subchapter S corporations when the application is supported by copies of the applicant's federal income tax returns. The purpose of the requirement for a financial statement is to disclose to AIDA the financial condition of the applicant. In the cases described, tax returns most often do describe that financial condition. AIDA believes it would be unreasonable to expect small businessmen to bear the expense of retaining a C.P.A. when comparable and reliable information can be provided to AIDA through the income tax returns. I agree with the point made in the Preliminary Audit Report that waivers of regulatory requirements should be the exception rather than the rule, and perhaps AIDA should therefore consider amending the regulation to reflect more accurately the present practice.

Soil tests are required only when the appraisal, cost estimate or other information indicates that there is or may be a soil problem. AIDA relies on the originating financial institution to disclose to us any soil problems and to protect the Authority against any losses. Again, perhaps AIDA should consider a clarifying amendment to the present regulation.

The regulation in question does not require the submission of a "signed loan agreement"; the most similar phrase in the regulation is "signed loan application". See 3 AAC 99.230(b)(3). One file does indeed contain a copy of a signed loan agreement between the bank and the borrower, but this would not have been because of any regulatory requirement. I would also add that each closed file does contain a copy of the loan participation certificate by the originating financial institution.

The Preliminary Audit Report refers to three instances in the audit sample in which there was no lease agreement. In two of these cases the files were for the purchase of equipment which the applicant was going to use himself, rather than lease it out. No lease agreement would exist in those cases, and so it is only natural that AIDA would not have a copy of one in the file. The third case involved the acquisition of retail space and office space, of which one-third was reserved for the applicant's own use. The financial strength of the applicant was such that no further income from the leasing of the other two-thirds of the project was needed in order for the project to be acceptable financially

to the Authority. However, this decision should have been noted in the loan committee approval sheet in the file, but was not. AIDA staff have been instructed to be careful that such decisions are noted in the file in the future.

The Preliminary Audit Report refers to five files in the audit sample that did not contain loan summaries. Two of these files did in fact contain loan summaries, which we will be willing to show to you if you wish to return to the AIDA offices to inspect them. The other three files were for applications originated by First National Bank of Alaska, whose practice is to include a loan summary as part of the narrative in their letters of transmittal. Again, you are welcome to inspect those letters at AIDA if you wish.

Recommendation No. 3. Members of AIDA's Board of Directors should comply with the provisions of the Alaska Statutes.

The violation referred to in this Recommendation is the first-class airline travel by members of the AIDA board for out-of-state travel. AS 39.20.140(b), which may under AS 39.20.180(1) apply to travel by AIDA board members, states:

> The Department of Administration may not reimburse an official or employee or pay for more than the lowest tourist class fare for the most direct route unless (1) tourist class accommodation is not available; (2) waiting for tourist class accommodation would occasion a delay harmful to the state; or (3) the Department of Administration finds that travel by tourist class accommodation is not in the best interest of the state, and authorizes other accommodation.

I am seeking the advice of the Attorney General's office about whether these provisions in fact apply to travel by AIDA board members, and if they do, whether and how reimbursement should be sought from the board members involved. Meanwhile, I have instructed the Executive Director not to allow AIDA to pay any first-class fares for AIDA board members unless one of the three statutory exceptions applies to the particular case.

The Preliminary Audit Report also criticizes AIDA staff for flying first-class on Outside travel as well, although it acknowledges that there is no statutory provision which prevents this practice. All, or very nearly all, of the out-of-state travel by AIDA employees has been to New York City. The mere act of flying in an airplane for nine or 10 hours is exhausting in itself; when this is compounded by the fact that the staff also suffer the effects of a five-hour time difference, they are simply in no good condition to start dealing right away with the enormously complicated financial matters that they are in New York for.

Our choices are either to let them work on multimillion-dollar arrangements under this disadvantage and simply hope they don't make mistakes that are too serious, or else do whatever is reasonable to mitigate the effects of the long trip east. I believe the public interest is better served by the latter course of action, which can then be achieved through either of two basic ways. One, we can let them fly to New York two or three days early, so they can recover from their flight and the jet lag. Or two, they can fly first class, which I have found from my limited personal experience to be considerably less exhausting. Given the cost of New York hotels (those convenient to Wall Street run over $100 a night), I believe the latter option is more advantageous in terms of cost, provided of course that there is no undue indulging in the complimentary drinks offered on most first-class flights. Flying first class also gives more physical room, which would facilitate doing work while en route. Under these conditions first-class travel to the East Coast should be appropriate, even for "state representatives" like AIDA employees.

Parenthetically, I might add that in my entire career with the State I have travelled first class at the public's expense only once, and that was from Anchorage to Washington, D.C. to testify about North Slope oil pricing and no space in tourist class was available that would get me there in time for the hearing.

Recommendation No. 4. Internal control over assets should be strengthened.

The Preliminary Audit Report offers several areas of criticism with regard to this point. I shall discuss them each in turn.

1. "AIDA employees are permitted to charge personal travel to AIDA accounts."

This refers to a unique instance in which a member of the family of an AIDA employee travelled to Hawaii on an airline ticket (tourist class) that was charged to AIDA. The employee entered into AIDA's files a copy of a personal check made out to AIDA for the $583.40 price of the ticket. However, an examination of AIDA's deposit slips disclosed no evidence that this check was ever in fact cashed. After this employee was confronted with these circumstances and afforded a reasonable time in which to provide AIDA with a copy of the cancelled check (which was not provided by the employee), the employee resigned. AIDA was reimbursed for the $583.40 at the time of resignation. This matter was referred to the Attorney General for any further legal action that might be appropriate.

The policy of AIDA is that all travel for purely personal reasons be paid by the employee and not charged to the Authority. If the

employee travels on AIDA business and takes a side trip to conduct personal business, the ticket may be charged to AIDA provided that the employee reimburses the Authority for the additional cost of his personal travel at or before the time the airline ticket is picked up.

2. "Employees receive salary advances with unlimited time for repayment."

I agree that the standard practice for other State officials and employees should be followed in AIDA -- namely, that standard salary advance agreements be obtained from employees requesting such advances, with repayment to be made in monthly installments over a period not to exceed six months. I shall recommend to the AIDA board at its next monthly meeting that it formally adopt this policy.

3. "[A]n undefined investment policy resulted in the investment of $3,900,000 of bond proceeds in low-yield securities instead of AIDA's customary investment in repurchase agreements. Lost interest income is estimated at more than $19,000."

This refers to the fact that the proceeds of 13 series of bonds from the first "umbrella" sale were invested in special State and Local Government Securities (SLGS) offered by the U.S. Treasury to tax-exempt bonding institutions that need investments of limited yield for bond proceeds in order not to violate the arbitrage regulations for those bonds (such a violation would render the bonds taxable instead of tax-exempt). AIDA relied on the advice of its financial advisor (Lehman Brothers Kuhn Loeb, Inc.), bond counsel (Wohlforth & Flint), lead underwriter (John Nuveen & Co., Inc.) and bond trustee (Seattle-First National Bank) about the proper and required subscription and purchase of these SLGS.

The maturity dates of the SLGS were to have coincided with the dates submitted by the financial institutions originating the loans as the estimated closing dates, except that AIDA understood that no maturity date for the SLGS could be before July 6, 1981. For the 13 loans of interest here, the estimated closing dates ranged from June 15 to September 15, 1981.

AIDA had agreed that, for loans for projects that had been completed, it would fund them before the estimated closing dates. Thus, actual funding dates ranged from April 6 to May 14, 1981. At the time AIDA could foresee no loss from the early funding since interest rates had been on the decline, as evidenced by seven successive reductions in the prime rate up until then from its all-time high in December 1980. Our expectation at the time was for further modest declines in interest rates or a levelling off. This proved to be mistaken.

AIDA was not familiar with all the technicalities in subscribing for SLGS, and hence, was unaware that closing date changes for the SLGS

could be made, or even cancelled, under certain conditions. Had we known this, we would have cancelled the subscription for SLGS for Series 16 ($200,000) of the first "umbrella" sale, and the SLGS subscriptions for Series 27, 35, 48 and possibly 11, 32 and 45 (totaling $1,380,000) might also have been cancelled. The remainder of the 13 loans were all funded after the SLGS subscription date.

Later, during the closing for the second "umbrella" bond sale, AIDA discovered that, subject to certain limitations, various changes and cancellations may be made after the SLGS subscription date; however, not even the Federal Reserve Bank responsible for processing our SLGS subscriptions could give AIDA a complete answer about the procedures for changing or cancelling those subscriptions. Before AIDA holds another "umbrella" bond sale, this issue will have been thoroughly researched, or an alternative to SLGS will have been found that satisfies the arbitrage requirements.

4. "We also noted inconsistent per diem payments to employees with six instances of overpayment and two of underpayment."

These inconsistencies arose during a period when AIDA did not have a copy of the State Administrative Manual. A copy was finally obtained by the Authority in December 1981. All per diem and expenses are now to be paid in accordance with the procedures and guidelines set forth in that manual, which should prevent any futher inconsistencies from occurring in the future.

5. "Long distance telephone bills of approximately $1,000 per month are paid without verifying whether calls represent authorized business activity by AIDA personnel."

This point is well taken, and I have requested the Executive Director to draft a statement to advise all AIDA employees about our policy about not making personal long-distance telephone calls. I will also recommend to the board that it consider having periodic reports about the results of internal policing efforts to ensure that this policy is complied with.

6. "Underwriters were paid $94,550 for out-of-pocket expenses without an accounting. This amount included $32,700 for travel and entertainment, and $4,250 for miscellaneous expenses. AIDA also paid its financial advisor $17,500 for travel and entertainment without requiring an itemized accounting of the dates, personnel, or activities which resulted in this expense."

The payment of $94,550 to the underwriters was part of the underwriters' discount in the sale of the bonds. This discount is not only to reimburse the underwriters' costs in preparing the bond issue for

sale and marketing it, it also provides them with their profit from the transaction. In a competitive bond sale, the underwriters' discount is an important part of their bid because, if two bids have the same interest rates but one has a smaller underwriters' discount, the one with the smaller discount is the better bid since the debt service is the same but the bond seller realizes more of the total bond proceeds and less of those proceeds goes to the underwriters. In the case of a negotiated sale such as AIDA's two "umbrella" sales, the underwriters' discount is part of the negotiated price for the bonds, together with the rate of interest to be paid. In order to protect an issuer from conceding too much for the underwriters' discount, the transaction is reviewed by the issuer's financial advisor as to the reasonableness of the discount and of the interest rates on the bonds. One must rely on the integrity and reputability of the financial advisor, as well as the advisor's expertise, in deciding whether to accept the underwriters' offer or not in a negotiated sale.

AIDA has requested and received from its financial advisor a detailed statement of the personnel, dates and activities involved with respect to the billing for $17,500. It will be our procedure in the future to request such an itemization for future billings from our financial advisor.

From the foregoing discussion of Recommendation No. 4, it is apparent that AIDA should strengthen its system of internal controls. Our staff are reviewing our present procedures with an eye toward doing exactly that. Some improvements have already been made, and I am confident that additional ones will be forthcoming shortly.

Recommendation No. 5. AIDA should adopt a loan assumption policy.

The concerns expressed on this point in the Preliminary Audit Report are well founded, and I am pleased to be able to state that the AIDA board at its last monthly meeting formally adopted and approved written guidelines about the assumption of AIDA-financed loans. A copy of those guidelines is attached.

Recommendation No. 6. AIDA should develop a Seller/Servicer Guide to assist lending institutions in complying with program requirements.

This Recommendation is well taken. A Seller/Servicer Guide is being developed. I shall be asking the Executive Director at our regular monthly board meetings for updates on the status of the guide until it is completed and ready for approval by the board.

Recommendation No. 7. Electronic recording devices should be visible and their use should be disclosed to affected persons at the time of such use.

The electronic recording devices referred to are sensitive microphones in the ceiling of the AIDA conference room and of the Executive Director's office, which are connected by hidden wiring to tape recorders. This equipment allows the proceedings of the AIDA board to be recorded and is considerably more convenient and safer than having microphones and wires running all around the room. Our regular monthly meetings are held in the conference room, while our weekly teleconference meetings are conducted through a speaker-phone in the Executive Director's office.

At the present time there is nothing visible in either room that would indicate whether the microphone and recording equipment are operating. I have asked the Executive Director to explore the possibility of installing something like a red signal light in each room that would automatically go on whenever the recording equipment is activated. This would prevent any inadvertant or intentional recording of private conversations in those rooms without the knowledge of the participants. Meanwhile, until such a signaling system can be installed, I have requested that the following written notice be placed at the doors of both rooms:

> NOTICE: THIS ROOM IS EQUIPPED WITH ELECTRONIC RECORDING EQUIPMENT WHOSE OPERATION CANNOT BE DETECTED BY PERSONS WITHIN THE ROOM. PLEASE CHECK TO BE SURE THIS EQUIPMENT IS OFF WHENEVER YOU USE THIS ROOM FOR WORK OR MEETINGS THAT ARE NOT REQUIRED BY LAW TO BE PUBLIC.

Let me assure you, however, that this written notice will not, in my opinion, be satisfactory as a permanent measure. If some automatic signalling system cannot be installed or can only be installed at unreasonable expense, then I will want to explore how best to replace the present recording system with one whose operation is more readily apparent to persons in the room.

Before I close, I would like to note for the record a number of the positive things about AIDA's operations to date, which lie outside the proper scope of comment for the write-up of a program audit and therefore could not be mentioned in the Preliminary Audit Report. First of all, setting up the "umbrella" program and getting it to run successfully was no mean accomplishment. Rather, it was the result of considerable hard work and dedication on the part of AIDA staff, bond counsel, financial advisor and the underwriters. As a result of their efforts some 184 projects totaling $53,265,000 have been funded at fixed, tax-exempt rates through the "umbrella" program as of December 31, 1981. Another $234,023,000 worth of projects were "in the mill" as of that

date. Moreover, this program has been able to continue to work smoothly and with minimal disruption of services to the public, even though a major ground rule was changed in mid-stream by the IRS. While certainly not without its problems, AIDA's "umbrella" program has been a remarkable success in the short time it has been in operation.

The accomplishments in the "umbrella" area have not meant that AIDA neglected its original program, the stand-alone bonds. During 1981 some $90,955,760 of stand-alone bonds were issued for 22 different projects.

Also during 1981, AIDA was charged by the Legislature with responsibility for implementing a loan program for small business working capital and inventory loans, under which AIDA was to purchase the federally guaranteed portion of the loans (usually guaranteed by the Small Business Administration). In the five months in 1981 after that legislation took effect, loans totaling $4,228,575 had been made under this program, of which the guaranteed portions purchased by AIDA came to $3,805,717. According to the applicants' own estimates, these loans accounted for some 32 jobs that would otherwise not exist. More than 30 percent of the number of loans were to borrowers seeking less than $100,000.

And, as one last toot on AIDA's horn, I would point out that AIDA has taken the precaution of developing a contingent, taxable-bond program that will be ready for quick implementation in the event Congress amends the federal tax laws so as to end or greatly curtail the tax-exempt status of industrial development bonds such as those which AIDA issues. In contrast to the situation that developed with Alaska Housing Finance Corporation in 1979 when Congress started changing the rules for tax-exempt housing financing, AIDA's program will not be dead in the water if adverse legislation is introduced or passed. The ability of AIDA to continue operations through the taxable bond market if necessary, albeit at higher interest rates for the borrower, will prevent the Legislature from coming into session in a crisis atmosphere, as was the case with AHFC.

Finally, and in closing, let me take this opportunity to congratulate you on the thoroughness of your audit. Despite the minor flaws which I have pointed out earlier, the Preliminary Audit Report has been of great usefulness, and I am sure that the Authority will be better off

as a consequence of it. Thank you for affording me this opportunity to respond and at such length.

Very truly yours,

Thomas K. Williams
Chairman, AIDA

Attachment

TKW:tw

cc: AIDA Board Members

H. A. Hoffman
Executive Director, AIDA

MEMORANDUM

TO: H.A. Hoffman
Executive Director

FROM: Wayne A. Williams
Deputy Director (Credit)

DATE: December 29, 1981

SUBJECT: Proposed Policy Guidelines

ASSUMPTION POLICY GUIDELINES - UMBRELLA LOANS

In considering an assumption policy on AIDA loans the Authority has three major concerns:

1) AIDA must not be used as a refinancing vehicle.
2) AIDA must not be involved in inventory type financing.
3) AIDA must retain its security position on all loans.

To satisfy these concerns, assumption requests will be considered on a case by case basis, conforming to the following guidelines:

1) The assumption will not effect the tax-exempt status of the bonds after specific inquiry to bond counsel.
2) The assumptor shall be an equal or stronger credit than the original AIDA borrower.
3) The party or entity assuming the mortgage, the assumptor, cannot have been a party or owner of interest in the seller of the property, if a sales transaction was involved in the original loan.
4) No assumption will be allowed during the first 25% of the term of the loan and in no event during the first two years, regardless of term.
5) The use of the property shall remain substantially the same after the assumption so as to retain the profitability of the property.

Amendment included in Mr. Coffman's motion to approve the policies appraised in these guidelines.

SUBORDINATION POLICY - APPROPRIATED LOANS

Loans within the appropriated loan portfolio may be subordinated to an AIDA loan provided the request involves the same financial institution and provided the total debt against the property meets all AIDA loan guidelines. Also, such subordinations will be approved only if the Financial Advisor and Bond Counsel have no objections.

HCR

56

COMMITTEE REPORT

HOUSE

(5)

FURTHER: FISCAL

1/20/82

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HCR 30

Relating to the policy of the legislature concerning telecommunications.

under consideration and reports it back as follows:

[ ] 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:

_____

_____

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_____

_____

_____

_____

_____

_____
CHAIRMAN

H 60 (Rev. 3/81)

H. [redacted]

Notified → Sirois summoned to Hse attendance with Dep Hills possibly will be cross F/N

Date Introduced 1-29-82
Date Received - 2-1-82
Referred Finance
Comm. Hearing 1-3-82 2-3-82 held
" action 2/8/82 - Rec'd and Dep's Dissent add'l long. 2/11/82 - Committee prepared "Do Pass" all but Rensenbrink who was absent
Sent to Clerk's office 3:20 P.m 2/11/82

office copy

Introduced: 1/29/82
Referred: Labor & Commerce and Finance

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

HOUSE CONCURRENT RESOLUTION NO. 56

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

Relating to the policy of the legislature concerning telecommunications.

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

WHEREAS a significant [and increasing] amount of public money is being invested in telecommunications systems; and

WHEREAS the private sector that deals in Alaska telecommunications has faced increasing competition from government as a result of [increasing] state wealth and expenditures for telecommunications; and

WHEREAS the private sector is the foundation and vitality of the American economic system; and

[WHEREAS state government should encourage private enterprise and incentive; and]

WHEREAS the Alaska State Legislature has not adopted a policy regarding the burgeoning telecommunications system;

BE IT RESOLVED that the Alaska State Legislature shall consider the following guidelines when considering telecommunications [appropriations: legislation. issued]

(1) to the extent possible, the divisions of telecommunications should procure [cost effective services] from private enterprise or certified and franchised utilities and contract for the construction, management, operation, and maintenance of telecommunications systems;

(2) [to the extent possible,] the divisions of telecommunications should [reduce or] eliminate airwave interference of state-owned or financed stations with privately owned and operated cable television stations;

(3) unnecessary regulatory and government barriers which impede growth and development of [new and innovative] services by the private sector

should be removed;

(4) companies owned [and] operated by residents of Alaska and based in Alaska should be considered before companies from other states when telecommunications goods or services are needed from the private sector;

(5) Alaska's villages should have the opportunity to own, operate, and maintain their own satellite earth stations;

(6) in-state programming beneficial to both urban and rural residents should be cost effective and the production of these programs should be available to the private sector on a contract or bid basis; and be it

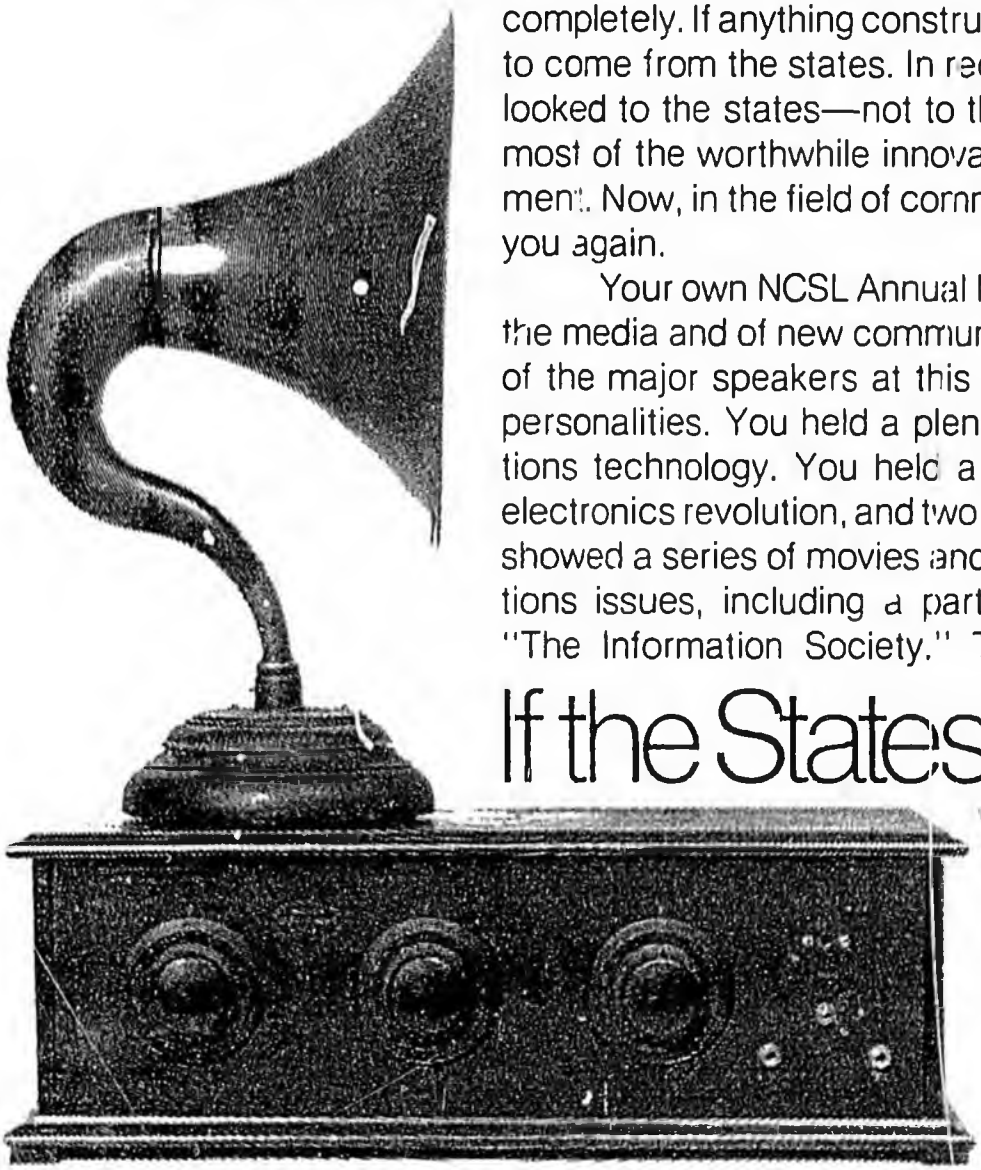
FURTHER RESOLVED that the legislature encourages commercial radio and television news coverage of the legislative sessions [by making equipment, space, and satellite time available to the private sector.]

A consumer advocate and former FCC commissioner argues that the federal government is turning its back on one of this decade's most fundamental issues. He says it's time for the states to respond.

Communications Policy:

I'm happy to see that state legislators are beginning to look carefully at the issues raised by communications technology and the mass media—because the job of dealing with those issues may be up to you.

The federal government appears ready to abdicate its responsibility for communications. Congress and the Federal Communications Commission are stumbling over each other to see which can deregulate most rapidly and most completely. If anything constructive is to happen, it will have to come from the states. In recent years, of course, we've looked to the states—not to the federal government—for most of the worthwhile innovations in politics and government. Now, in the field of communications, we must look to you again.



Your own NCSL Annual Meeting shows the impact of the media and of new communications technologies. Most of the major speakers at this year's meeting were media personalities. You held a plenary session on communications technology. You held a concurrent session on the electronics revolution, and two sessions on fiber optics. You showed a series of movies and videotapes on communications issues, including a particularly notable one called "The Information Society." The Legislative Information

If the States Don't Act, Who Will?

Nicholas Johnson

Needs Committee of your Assembly on the Legislature held a session on electronic media. Your computer applications staff section is addressing communications issues. The NCSL Denver office operates a computer-based Legislative Information System, which is being used more and more by legislatures across the country.

It's clear that state legislatures are starting to *use* new technology in their own operations. The next step, I think, is for legislatures to address some of the communications *policy* questions before this country. I realize that the states have not been called upon to address these issues in the past, but the times require that you address them now. We have already seen that communications technology has the power to reshape an entire culture—sometimes for the better, sometimes clearly for the worse. Surely *someone* has to confront the implications of that power. If that someone is not you, who will it be?

As you enter the world of communications policy, let me suggest a few basic points for your consideration.

The first may already be familiar to some of you, but it deserves emphasis here: We have become an information society. Over half of the gross national product in America is related to the information business; over half of the work force is employed in the information field. Information is what we do today, as a society and as an economy. It is the business of America. That fact has an impact on your job and how you do it; it has an impact on your children and their future; and, not least, it has an impact on your constituents—their lives, their work, their future.

The ways in which it has an impact are almost limitless, because every new technology has unintended consequences. When the automobile came along, Henry Ford didn't invent assembly-line processing in order to alter teenage courtship patterns in this country; that was a consequence of his innovation, but it wasn't the purpose of it. So it is with today's communications technology. Many of the people who produce and market this technology may simply be trying to make a buck—but in the process, they're causing a revolution as vast as those associated with the telephone and the automobile.

The point could be illustrated with any number of examples. Let us turn for a moment to the most obvious and significant one: broadcast television.

Television has taken over. It has become *what we do* as a people. Americans are watching television for an average of 30 hours a week per person—which means, of course, that many people are watching even more. That 30 hours is almost the equivalent of a full-time job; and the number of people who watch television—the number of people whose viewing habits are reflected in that average—is three times the national workforce. We work, we sleep, we eat—and we watch television. That is what we do as a human species, and that has obviously had an impact on us.

As technology develops, the impact will multiply. We have already seen the impact of television on the family. We will see the impact of new technology on education. We will see that it can be an alternative to transportation. (While in Atlanta to attend the NCSL Annual Meeting, I participated in more than 20 other conferences around the United States, via computer terminal—and you could do the same. At the same meeting, we saw a satellite demonstration that linked Atlanta with Alaska. And with the coming of holography, you can bring a three-dimensional image to the stage at your meeting—a speaker who can turn around and walk across your stage, but who will actually be in Los Angeles, Washington, Iowa, or any other point in the country.)

The potential of communications technology as an alternative to transportation means that it will also have—and is already having—an impact on work. More and more of the work done in an information society could as well be done out of the home. Why does a business person have to get into a $400 suit, climb into a $12,000 car and drive down a $10 million highway to go up in a $35 million office building to sit on the top floor and . . . answer the phone? Or do dictation? Or stand around and watch the computer? We can do all of those things at home. These facts are true for an ever-increasing number of American workers. The implications are not uniformly benign (a lot of people don't *want* their spouses at home all day long), but the facts are inescapable.

There are other kinds of impact: on medicine, on business, on farming—and on politics and governing.

Representative democracy is no longer technologically necessary. In the past, one primary reason for representation was the simple fact that not everyone could get on his horse and go down the muddy road to the state capitol. Today, of course, that consideration no longer applies. We still have a representative system of government; we still live in a world where most citizens do not choose to spend the time that elected officials spend on politics or on the in-

tricacies of complex political issues. But they could do it, and could make their votes heard—by radio, closed-circuit television, or computer teleconferencing. We *could* have direct democracy. That fact alters the way in which you approach your jobs.

As citizens begin to use more information, more often, one of the major problems we begin to confront is the gap between the information-rich and the information-poor. It used to be that the public library made available to everyone in our society, equally and at no charge, the informational riches of the kings. The library is still there, but it has been joined by a host of other information resources—not all of which are so readily available.

Not long ago I sat in front of a computer terminal called Lexis, which provides access to a body of legal material. It costs $125 an hour to use. How is a poor person going to get access to information like that? Will it be made available at the library? For free? If not, who will pay for it?

If no one is going to pay for it, and if the poor person can't get access to it, then you will have a widening gap between those who have information, which means power, and those who do not have information—or power.

One other issue must be mentioned, because it may be the single most pressing issue in communications today: the takeover of the democratic process by those who own and operate the means of distribution.

"Means of distribution" refers not just to over-the-air broadcasting, but also to cable television and satellites. The same thing is happening in each case, and it has an adverse impact on everyone: the poor, the working class, the consumers for whom I speak—and even the largest corporations in this country. We're talking about a situation where Mobil Oil can't buy time on NBC. We're talking about a situation where MCA, which owns Universal, can't buy space on a satellite.

Information is what we do today, as a society and as an economy. It is the business of America.

The current Administration talks about "unleashing the marketplace." Let me illustrate for you what the communications "marketplace" can look like. In Iowa City, Iowa, I sit on the Broadband and Telecommunications Commission. There are people in that city who would like to get Ted Turner's Cable News Network. It costs 15 cents a month. They're more than willing to pay 15 cents a month, so you've got a willing buyer and a willing seller. Under the free enterprise system, we ought to be able to pay 15 cents and get the Cable News service, right?

Wrong. The people running that cable system in Iowa City don't want to offer Cable News Network. And the cable system is controlled by a company in Denver, which in turn is controlled by a company in New York, and all of them have decided that Cable News Network will not be on that system. For the Cable News Network, there is no marketplace in Iowa City.

Somebody has to address this kind of problem, and it has to be the states—because nobody in Washington is doing anything about it. It's the communications issue of the hour: Will the people of this country—big business, small business, citizens, all of us—have *access* to these over-the-air stations, these cable systems, these satellites? Those who own the means of distribution say, in effect, "No, you won't have access. The power belongs to us. If you want to ship out your message by satellite, go buy your own rocket and launch your own satellite. If you want to broadcast a message over the air, go buy your own $50 million television station."

I say that's unacceptable. It may be permitted under a narrow and obsolete interpretation of the First Amendment, but it is totally at odds with the principles underlying the First Amendment. And I think our understanding of the First Amendment has to be modified and updated to suit this age of giantism in communications distribution networks.

In this case, as in many others, communications technology poses some of the sharpest questions before our country today. I hope that the states will be full partners in the search for answers.

***Nicholas Johnson**, an attorney who served as an FCC commissioner from 1966 to 1973, is chairman of the National Citizens Communications Lobby. The foregoing article was drawn from his remarks to a plenary session of the 1981 NCSL Annual Meeting in Atlanta. For further information, contact Nicholas Johnson, P.O. Box 1876, Iowa City, IA 52244.*

TELELINK
COMMUNICATIONS INC.

INFOCOM DIVISION

February 3, 1982

The Hon. Terry Martin
Chairman
House Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Mr. Chairman:

My name is Allen Blume, and I represent TELELINK Communications Inc., a new, Alaska-based firm that specializes in teleconference service delivery and general telecommunications consulting. The principals in TELELINK have better than twenty years experience in technical, economic, regulatory and user applications of telecommunications.

We strongly support the provisions of HCR56, especially sections (1), (3), (4) and the legislative coverage provision. Our testimony today will focus on these points, and what we feel are competitive trade barriers that we have met in attempting to do business with the state.

Item 1: The state should secure services from private enterprise or certified and franchised utilities and contract for system operations.

We agree. In the six months that TELELINK has been operational, we have contacted at least eighty of the divisions, sections, boards and commissions of the state to offer demonstrations of our Conference Message Exchange (CMX) teleconference service.

Our service provides:

- Moderated teleconferences
- On-line user training
- Optional automated teleconferencing
- Direct-dial access from any standard telephone
- Digital facsimile, computer text and slow-scan television interconnects
- Complete interconnectability with the Legislative Teleconference Network and Learn/Alaska.

By providing working demonstrations and free half-hour blocks of time to potential users we thought to encourage examination of our product, and stimulate innovation in problem solving by the agencies.

Mr. Chairman, it is no secret that the cost of state government has gone off the map, because of increased demand for services by the public. It is also no secret that one of the greatest single costs of government, in a state as large as Alaska, is travel in support of government operations.

This year the Governor and the Alaska Legislature have made public pronouncements about their intent to "hold the line" or "cut" this runaway spending. Yet, in none of these statements is there an offer or demand to look for efficiencies that will avoid impairing the necessary delivery of programs.

It is small businesses such as TELELINK, the growing mini-computer industry and other direct providers of telecommunications goods and services that will make the budget cuts feasible, without damaging essential programs.

Sec. 1 of HCR56 is a vital first step, but it must be carried out with enthusiasm and commitment. Agencies of the executive, legislative and judicial branch should be encouraged to use contemporary communications technology and providers to evaluate their existing medium with an eye towards improvement; and where they insist on traditionally inefficient techniques - be appropriately penalized.

In this same light, and although the measure is not before this committee today, we support HB 506 appropriating $40 million to a telecommunications revolving loan fund, with some changes.

Item 3: Regulatory and government barriers should be removed.

We agree. Yesterday we requested of the Director of Legislative Affairs Agency a memoranda outlining the applicability of provisions of Executive Order 50 realigning state telecommunications services, to the operations of the Legislative Teleconference Network.

While we recognize that the legislature is an entity unto itself for certain purposes, it seems inconsistent that some levels of government would be bound by standards of fairness and economic equity, while others are not.

We would hope that the provisions of Sec. 3 would be equally applied to all branches of government.

Item 4: Alaskan firms should receive first consideration.

Again, we agree. We would not rule out use of other qualified firms, but obviously it is in the state's economic and social interest to promote local enterprise.

Legislative Coverage: In this we also concur, but would suggest that this scope of activity be broadened to encourage other technologies to enhance the operations of legislative reporting services; individual newspapers and other related community information programs.

Sincerely,

Allen D. Blume
Marketing Associate

TELELINK
COMMUNICATIONS INC.

CONFERENCE MESSAGE EXCHANGE (CMX)

TELELINK's new CMX service is an innovative approach to providing business and government with a cost-effective alternative to escalating travel expenses and lost executive productivity. CMX is a teleconferencing system reached by dialing from any standard telephone set, and, does not require the use of operator handled calling, eliminating special charges and delays. Besides helping managers to save on tight travel budgets, CMX may actually increase office productivity because of it's time saving nature.

TELELINK's CMX services are tailored to assist both large and small organizations in an easy to use, affordable manner. Our on-line telemoderator assists the customer in teleconference set-up, monitors line quality, and assures a successful conference. With TELELINK's CMX service, access to a world of new and timely methods for conducting business are as close as your telephone.

SERVICES

CONFER-CALL -- CONFER-CALL is used for general teleconferencing. It is oriented towards staff, board, committee, sales, or field office meetings needing fast, economical connections from multiple locations. CONFER-CALL is also ideally suited for special applications such as; new product promotions, political caucuses, workshops, seminars, and training sessions.

AUTO-CALL -- AUTO-CALL provides CMX users with cost saving teleconferencing during off peak hours. AUTO-CALL is for CMX users who do not require a telemoderator. Associations, professional groups or others not needing teleconferencing during the normal working day can use the fully automated CMX AUTO-CALL service.

DATA-CALL -- DATA-CALL is used to enhance an audio teleconference with computer graphics, visual materials and is especially use ful for conference notes, agendas, and records. Customers use their own data terminals, word processors or facsimile machines. DATA-CALL can be used in conjunction with other CMX services providing the hard copy needed during meetings.

RATES

CONFER-CALL -- $.380 per minute, per location with 1/2 hour minimum. Reservations are required at least 72 hours in advance. A $50 fee will be charged for cancellations within 24 hours of scheduled times.

AUTO—CALL -- $.275 per minute/per location with a maximum of 16 participants. AUTO-CALL is available from 8:00 pm PST until 6:00 am PST. Reservations are required.

DATA—CALL -- Prices for DATA-CALL are quoted separately and may vary according to the type of data equipment used.

OTEER CMX SERVICES AND RATES

RECORDING AND CONFERENCE TRANSCRIPTION -- TELELINK will provide users of CMX services with a master cassette tape or type transcriptions of teleconferences. $12 per cassette or $10 per transcribed page.

CALL—OUT CONFERENCE REMINDERS -- Teleconference reminders or conferee additions can be handled by our CALL-OUT service. $2 per call and any long distance charges.

CUSTOM TELECONFERENCE INSTALLATIONS -- TELELINK will install customized, in-house teleconference equipment selected from several types of equipment and systems. Lease or purchase options are available.

TELEPHONE COMPANY CHARGES -- TELELINK is not responsible for telephone company local or long distance charges. TELELINK has made every possible effort to configure it's CMX service so that customers telephone calling charges are minimized. On request, TELELINK will make arrangements for customers with special billing requirements.

JUNEAU EMP

"The Voice of Alaska's Capital City"

75 NO. 246 JUNEAU, ALASKA, THURSDAY, DECEMBER 17, 1981

Firm sets up phone conferences

By Empire Staff

Stuart Browne and Allen Blume say they are selling a "mechanism of efficiency" in the form of a new, direct-dial teleconferencing service for Alaska and the Pacific Northwest.

The Conference Message Exchange provided by Telelink "is specifically designed for busy executives, agency directors or citizen participants who find themselves on the road to meetings and conferences, when they need to stay at their desk doing work," Browne said.

Telelink provides a teleconferencing bridge capable of linking up to 13 separate locations into a common conversation by simply placing a direct-dial long distance or local call, said Blume. When the system is fully operational, it will have the capability to tie in 23 locations at once.

No special equipment, just a telephone is required, to be connected into the system for a teleconference call. It can work "any place in the world there's a telephone," said Blume.

The service is "not absolutely replacing travel. ... You still need eyeball-to-eyeball contact," said Blume. Use of the system, however, can greatly reduce travel time, expenses and intangibles such as employee fatigue, said Blume.

The system works much like the Legislature's teleconference system, but it does not require individual teleconference locations — just a telephone

Estimates of a teleconference cost per-port, per-hour is generally between $60 and $75 based on the long-distance tolls for the points connected. Thus, a teleconference including Anchorage, Fairbanks, Kodiak, Bethel, Kotzebue, Barrow and Juneau would cost roughly $310 in long-distance tolls, plus $150.60 for Telelink's service, said Blume.

Contrast that with travel expenses that include round-trip airfare, ground transportation, hotel accomodations, meals, entertainment and factors such as lost performance in the office, missed travel connections and last minute changes in meeting locations or agendas, says Blume.

Telelink's office in the Assembly Building acts as a nerve center for the teleconferencing.

Participants call Telelink and then carry the long-distance charges themselves, said Blume.

There are limitations to the use of the teleconference system, Blume added. Those include the loss of visual cues, the need for agendas to be prepared and circulated in advance, and a need for the person presiding over the meeting to be sensitive to the participants. Blume and Browne advise that one-way presentations not exceed five minutes without some inquiry for questions and comments.

Demonstrations to state agencies and private business have been met with a "very enthusiastic response," said Blume. "We're looking at shrinking the distance in Alaska through this kind of medium."

Browne, who is president of Telelink, is a former telecommunications planner with the Department of Transportation and Public Facilities. Blume is a former legislative employee.

Special phone conference comes to Ak

Stuart Browne, president of TELELINK Communications Inc. has announced the inauguration of a direct-dial teleconferencing service for Alaska and the Pacific Northwest.

"Our new Conference Message Exchange service is spec[illegible]signed for busy exec[illegible]directors or cit[illegible] find they need to stay at their desk doing work," Browne said.

Telelink's CMX is a state-of-the-art teleconferencing bridge capable of linking up to 2[illegible] separate locations into a com[illegible]mon meeting point by simpl[illegible] placing a direct-dial long di[illegible]tance or local call.

"In normal use, we can off[illegible] four separate and simultaneous conferences using eith[illegible]ce or data as the commu[illegible]

Anchorage Daily News Wednesday, November 25, 1981 C3

business notebook

Conference system links 25 stations

TELELINK Communications Inc., of Juneau has inaugurated direct-dial teleconferencing services for Alaska and the Pacific Northwest. TELELINK's Conference Message Exchange (CMX®) service is a state-of-the-art teleconferencing bridge capable of linking up to 25 separate locations into a common meeting point by placing a direct-dial long distance or local telephone call.

"We've demonstrated the service to a wide variety of state [illegible]sers, and

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Alaska gets teleconference service

Direct-dial teleconferencing service for Alaska and the Pacific Northwest has been inaugurated by Telelink Communications Inc. of Juneau.

Stuart Browne, president, said the new Conference Message Exchange (CMX) service is designed for executives, agency directors or citizens who find themselves on the road to meetings and conferences "when they need to stay at their desk doing work."

The service, he said, is capable of linking 25 separate locations to a common meeting point by placing a direct-dial long distance or local call.

"In normal use, we can offer four separate and simultaneous conferences using either voice or data as the communications medium," Brown said. "The equipment automatically compensates for low signal levels, and gives the impression that teleconferees are not hundreds of miles away but in the next room."

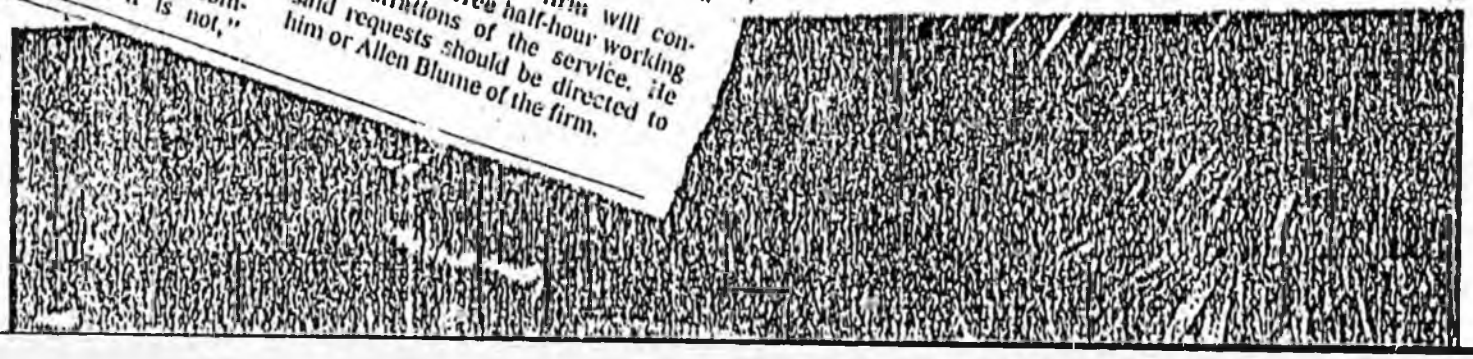
The firm said the service has been demonstrated to a variety of state and private sector users with favorable reactions.

"A lot of people tend to see teleconferencing as a threatening, complicated process, when it is not," Brown said.

He describes the CMX as an extension of the telephone "a most essential tool in the office.

"Instead of placing one call at a time, we offer the opportunity for you to talk to many people simultaneously, saving time, confusion and money."

Browne said the firm will continue to offer free half-hour working demonstrations of the service. He said requests should be directed to him or Allen Blume of the firm.



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ECORDER™

Teleconference gets messages out quickly

by Martin Merzer
Knight-Ridder Newspapers

How can you reach a lot of people, in many cities, all at the same time and in a memorable manner?

By satellite, that's how.

The same technology that has made it possible to laugh with the Chicago Cubs and cry over the New York Mets in the privacy of your own home now offers public relations and marketing types a new vehicle for reaching thousands of people simultaneously in scores of cities.

Called "teleconferences," these closed-circuit, satellite-beamed affairs are being used by companies of all descriptions to transmit their sales-motivational sessions and promotional messages.

The programs can originate in virtually any city. Then, they are bounced off satellites (the same satellites that transmit programming to cable-TV companies) and are received in any other large or medium-sized city in the United States.

"This is the coming thing," says Steve Sinsheimer, satellite network coordinator for Jim Sant'Andrea Inc. of New York City. "It's growing and growing every day."

Sinsheimer's company, one of several that now specialize in producing these affairs, last fall handled a 59-city extravaganza for Norwegian Caribbean Lines.

The company was interested in promoting its 1982 cruise schedule and marketing programs, and more than 6,000 travel agents throughout the United States were exposed to that information simultaneously and in high style, according to Fran Sevcik, an NCL spokeswoman.

"Traditionally, a lot of cruise lines, including NCL, have done road shows, but to hit so many places would have taken months," she says. "This way, we not only were able to broadcast the information, but we also had a phone-in system so we could get questions and other feedback."

A similar two-way system was used by the Ford Motor Co. to link up 102 cities for a press conference that promoted the company's 1982 automobiles. An estimated 700 reporters attended the sessions, which were broadcast over a hook-up operated by Hi-Net Communications, a division of Holiday Inns Inc.

"This is a new technology, a new way of doing business," says Mike Davis, a Ford spokesman. "It costs a good bit of money, but we get to a lot of people."

Sinsheimer says costs vary, depending on the scope and nature of the program, but a simple show, beamed to 20 cities, can be bought for about $100,000.

In fact, he says, almost any company can afford it.

F

Introduced: 1/29/82
Referred: Labor & Commerce and Finance

IN THE HOUSE

BY THE LABOR AND COMMERCE COMMITTEE

HOUSE CONCURRENT RESOLUTION NO. 56

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

Relating to the policy of the legislature concerning telecommunications.

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

WHEREAS a significant and increasing amount of public money is beirg invested in telecommunications systems; and

WHEREAS the private sector that deals in Alaska telecommunications has faced increasing competition from government as a result of increasing state wealth and expenditures for telecommunications; and

WHEREAS the private sector is the foundation and vitality of the American economic system; and

WHEREAS state government should encourage private enterprise and incentive; and

deleted

WHEREAS the Alaska State Legislature has not adopted a policy regarding the burgeoning telecommunications system;

BE IT RESOLVED that the Alaska State Legislature shall consider the following guidelines when considering telecommunications ~~appropriations~~ legislation:

(1) to the extent possible, the divisions of telecommunications should procure ~~services~~ from private enterprise or certified and franchised utilities and contract for the construction, management, operation, and maintenance of telecommunications systems; cost effective

(2) ~~to the extent possible~~, the divisions of telecommunications should ~~reduce or~~ eliminate airwave interference of state-owned or financed stations with privately owned and operated cable television stations;

(3) unnecessary regulatory and government barriers which impede growth and development of new and innovative services by the private sector

should be removed;

(4) companies owned ~~and~~ or operated by residents of Alaska and based in Alaska should be considered before companies from other states when telecommunications goods or services are needed from the private sector;

(5) Alaska's villages should have the opportunity to own, operate, and maintain their own satellite earth stations or contract with private sector for operation & maintenance;

(6) in-state programming beneficial to both urban and rural residents should be cost effective and the production of these programs should be available to the private sector on a contract or bid basis; and be it

FURTHER RESOLVED that the legislature encourages commercial radio and television news coverage of the legislative sessions, ~~by making equipment, space, and satellite time available to the private sector.~~

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HCR 56
Title Relating to Policy of the Legislature concerning Telecommunications
Requested by House Labor and Commerce Committee Date February 3, 1982

II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected Telecommunications
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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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 Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

HCR 56 would have no fiscal impact on the Department of Administration.

IV. Date February 3, 1982 Prepared by Alex Mills
Agency Administration
Phone 465-2200

Originals: Legislative Finance
cc: Budget and Management
Joe Sumner (First Legislative Council)
Office of the Governor: Keith Specking
Labor and Commerce Committee

38-001 (Rev. 12/81)

HCR
56
E.O. 50 ek
STATE-
WIDE
TELECOMMUNICATION

kska Anchorage

fm103

February 2, 1982

Representative Terry Martin
Pouch V
Juneau, AK 99811

Dear Representative Martin:

Please consider giving your support to the Alaska Public Broadcasting Commission's Capital Improvements Budget Request for fiscal year 1983. The amount of this request is $2, 29,500.00. It will fund improvements at existing public radio and television stations all over the state.

KSKA is, as I hope you know, Public Radio in Anchorage. Our portion of this budget request amounts to $108,000.00. We will use this money for the following things:

1. "Translators" for Bird, Indian, Willow, Wasilla, and Talkeetna. A combination of geography and radio technology now makes it impossible for these communities to hear KSKA. We have had numerous requests for service from residents of these communities. These translators will bring our signal to them.

2. A new production studio - we have in the last year made a major effort to increase public involvement in the sound of KSKA. We now have approximately 75 individuals producing our programming as unpaid volunteers. About 37% of KSKA's air time is filled with programming produced by Anchorage citizens. Most of these volunteers pre-tape their shows prior to broadcast. This is done in our existing production studio. This facility is presently being used almost constantly from 8:00 [illegible] to 11:00 P.M., seven days a week. We need an additional production studio to allow even more Anchorage residents to produce public radio at KSKA.

3. A remote broadcast kit - this will allow us to broadcast live entertainment and public affairs events in the Anchorage area. This is part of an attempt on our part to become more responsive to the community we serve.

I think it is also important for me to point out that we are not just seeking our funding from government sources. Below is this years revenue mix for KSKA:

APBC	185,300	44%
CPB (FED)	55,000	13%
PRIVATE SOURCES	182,000	43%

Grant Hall, A.P.U., Anchorage, Alaska 99504 Telephone (907) 276-3000
Aurora Community Broadcasting, Inc., a non-profit corporation funded in part by the Alaska Public Broadcasting Commission

In addition, we are attempting to raise from private sources $100,000.00 this year to purchase a new transmitter. As you may know, one of KSKA's biggest problems has been a weak signal. We expect very soon to receive approval from the F.C.C. to greatly increase our signal strength. As I said, we hope to accomplish this without seeking funds from the state.

I have enclosed copies of our program guide, and our portion of the APBC Budget Request. If I can help you in any way, please call KSKA at 276-3000. Also, Charlie Northrip, Executive Director of APBC, will be happy to provide any additional information you need.

Thank you for your attention. I hope you can help us in some way.

Sincerely,

M. MENSE

Mike Mense,
President
Aurora Community Broadcasters, KSKA

Project Title	Location(s)	Election Districts Served	Start Date	Completion Date
KSKA: Production Equipment;SCA;Translators	Anchorage/Bird/ Indian/Willow/Wasilla/ Talkeetna	7-12; 6; 13	Sept.1, 1982	June 30, 1983

AGENCY REQUEST			Operational Cost & No. Personnel Increase -- (Decrease)		First Operating Year '84	Ultimate Annual Year '84	GOVERNOR'S REQUEST Approved	Deferred	Disapproved
1002	Federal Receipts		Funding Source	Federal Receipts			1002 Federal Receipts		
1003	G/F Match			General Fund	10.0	10.0	1003 G/F Match		
1004	General Fund	108.8					1004 General Fund		
1005	I/A Receipts						1005 I/A Receipts		
	G.O. Bonds		Total Annual Operational Cost		10.0	10.0		G.O. Bonds	
			Position (FTE)		0	0			
			Previous Year Priority	Agency Priority		Governor's Priority			
	Total	108.8	NA	83- 9				Total	

PROJECT DESCRIPTION

This project will create a second production control room at KSKA, which will result in increased local program production.

It will also provide improvements in equipment in already existing production facilities at the station, thereby increasing the capabilities of those facilities as well.

A separate and unique portion of the project will purchase equipment that will provide a radio reading service for the blind. This special program service will be broadcast as a part of the station's main signal but will only be capable of reception by special receivers.

The largest single portion of the project will allow the purchase and installation of translators to make the KSKA signal available to the following areas: Bird; Indian; Willow; Wasilla; and Talkeetna.

The project will also provide funds for the purchase of a remote production kit, for use by all public stations in the State.

35a PROJECT DESCRIPTION -- PROPOSED CAPITAL PROJECT

01-1143 (7-81)

CATEGORY General Government

AGENCY Dept. of Administration

PROGRAM Telecommunications

Alaska Public Broadcasting Comm.

Revised Date

FY 83

Capital Project Expenditures (Cash Flow)	Total	Budget Year	Budget Year Plus 1	Budget Year Plus 2	Budget Year Plus 3	Budget Year Plus 4	Remaining Cost
Planning and Engineering							
Land							
Construction							
Equipment	108.8	108.8	0	0	0	0	0
Administration and Other							
Total Annual Expenditure (Capital Cost)	108.8	108.8	0	0	0	0	0

Project Justification

DISCUSSION OF THE NEED FOR THE PROJECT

KSKA's current on-air and production facilities require the replacement of turntable preamps, audio tape recorder heads and other items in order to maintain a level of technical quality expected of FM broadcasting. In addition, the station's major commitment to news and public affairs requires the purchase of additional equipment to be used in electronic news gathering.

KSKA, existing as it does in the State's largest population area, deals with large numbers of volunteers who participate in the production of KSKA programs. That large volume now requires a second production facility in order to utilize all of the talent available.

Similarily, because of its location in a large population area, a significant number of blind citizens are within KSKA's listening area. The subcarrier generator proposed by KSKA to provide a reading service for the blind will provide the only such service in the entire state.

As stated in forms 31 and 32, the APBC's philosophy is to use translators wherever possible to extend the reach of public broadcasting. KSKA proposed to extend its service to the communities of Bird, Indian, Willow, Wasilla and Talkeetna. Without the translators, those communities would not receive an acceptable public broadcast signal.

The remote production kit will be held by KSKA (due to its central location) and provided to any public station requesting its use for the production of remote programs that could be provided, via the Public Radio Network, to all other stations.

Project Type

- ☐ Building Construction (C)
- ☐ Other Improvement (I)
- ☒ Equipment (E)
- ☐ Land (L)
- ☐ Professional Services (P)
- ☐ Other (O)

Project Characteristics

- ☐ Totally New Facility
- ☒ Addition to Existing Facility
- ☐ Renovation of Existing Facility
- ☐ Major Maintenance or Repair
- ☐ Supplement Previously Authorized
- ☐ Funds to Enable Completion
- ☐ One of Several Phases
- ☐ Major External Funding Source
- ☐ Other

Site Features

NO	YES	
☐	☒	Site Currently Owned?
☐	☒	All Utilities Available?
☐	☒	Access Already Available?

PROJECT TITLE KSKA

CATEGORY General Government

AGENCY Dept. of Administration

PROGRAM Telecommunications

Alaska Public Broadcasting Commission

Revised Date

FY 83

35b PROJECT JUSTIFICATION
PROPOSED CAPITAL PROJECT

Capital Project Expenditures (Cash Flow)	Total	Budget Year	Budget Year Plus 1	Budget Year Plus 2	Budget Year Plus 3	Budget Year Plus 4	Remaining Cost
Planning and Engineering							
Land							
Construction							
Equipment	108.8	108.8	0	0	0	0	0
Administration and Other							
Total Annual Expenditure (Capital Cost)	108.8	108.8	0	0	0	0	0

Project Justification

With all stations interconnected by a high fidelity stereo satellite system, concerts, cultural events, and dramatic presentations could be taped or broadcast live from one location to all others in the State.

DOCUMENTATION OF ESTIMATED CAPITAL COST

The estimated costs for this project are based on list prices.

ANALYSIS OF OPERATIONAL EXPENSE

The $10,000 estimated is to cover the cost of routine maintenance on the translator facilities. It is anticipated that KSKA would contract this maintenance to individuals in the vicinity of each translator at a cost not to exceed $2,000 per year.

IDENTIFICATION OF ALTERNATIVES CONSIDERED

Alternatives for additional production facilities and for the reader service for the blind would call for separate stations to serve the blind population and to create additional programs. That alternative is obviously far more expensive than the one selected. Similarily, separate independant stations could provide public broadcast programming to the communities proposed for signal translators. Again, the cost for separate independent stations is far greater than the cost of translating the KSKA signal.

Project Type

- ☐ Building Construction (C)
- ☐ Other Improvement (I)
- ☒ Equipment (E)
- ☐ Land (L)
- ☐ Professional Services (P)
- ☐ Other (O)

Project Characteristics

- ☐ Totally New Facility
- ☒ Addition to Existing Facility
- ☐ Renovation of Existing Facility
- ☐ Major Maintenance or Repair
- ☐ Supplement Previously Authorized
- ☐ Funds to Enable Completion
- ☐ One of Several Phases
- ☐ Major External Funding Source
- ☐ Other

Site Features

NO	YES	
☐	☒	Site Currently Owned?
☐	☒	All Utilities Available?
☐	☒	Access Already Available?

PROJECT TITLE KSKA

CATEGORY General Government

AGENCY Dept. of Administration

PROGRAM Telecommunications
Alaska Public Broadcasting Comm.

Revised Date

FY 83

35b PROJECT JUSTIFICATION
PROPOSED CAPITAL PROJECT

Capital Project Expenditures (Cash Flow)	Total	Budget Year	Budget Year Plus 1	Budget Year Plus 2	Budget Year Plus 3	Budget Year Plus 4	Remaining Cost
Planning and Engineering							
Land							
Construction							
Equipment	108.8	108.8	0	0	0	0	0
Administration and Other							
Total Annual Expenditure (Capital Cost)	108.8	108.8	0	0	0	0	0

Project Justification

COST DETAIL

Production Equipment	52,100
SCA Generator	3,000
Translators 5 at 8,000 ea	40,000
Remote Kit	13,700
TOTAL	108,800

Project Type

- ☐ Building Construction (C)
- ☐ Other Improvement (I)
- ☒ Equipment (E)
- ☐ Land (L)
- ☐ Professional Services (P)
- ☐ Other (O)

Project Characteristics

- ☐ Totally New Facility
- ☒ Addition to Existing Facility
- ☐ Renovation of Existing Facility
- ☐ Major Maintenance or Repair
- ☐ Supplement Previously Authorized
- ☐ Funds to Enable Completion
- ☐ One of Several Phases
- ☐ Major External Funding Source
- ☐ Other

Site Features

NO	YES	
☐	☒	Site Currently Owned?
☐	☒	All Utilities Available?
☐	☒	Access Already Available?

PROJECT TITLE KSKA

CATEGORY General Government

AGENCY Dept. of Administration

PROGRAM Telecommunications

Alaska Public Broadcasting Comm.

Revised Date

FY 83

35b PROJECT JUSTIFICATION
PROPOSED CAPITAL PROJECT

A Christian school in spectacular Southeast Alaska

Sheldon Jackson College

P.O. Box 479 • Sitka, Alaska 99835
Telephone (907) 747-5220

January 22, 1982

Representative Terry Martin, Chairman
House Labor and Commerce Committee
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Representative Martin:

I have been provided a copy of your December 14, 1981 memorandum to Bill Barrier of Legal Services ". . . requesting a draft of a House Consurrent Resolution spelling out the committee's policy on statewide telecommunications." I recognize this was written as a draft and that legislation might differ significantly in its final form.

In addition to teaching television, managaing a TV translator station and having a pending application for another license, I am a subscriber to a quality TV cable service. We have good service in Sitka and we appreciate it. Howe. r, I believe there must be a balance maintained between commercial and state-supported telecommunications systems. As I read the memo, it truly reflects the interest of the commercial enterprises rathern than the bests interest of the general public.

I have some reservations about many of the individual suggestions in the memo. However, I would like to address two that appear to violate the best interests of Alaskans - especially those in rural Alaska.

First, the reduction of airwave interference baetween state-owned and private facilities appears on the surface to be a good suggestion. However, we must consider what has prompted this suggestion. Licensed stations have priority and legal rights to specified channels in a community. Cable channels are flexible and can be switched as they wish. However, when all channels are used (as most are now with most cable companies), then a scrambling for space on the dial results. The request of the cable companies to put translator and low power stations on UHF is telling the educational/instructional staitions they are really step childs. People just won't search on the UHF dial (channels 14-83) which would render their outstanding services useless.

Sure, there should be less interference (normally caused by cable stations transmitting on the same channel as the over-the-air broadcasts. However this problem could be resolved by having cable companies expand their channels as is being done in many "down south" communities.

Secondly, smaller stations should have the right to carry commercials. To have to delete all the pre-recorded commercials from programs originating elsewhere would be totally impractical and is not required by their licenses. Also, the new TV licenses being received by the Learn/Alaska network are for Low Power which allows stations to originate local programming including commercials. Although we don't plan to originate commercials on our two low power stations in Sitka, it would be unwise to impose "artifical regulatory and government barriers" on local incentive. Commercials, in addition to generating some local funds to operate these small stations, can be beneficial to viewers wanting or needing this information.

To ban all commercial advertisements on state-funded facilities is impractical and unwise. To do so will either prompt violations or they will be called by another name such as "corporate underwriting."

Thanks for listening. I would be most pleased to provide additional information if you need it.

With best regards,

Dan Etulain Ph.D.
Director of Telecommunications

DRE/d

cc: Dr. Charles Northrip, Executive Director, Alaska Public Broadcasting
Commission

MEMORANDUM State of Alaska

TO: Members of the Alaska Legislature
State of Alaska

DATE: February 3, 1982

FILE NO:

TELEPHONE NO: 465-2846

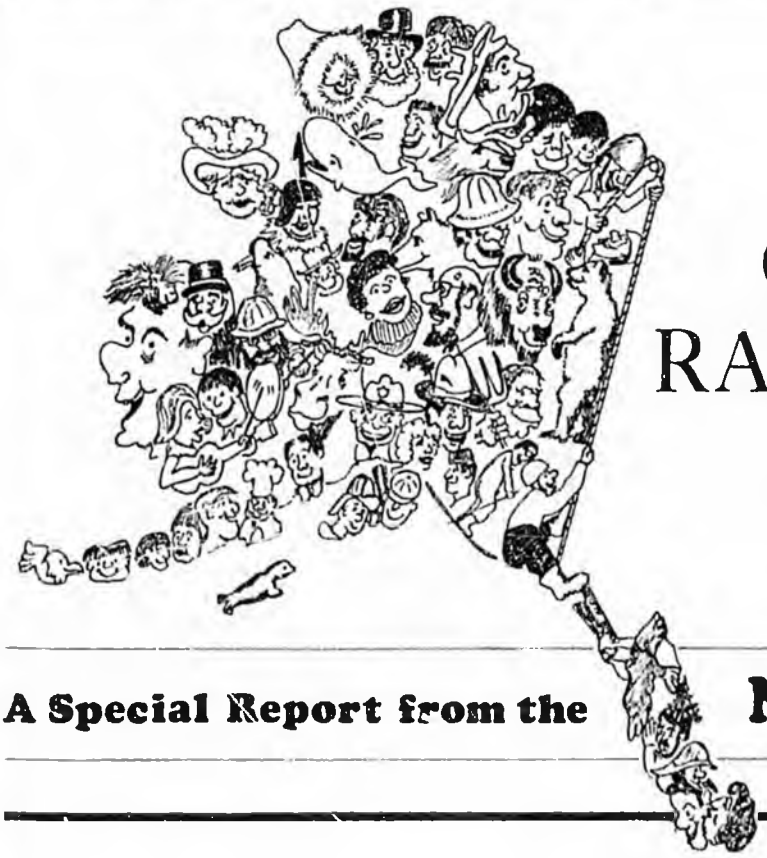
FROM: Charles M. Northrip
Executive Director
Alaska Public Broadcasting Commission
Department of Administration

SUBJECT: NFCB Newsletter Supplement

The National Federation of Community Broadcasters recently published a special supplement dealing with Alaska public stations. Enclosed with thi memo are copies of "Community Radio In Alaska" for your information. The supplement provides an excellent summary of the services public radio stations provide to their communities.

Some portions of the supplement refer to the Alaska Public Broadcasting Commission's long-range plan for Public Broadcasting in the State. The first edition of that plan has now been approved by the Commission and is being printed. As soon as they are available, copies of that document will be made available to you, as well.

Mary
For our file
Speaking of our commission



COMMUNITY RADIO IN ALASKA

A Special Report from the NFCB NEWSLETTER

In Alaska, there are radio stations found where roads do not go, and where airplanes deliver groceries. They provide the listeners with the only mass media available, and are often called upon to provide more than traditional radio services. They are called bush stations.

BUSH RADIO

BY LES ROBINSON
Manager, KDLG, Dillingham

Each day, KDLG's powerful AM transmitter beams its signal over the mountains to dozens of remote villages, and across Alaska's Bristol Bay and the Bering Sea to small islands and lonely ships. Thousands of radios are tuned to the only signal coming from and reaching into this isolated part of the world. The station's studios are located inside the high school building, on one of the unnamed dirt streets, in the tiny village of Dillingham. The rest of the station — its listeners — is found scattered over an area larger than Ohio.

Molly works for the Fish and Game office in Dillingham but spends her lunch hours at KDLG translating news, social events, and flying doctor announcements into the language of the Eskimo. Although many speak English, Yupik Eskimo is the first language for most.

From Dillingham, it is a fifty-minute airplane ride to the village of Togiak. Twilly is on the high school wrestling team there. His school sent him off to study KDLG for a week. By Friday, he was an old hand at broadcasting the news. Whenever Togiak wrestles in Dillingham, Twilly takes a break between matches and sends the scores home via the radio station.

The village of Manokotak has given Mr. Arkanakyak the responsibility of gathering from each resident the date upon which they were born. He then arranges the names according to dates, and delivers the list to the radio station. He does this each month, to ensure that no villager's name is omitted from the *Birthday Show*.

There is only one teacher at the Aleknagik schoolhouse. Both he and his students monitor the radio each day at recess time. If the announcer reports a temperature colder than forty-four below, the disappointed youngsters must spend their play time inside.

Virginia works at the hardware store. Each summer she complains that there are no more batteries for sale. The fishing people buy them all up. Thousands of commercial fishing vessels aim their antennae at the Dillingham station to hear State of Alaska fishing announcements, and the all-important marine weather forecasts. One woman wrote that after three months on the water, she would have gone "bananas" without the radio.

K.C. spends her day answering the KDLG telephone.

Continued on next page

Continued from preceding page

She takes hundreds of messages and announcements which arrive from crackling radio telephones found in some spots, and from pilots who hand carry notes from village to village. When the weather is bad the radio is called upon to deliver the mail. "To Bill in Koliganek: From Martha at Kanakanak Hospital . . . You are a daddy, we had a baby girl this morning. We are both fine. Love and miss you," is typical.

As the only station, people depend on radio as their primary source of news. National Public Radio programs bring the outside world closer. Alaska Public Radio Network programs help tie the listeners to other parts of the state. Local news is gathered by telephone, mail, snow machine, the news director's airplane, bush pilots, and occasionally by sled dog.

Danial is the election supervisor in a village one hundred and fifty miles from KDLG. One day in the fall he appeared at the station to announce that Jimmy Carter had carried his town by two votes. Unconcerned that election day was not until tomorrow, Danial explained that the citizens were worried the results would not reach the radio station in time to be reported on election day. Everyone had agreed to vote a day early.

People use the bush stations as their newspaper, telephone, mail service, jukebox and bulletin board. The radio is no good unless people can use it. The work of the bush station is to make that easy.

HISTORY OF PUBLIC RADIO IN ALASKA

BY CHARLES M. NORTHRIP *Executive Director, Alaska Public Broadcasting Commission*

While noncommercial broadcasting in the United States can trace its origins to the earliest turn-of-the-century experimentation in radio, public broadcasting in Alaska is a fairly new development. Several commercial broadcasting pioneers operated stations in Alaska's territorial days, but the first public station did not begin service until three years after statehood.

THE BIRTH OF ALASKA PUBLIC BROADCASTING

KUAC, an FM station licensed to the University of Alaska in Fairbanks, signed on in September, 1962. The station began as a joint effort of the University's Departments of Speech and Drama and Electrical Engineering. It was among the first 65 stations in the US to qualify to receive support from the new Corporation for Public Broadcasting in 1969. It was also a charter member of National Public Radio.

Interest in public broadcasting on a statewide level was sparked in 1962 by the passage of the first federal assistance program for public television: the Educational Television Facilities Act. While this funding was not pursued, during the ensuing years several proposals to create an Alaska Educational Broadcasting Commission were presented to the state legislature.

After the proposed legislation failed in 1967 and 1968, the governor appointed an educational broadcasting committee instead, with Charles M. Northrip of KUAC-FM as its first Executive Director. Short-term funding for the committee's work was provided by the Department of Education and by the Rockefeller Foundation, and free office space offered by the University of Alaska in Fairbanks.

In 1969, the possibilities of satellite distribution of educational material provided a higher level of visibility for the committee's work, and legislation virtually identical to that which failed in 1967 and 1968 passed the state legislature in 1970. Funding for the Alaska Educational Broadcasting Commission began in July, 1970.

PRECEDENTS FOR STATE SUPPORT

The need for radio service in Alaska's rural areas was apparent to the new Commission. In December of 1969, still working as a governor-appointed committee, they had begun discussion of an idea for a public radio station in Bethel to serve the vast and sparsely-populated area of southwest Alaska. By April of 1970, a nonprofit corporation had been formed to act as licensee for the new station, the governor's office had requested state funds for a portion of the equipment costs, and Northrip had submitted an application to the FCC for an AM radio station construction permit and an application to the new, broadened Educational Broadcasting Facilities Program (EBFP) for federal assistance in the purchase of equipment for the station.

The creation of a nonprofit corporation to serve as the licensee for the Bethel station set an important precedent for the way in which state support for public broadcasting would be accomplished in Alaska. State

funds for equipping and operating stations were to be appropriated to the new Alaska Educational Broadcasting Commission (AEBC). The creating legislation, however, prohibited the AEBC from being the owner, operator or licensee of any station or production facility unless "no other competent contracting agency exists."

The formation of the community nonprofit corporation in Bethel created an entity which could receive funds for the station from the state. More importantly, such a corporation — formed solely to operate a public station, and governed by a board of local people whose primary interest was the service such a station could provide to the local area — set a pattern for similar developments in other communities, and provided the solid community-oriented base that is now one of the outstanding features of public broadcasting in Alaska.

A DECADE OF DEVELOPMENT

With the state legislature's commitment to public broadcasting in 1970, the ensuing decade was a period of extraordinary development. KYUK in Bethel went on the air in May, 1971. The station used an AM frequency to cover the many villages within a hundred-mile radius of the transmitter. News and other programs both in the Yupik Eskimo dialect and in English were among the unique aspects of its program schedule.

Plans were also starting for other stations. In early 1971, a meeting arranged by the Alaska Educational Broadcasting Commission in Kotzebue resulted in the formation of a local committee to explore ways to bring public radio to that area. KOTZ, patterned on the Bethel organizational model, signed on in March, 1973.

First "Community" Stations. Capital Community Broadcasting in Juneau was incorporated in 1972 and was the first local nonprofit corporation to offer membership in the governance of its proposed station to the general public. In early 1974, KTOO-FM began operating at a power of 10 watts. The station became CPB-qualified in 1977, increased its power, and upgraded its studio facilities in 1978.

In 1974, the Alaska legislature took the initiative in station development and appropriated start-up funds to the AEBC for two new stations, without a request from the Commission. KBRW in Barrow went on the air at 10,000 watts in December, 1975 and KMXT-FM in Kodiak began broadcast at 3000 watts in June of 1976. Kodiak Public Broadcasting, Inc. operated as a membership nonprofit corporation, while Silak-Kuagvik Communications, Inc. in Barrow followed the Bethel and Kotzebue model of a nonmembership local corporation.

The only exceptions to the rule that Alaska public stations are owned by local nonprofit corporations are KUAC, the university station in Fairbanks, and the Dillingham public radio station. KDLG-AM is owned by the Dillingham City School District and operates at 5000 watts. Since its inception, however, the station has had a community advisory board to oversee its programming to the Bristol Bay area. The station began broadcasting in July of 1975, with a grant from the Elementary and Secondary Education Act. Its operating costs are now partially supported by the Commission, much as is the case with all other public stations in the state.

Continued Growth. The most rapid period of growth has been in the last five years, with eight new public stations beginning operations.

- KRBD in Ketchikan signed on in May, 1976 as a ten-watt local membership-supported operation, and increased power to 7000 watts in 1979.
- KSTK in Wrangell began in July, 1977 as another ten-watt FM based on the KTOO model, and raised its power to 3000 watts in 1979.
- Petersburg's KFSK signed on in August, 1977.
- KSKA, the 3000-watt station of Aurora Community Broadcasting in Anchorage, signed on a year later.
- Katchemak Bay Broadcasters in Homer put 5000-watt KBBI-AM on the air in 1979.
- Lynn Canal Broadcasting, a membership nonprofit corporation, started KHNS in Haines at 3000 watts in the fall of 1980.
- KSKO, Kuskokwim Public Broadcasting's 5000-watt station in McGrath, began broadcast in July, 1981.
- KCAW, owned by Raven Radio, is scheduled to sign on in Sitka at 10,000 watts at the start of 1982.

STATE SUPPORT GUARANTEED

In 1980, the Alaska Public Broadcasting Commission (the AEBC became the APBC in 1976), instituted its "Essential Service Level" formula for providing public stations with operating support. The ESL formula guarantees that the APBC will request sufficient funds for each station, so that when those funds are combined with all other sources of station income, each station will meet all Corporation for Public Broadcasting qualification criteria.

With almost all Alaska population centers served by public broadcasting, the APBC is now concentrating on providing translator or repeater service to those areas not yet served. The Commission is also committed to maintaining its ESL funding standard for all existing full-service stations.

"The most important thing that the Alaska Public Radio Network can accomplish is to decentralize the way information is disseminated in Alaska," says APRN Executive Director Marcia Alvar. "For years, most of the news in the state came from Anchorage and Juneau. The Alaska Public Radio Network, and its daily thirty-minute news program Alaska News Nightly, represent the first time that communities from all over the state can speak for themselves, through the member stations, on issues and ideas of importance to local communities."

VOICES OF ALASKA— APRN

BY BRUCE THERIAULT
President, Alaska Public Radio Network

Alaska Public Radio Network is really a cooperative. It is governed by a board of directors elected by the fifteen member stations, and operated on a daily basis by a four-person staff. A committee structure helps with decision-making, including an active Program Advisory Committee consisting of program and news directors from the stations.

APRN is funded by the stations, which pass through a portion of their grants from the Alaska Public Broadcasting Commission to operate the network. Its programming comes from all its stations.

Since *Alaska News Nightly* went on the air in 1979, there has been a continuing extra effort to ensure that a significant portion of the program comes from the local stations. Stations have contributed over 1100 pieces to *Alaska News Nightly* during each of the two years the program has been on the air — around 40% of the program's content.

Alaska News Nightly, and the other cooperative programming of APRN — live coverage of news, sports and cultural events — has done much to acquaint Alaskans with one another. APRN has also helped the stations concentrate more closely on coverage of local events, since they can rely on program material from their sister stations, fed through the network, to cover part of their daily program schedule. Stations contribute programs to APRN without monetary compensation.

HISTORY OF ALASKA PUBLIC RADIO NETWORK

APRN's first broadcasts were in 1975, when Elaine Mitchell and others of Juneau station KTOO-FM broadcast live coverage of the Alaska state legislature. These broadcasts continued in various forms for several years. In November of 1976, APRN first broadcast statewide election coverage, using feeds from around the state. After receiving funding from the Alaska Public Broadcasting Commission in 1977, the Network did the first live two-way hearing from the Alaska state legislature. APRN also began feeding National Public Radio and other state programs to stations on a regular basis.

For the next year, programming consisted largely of NPR feeds, although APRN continued the tradition of election coverage with live broadcasts on both primary and general election nights in 1978. That year also marked the debut of *Capital Connection*, a daily legislative coverage news program.

Early in 1979, discussion began in earnest about producing a daily, statewide APRN news and public affairs program. There was much debate about what type of news programming was desired. Some stations wanted on-the-hour coverage; some a daily, in-depth program. In the summer of 1979, stations met and opted for the daily, in-depth format.

PRESENT INTERCONNECTION; FUTURE PLANS

APRN and member stations are presently interconnected by a 3Khz circuit leased from Alascom at a cost of approximately $34,000 per year. The audio quality of this interconnection is, quite simply, wretched — one of the reasons for the excitement over the development of satellite interconnection.

In 1980, the Alaska legislature appropriated $165,000 for a satellite uplink. Ten of the fifteen Alaska public stations already have downlinks. Funding received from the federal Facilities Program will complete satellite interconnection and APRN will be on satellite in the summer of 1982.

* * * * *

The Alaska Public Radio Network is unique in this country. It is one of only four state public radio networks providing daily news coverage. It is the only network making such an extensive use of independent station-based, non-network reporters for a large percentage of its material. It covers live events around the state when they happen, and truly gives the stations in "the bush" a chance to be one of the "Voices of Alaska."

TOO CLOSE FOR COMFORT

BY JON NEWSTROM
News Director, KCAW, Sitka

According to the US census, Alaska's population is a mere 400,000, with almost half of that number living in Anchorage. Only four out of the fifteen stations in the Alaska Public Radio Network are in communities of over 10,000. Excluding these four, the stations have an average of under 4,000 potential listeners.

Those small communities are what makes reporting in Alaska interesting, and the fact that only four out of fifteen have roads to them makes reporting in Alaska unique. Without distraction of a road to any place other than where you are, the town becomes close. For news reporters, too close for comfort.

In early November, almost forty reporters from the fifteen APRN stations attended a weekend workshop entitled *Reporting in a Small Town: Too Close for Comfort*. This seminar was held in Bethel, a "bush" community of about 3,000 people on the Kuskokwim River. Much like an NFCB National Conference, we held sessions in legal problems of reporting and the basics of journalism. Unlike participants at a national conference, however, we had all heard each other on *Alaska News Nightly*.

Ted Hall, publisher of the *Rainy Lake Chronicle* in Rainier, Minnesota (population 250 or so), led the first discussion. His viewpoint as a reporter working in a small town provided a perspective we all needed.

How do you report that your friend and neighbor made a fool of himself, without making him angry and yet reporting the truth? "With the skill that won him the Navy Cross as a World War II fighter pilot, the father of the bride untangled himself from her train."

And how do you deal with the problem of reporting on a small town government? Often the city council member who complains about your news is the one who delivers oil to your house on cold winter nights — or your doctor, landlord, accountant or best friend.

The long-term commitment and understanding of the people and the area in which the reporter is working was stressed by Tom Richards, former editor of Alaska's only Native newspaper. He and Bill McCaughan of the University of Alaska conducted a simulation game on village reporting. The exercise brought up important considerations for small town reporters in Alaska — Native stereotypes in the media, and the necessity of sensitivity at the station to Native and rural issues.

Also joining reporters in Bethel was Bob Rhodes of the Canadian Broadcasting Corporation. Rhodes' Northern Service covers three million square miles, with four regional production centers feeding repeaters.

There are notable similarities in these two northern services, the CBC and APRN. The geographic size of Rhodes' area dwarfs even Alaska; the natives of the Arctic areas are direct relatives of Alaska natives. Some of the Alaskan stations are programming in Eskimo dialects, as are most of the Northern Service stations. Small towns in Alaska sometimes resent stations hiring Outsiders; Rhodes has the same problem.

At it for a few more years, the CBC provides APRN with valuable examples. When Rhodes sends reporters to a village, he sends three. One is an English speaker, and two speak various Native dialects. When they return to the production center, bilingual stories are prepared.

In Alaska, the public news stations are much more important than in other parts of the country, because they are the sole service . . . and not one of a bunch of stations on the band. They're the only place to go!

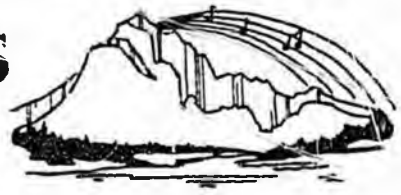
The CBC spends a considerable amount of time looking to the future and planning programs to prepare people for changes the future will bring. That idea caught hold in Alaska. At a recent teleconference meeting of the APRN Program Advisory Committee, a project was started in which each station will host a town meeting or call-in program. The topic: the future of Alaska. These meetings or programs will be edited to fifteen half-hour programs which will be carried by APRN, followed by a statewide call-in program.

Programming ideas weren't the only ones that the Alaskan reporters took away from their meeting with Rhodes. The CBC has started a program of training local people instead of hiring "carpetbaggers." Of course, not everyone is from the local area, but when they hire someone from the Outside, they don't ask if they want to *live* in the community, but if they want to *die* there.

The Bethel workshop was the beginning of what we hope will be a long history of cooperation between the CBC and APRN. A Whitehorse production staff will probably attend the All-Alaska Symposium (an NFCB regional meeting) in Petersburg this winter. Alaskans will probably attend a workshop in Mackenzie as well.

Too Close for Comfort was organized by Marcia Alvar, APRN's Executive Director. It was the first time the network's reporters had been able to meet as a group to discuss the uniqueness of their work. "In Alaska," notes Alvar, " the public news stations are much more important than in other parts of the country, because they are the sole service . . . and not one of a bunch of stations on the band. They're the only place to go!"

COMMUNITY RADIO KHNS



BY DEBRA J. SCHNABEL *Manager, KHNS, Haines*

. . . if your idea of community radio means an alternative to the commercial sound, it would be misleading to describe KHNS as community radio. KHNS is the alternative to NO radio.

The truth of the matter is that when a group of hams got together in 1978 to talk about a radio station for the community of Haines, they didn't have in mind community radio as we know it now.

In fact, the idea of "going public" was considered only after realizing the grim fact that the group could not guarantee the FCC that a privately-owned station (a recurring dream for 25 years) could survive a year in a city of 1900 people and two grocery, two hardware and four liquor stores. And what finally forced the timely decision to incorporate as a public, non-profit corporation was personal reaction to the rumor that a religious group had designs for the local air waves.

"Going public" broadened the financial base and the service area for Lynn Canal Broadcasting. The Alaska legislature agreed to fund the radio project on the condition that the community of Skagway – isolated by fifteen miles of fjord, population 750 – also be served by the signal and the programming. Service to Klukwan, a native village of 250 people located 22 miles north on the Highway, must also be provided.

Today, having spent 48 months, $309,500 in state funds and $142,750 in NTIA funds, KHNS is broadcasting the gamut of information and entertainment programming that is expected of community radio, to 3,000 people, with 3,000 watts.

But if your idea of community radio means an alternative to the commercial sound, it would be misleading to describe KHNS as community radio. KHNS is the alternative to *no* radio. And because of that, we must exercise a degree of discipline not usually found in community radio.

KHNS sounds different than most community radio stations because we are not alternative radio. As such, we must be accessible to the broad base of the community for at least a part of each day. We feel strongly, however, that we should not sacrifice service to specialized needs in the attempt to achieve accessibility.

We chose to make the daytimes the more broadly accessible listening time. We play a cross of popular, rock and country music during the weekdays, and rotate short-format features of special interest within the program format. The entire programming puzzle maintains maximum audience flow from one program to another. Produced promotional and public service announcements are integrated throughout the entire program schedule, much like commercials are placed in the commercial format.

The KHNS community, collectively, is fairly typical of Alaskan communities of its size and larger. (Come to think of it, that's not more than 25 places.) The white/native ratio is probably about 8:1. Generally, the economy is still controlled by a conservative element that immigrated to Alaska following World War I. Since the '60s, Alaskan communities have seen an influx of younger, politically liberal pioneers. They escaped the cities and came to Alaska, just as the state was opening up to large-scale resource development. They came seeking alternatives, and they have influenced the communities they live in by forcing an assessment of values. This has often meant political struggle.

Many community radio stations are an outgrowth of that struggle, and they come to represent alternative values within the community. But stations such as KHNS must embody that struggle, and act as a cohesive force. They must react to the natural tendency of the community to split into factions. And they must avoid becoming a polarizing force themselves.

A community radio station in this situation must be deliberate in every choice it makes. KHNS must be careful to balance the collective consciousness of the community in its administration and its programming. The staff (local hire, but professional, please) must collectively represent the communities' values.

Of course we heed the individuals. The mayor dismisses *Folk Tradition* as two hours of music no one *ever* heard before. Someone else believes that a "public" station shouldn't feature popular or image artists at all. One hears too much, and then not enough, classical music. A listener wants to do away with the local *Evening Report* and hear "that other half hour of *All Things Considered*," while a corporate director is contemplating doing away with *All Things Considered* because he thinks it is not. She wants Mother Jones; he, William F. Buckley.

But the emphasis is always the community. Essentially, KHNS is just another community member, but one that reflects all community members on some facet. And in that way, within that concentrated discipline, we take on a life of our own. We are community radio KHNS.

Alaska provides a model for state support and nurturing of citizen-controlled and -programmed radio. It is an exciting place to be.

PLANNING FOR THE FUTURE

BY RICH McCLEAR *Manager, KCAW, Sitka*

Alaska is a state of many very unique local communities, with a lot of very different problems, needs and strengths – not to mention climates, languages and cultures. These communities stretch over four time zones in an area which, if superimposed over a map of the US, would reach from Atlanta, Georgia to International Falls, Minnesota to Los Angeles, California. Alaska has fewer people needing access to the public broadcast media than the city of Minneapolis, but these people don't have buses or even roads to bring them to their local stations.

With the isolation of individuals and of whole communities, and the dramatic cultural differences between communities, local public broadcasting has taken on a crucial role in everyday life. As Les Robinson's article on *Bush Radio* demonstrates, radio in Alaska can be central to people's livelihood, safety, and ties with friends and community. And, as in the rest of the country, it gives citizens the opportunity to understand in detail the problems of their local communities, and encourages them to participate both in solving those problems and in celebrating their strengths.

To meet Alaskans' needs for public broadcasting, the long-range planning committee of the Alaska Public Broadcasting Commission was established. In recent meetings, the committee has drawn up a planning report that will be submitted to the full Commission at the beginning of 1982. This draft report gives some indication of where public radio in Alaska may be going.

COVERAGE

The planning committee has called for public radio service to every community of over 25 people in the state. Each service is to be controlled by a local board of directors and supported, in part, by local financial and volunteer resources. The committee envisions three types of service to the communities.

The first class of station is the *full service regional station*, CPB-qualified and with fully-equipped studios that allow them to produce at least ten hours a week of local programming. This local programming will include local news, public affairs, music (other than local record shows), documentary and drama.

Selected programming from the full service stations will be placed on satellite to serve the second level of station, which is the *local access repeater*. The repeater will be licensed as a regular public radio station, but will have a small staff of one or two, and a small local-access studio. These stations will choose programs from the full-service regional stations, and will also provide local news and access programming.

In this way, communities which cannot support full-service stations will be guaranteed some local service. As local support grows, local programming at these stations will grow also. Communities currently being proposed for this class of service are in the 600-1200 population range.

The third class of station proposed is the *translator station*. The translator will repeat one of the full-service or repeater stations for smaller, isolated communities. Some translators will be served from satellite feeds.

The planning committee has proposed the establishment of one more regional center (there are currently fifteen), seven local access repeaters and several new translators for radio by FY85. For each type of station, the community will provide at least 15% of the station's operating resources (including volunteer time). Larger communities will be asked to provide more support.

TRAINING

Since local citizen control is the keystone of Alaska public broadcasting, the planning committee has set board training as the highest priority. They call on the Alaska Public Broadcasting Commission to offer stations the opportunity to have *board training workshops*, funded by the Commission and held in the station's community, and to develop board training materials for all stations.

As its second priority, the Commission will assist in funding one *statewide training workshop* and one *training resource "round robin"* person to visit stations each year. The workshops are to train staff, and the round robins are to train both staff and volunteers at their own stations.

Both the workshops and the round robins, while funded by the Commission, are to be planned and controlled by the stations themselves.

The third priority set in the draft report is to aid stations in providing a *match for the women's and minority training grants* awarded by the Corporation for Public Broadcasting. Lower priorities call for the Commission to respond to other training proposals from the stations if funds are available.

Continued on next page

PLANNING FOR THE FUTURE

Continued from preceding page

PROGRAMMING

The nature of Alaska public radio is local, and the Alaska Public Broadcasting Commission is prohibited by law from being directly involved with programming. The long-range planning committee thus focused on assisting the stations' local programming efforts, and set two long-range objectives.

The first is to *provide each full-service station with the resources to produce at least ten hours of local programming a week*, excluding record programs. The second is to set up a *program fund* to enable stations and producers to create programs for regional, statewide and national distribution. By FY86, this fund would contribute 25% of what the stations themselves spend on programming.

One of the goals of the program fund would be to support new ideas and experimental programs. The draft committee report states, "APBC funds . . . must be free of any conditions that would limit programming freedom. Program producers should be able to "fail" without severe consequences."

CONCLUSIONS: AN EXCITING PLACE TO BE

These plans are still in draft form. They have not yet been presented to the Alaska Public Broadcasting Commission, or to the governor and legislature. The long-range planning report is a document produced by the APBC staff, and a committee consisting of three of the nine APBC commissioners and four station managers. However, it *is* based on what is already in place in Alaska.

This state, more than any other, supports the idea of community radio. With only two exceptions (one university and one school district), our stations are controlled by local boards of directors, most elected by members. One-third of the stations have Native Alaskans in control of their boards. Most stations make extensive use of volunteers on the air.

This system developed because it was state policy to develop community radio. Already, Alaska has fifteen regional centers, with one more planned. The first local access repeater has been funded by the legislature, and the APBC has been involved in funding staff training.

Alaska provides a model for state support and nurturing of citizen-controlled and -programmed radio. It is an exciting place to be.

With the isolation of individuals and of whole communities, and the dramatic cultural differences between communities, local broadcasting has taken on a crucial role in everyday life. Radio in Alaska can be central to people's livelihood, safety, and ties with friends and community.

NFCB Participant Members in Alaska include KCAW (Sitka), KFSK (Petersburg), KMXT (Kodiak), KRBD (Ketchikan) and KTOO (Juneau).

NFCB Associate Members are Alaska Public Radio Network, Educational Media Services (Fairbanks), KDLG (Dillingham), KHNS (Haines), KOTZ (Kotzebue), KSKA (Anchorage), KUAC (Fairbanks), KYUK (Bethel), Media Two (Anchorage) and Western Media Concepts (Anchorage).

(7)

Telecommunications

Comments, September 24, 1981

Rodger Davis to the House Labor and Commerce Committee

Representing: Executone of Alaska, ACI Office Systems, EOA Services, Member of the Office Systems Group.

Background: Former Branch Marketing Support Manager for Xerox in Alaska.

Present President of Executone of Alaska, Inc. Alaska's largest supplier of non-utility Telecommunications Equipment.

Present Officer and Board Member of ACI Office Products -- a broad based Word Processing, Data Processing, and Office Products Company.

Board Member in the recently founded EOA Services, Inc., a Data Networking Company.

Issue: The Industrial Age is over, the Information Age has just begun. Those who control the distribution of information control our age.

General: Fact: None of us would be here today, the Governor would not have issued Executive Order No. 50, and all of the wonders of Communications technology that make this hearing worthwhile would not even be an issue without competition in the Telecommunications industry.

Still today, the operating utilities control over 90% of all terminal equipment in the industry, after more than ten years of competition. In Alaska, the percentages are at least the same. This is only possible because the operating utilities have used their legislated Monopoly power to stifle competition. These methods include predatory tariffs, disparagement, Customer Harassment, interference with Monopoly services to customers using competitive equipment, and unsubstantiated reports of Market Sharing between utility parties. In spite of this, competition with the utilities continues because the goods and services being provided are needed in the Market Place. The Legislature will have to play a key role in ensuring survival of competition against incredible pressure to eliminate it by the utilities.

On Items 4,5,9,10, we are not qualified to testify and defer to those who are.

COMMENTS: Item 1: Is there a danger of Government crowding out private business? -- absolutely. All business exists in Alaska within a very confined market. The State represents over 20% of our firm's business, and is the single largest potential customer for four out of five telecommunications projects that we now have in development. Any direct action by the State can and will have a major impact on our business.

Generally, State actions are well intentioned, but ill-informed. Two examples came to my attention in the past week:

1. The Department of Community and Regional Affairs reacting to reports of high construction costs in Iliamna, purchased for the village heavy equipment, virtually running the existing contractor out of business.

2. The same Department, reacting to high transportation costs for goods brought into the village of Pedro Bay, purchased for the village a new heavy truck to transport goods, potentially destroying the business of a family providing the service for 50 years.

In both cases, the existing businesses have to buy their own equipment, pay the absurd present interest rates to suppliers, and pay taxes. Their new competitors do not.

Whether the State sets up other competitors not burdened by the costs of doing business or compete themselves, they can be devastating.

Item 3: Is there a danger of a telecommunications monopoly developing? -- absolutely. Pacific Power and Light, doing business in Alaska as Alascom, or Telecom, or Pacom, is committed to being the Bell System of Alaska. While they gobble up small independent utilities, their monopoly-generated revenues cross-subsidize their penetration of unregulated markets.

In areas where their Pacom Division, (the Division that sells and services station equipment), could aggressively compete with local utilities, they have approached the utilities with offers to curtail their efforts to compete in exchange for the utilities' support before the Commission of PP&L's efforts to stifle competition for long-distance services. This agreement does not, however, curtail Pacom from competing where the customer calls them in, or in competition for existing non-utility supplied customers where they sell at rates that no company not receiving Monopoly revenues from other sources could sell at and still survive. Interestingly, the only two utilities who agreed to this arrangement, that we are aware of, were both government owned and operated.

Unfortunately, the utilities appear to be making headway in their efforts to help Alascom stifle long distance competition. The notification attached as Exhibit A, indicates that ATU has succeeded in making any competition in Anchorage extremely expensive.

My final comments are directed at the Alaska Public Utilities Commission. First, let me affirm my confidence in the quality of staffing of the Commission. Let me also acknowledge that they are grossly understaffed to regulate an industry changing as fast as Telecommunications. Before the FCC's deregulation order goes into effect in March of 1982, they desperately need more accounting, tariff, and legal staffing.

Beyond the staffing problems, they need to develop a policy in tune with the National recognition that new technology in a competitive environment is the best possible means of holding down the costs of services to Alaska.

While the Federal Courts have repeatedly held that utilities may not use revenues from Monopoly services to cross-subsidize or hold down artificially the cost of services where they have competition, the APUC has passively allowed it to go on and on.

They appear to be taking the position that somehow Alaska is different from the rest of the world and competition really won't work here. The justification has been that, by allowing artificially high long distance rates and exceptional revenues pass through from Alascom to the local utilities, they are holding down the cost of local services. In reality, the costs for almost all local services have gone up substantially in the past year, except those where the utilities have competition; that is, Business Telephone Services. In effect, the commission allows local users to cross-subsidize business telephone expense.

Item 6: The State can dramatically improve its data transmission system. Competing sources of long-line transmission offer the State better networking capabilities. Simply unifying all "handshake" formats would have an immense benefit. The Department of Administration is presently attempting to find a way of insuring that all word processing, data processing, and data transmission systems are compatible.

Item 7: What kinds of new technology should the State be using? There is no one answer. The best system is a correct mixture of present and developing technologies based on the specific need of the project or the department. The risk is that the State will hire a consultant who is high on one technology and will make a decision based on too little input. Equally risky is the possibility that no short-term decisions will be made, while the State studies and studies its options, looking for one non-existant right decision.

Item 8: The Division of Telecommunications definition establishes State Policy on Telecommunications. Broad guidelines should first be set by the Legislature.

The Division of Telecommunications Systems; specifically is tasked with design, acquisition, and management of systems for agencies. In eleven years of working with the State in Systems Design, I've observed a four-phase developmental cycle in single task divisions:

1) The last-vendor-out-of-the-door phase.

2) The expert-consultant phase.

3) The don't-do-anything-until-we-clean-up-this-mess phase.

4) The active-solicitation-of-vendor-consulting phase.

If this Division can operate based on establishing very broad guidelines within which competition can offer choices, it will be successful. If it gets into actual specifications writing, two things will happen:

1) The State will begin buying technology that is challenging to the designers, whether or not it is right for the agencies applications or cost effective.

2) The State will pick a technology that it is comfortable with and stagnate with it.

There is no question that most agencies need some assistance in planning the office of the future. The new Division of Telecommunications systems can fill a vital role, if they actively encourage competition for the State's business and keep in mind there is no one answer.

Item 2: Below I've noted some provisions that we encourage be adopted as part of the State's Telecommunications Policy:

1) Competition is healthy for the industry.

2) The State of Alaska can create entire markets with its decisions.

3) The State has a responsibility to actively prosecute illegal efforts on the part of the Utility Monopoly to stifle competition.

4) The State should be a subscriber to services, not a provider of services.

Thank you.

George M. Sullivan,
Mayor

Anchorage Telephone Utility

600 EAST 36TH AVENUE, ANCHORAGE, ALASKA 99503
TELEPHONE (907) 277-7561
Telex 090-25-100

Owned by the Municipality of Anchorage

September 21, 1981

Executone of Alaska, Inc.
601 West 41st Avenue, #101
Anchorage, AK 99503

Gentlemen:

The Anchorage Telephone Utility has received approval from the Alaska Public Utilities Commission to tariff an access charge to be assessed to nontoll users who have access to local exchange service of ATU, but are not physically located within the exchange area. We wish to take this opportunity to make you aware of this newly tariffed rate and explain the types of services to which the access charge will apply.

The charge will apply to Other Common Carriers who wish access to ATU exchange service for the purpose of offering toll equivalent service to their customers. The rate for Other Common Carrier access to local exchange service is $265 per month.

An access charge will also apply to services furnished to customers who wish nontoll access to the local exchange from an area beyond the local exchange boundaries. This type of service includes, but is not limited to: (A) Foreign Exchange Service (FX), (B) Off Premise Stations (OPX) when the stations are located in an exchange which is beyond the boundaries of the exchange in which the main station or PBX is located and the OPX has nontoll access to the local exchange network, (C) Tie Lines (TL) between a customer's Private Branch Exchanges when the PBX's are not located in the same exchange area, (D) Common Control Switching Arrangements (CCSA) when any point of the arrangement is located beyond local exchange boundaries and the system has nontoll access to the local exchange network.

The rate for exchange access for FX, OPX, TL, and CCSA services is $99 per month.

We refer to the access rate as ESIS, Exchange System used by Interexchange Services. We are informing you of the ESIS charges, as some of your customers may currently have chargeable circuits and question you about their Utility statement. Any ESIS chargeable circuit arrangements should be reported to the Utility. We hope this information is useful to you and should you have any questions in reference to ESIS, please feel free to contact our office.

Cordially,

ANCHORAGE TELEPHONE UTILITY

Edward Wright
for A. P. Morkunas
Manager-Customer Services

W6 W1

E.D. & D., INC.

ELECTRONIC DESIGN & DEVELOPMENT, INC.
P.O. BOX 454 - HAINES, ALASKA 99827 - (907) 766-2337

September 18, 1 81

Rep. Terry Martin
Chairman, Labor & Commerce
Alaska Stute Legislature
House of Representatives
House Labor & Commerce Committee
921 West 6TH Avenue
Suite 250
Anchorage, AK 99501

Dear Mr. Martin,

We are writing to you regarding your memo of 8/18/81. We would like to thank you for your interest in letting us know about the Telecommunications Hearings.

We probably won't be able to attend but we certainly interested and have some input.

We would like to identify ourselves and give you some background. We currently own and operate Two (2) small Cable Systems. 1 in Haines, Alaska and 1 in Skagway, Alaska. Both systems are capable of 5 channel operation, except Ch. 3 & 9 in Haines which are inoperable because of State Translator's and Channel 13 in Skagway. E. D. & D. Inc., is a Design Company and these Cable Systems were purchased in part as a Test Bed for various systems. We are also a Communications Company, Land Mobile, Marine, Security, Consumer Products, TVRO Systems, Cable TV Components, Custom Electronic Systems, Sales & Service of all items. We do the Engineering and Maintenance for KHNS FM 102.3 Radio Station in Haines and handle Alternate Energy Systems.

We would like to address all items from your memo.

1) Yes. Though it is difficult to assess loss of revenue due to the many factors involved (people moving, general economic conditions, etc.) we appear to be down $1500-$ 300 per year or [illegible] of seasonal people we know come to town every summer and hook up to Cable, but now have Antennas on Travel Trailers and can pick up State Programming out of the air. Residents disconnect and buy TV

Antennas and this is enough to slow down the development of these Two (2) Cable Systems. The rate in Haines recently increased approximately 18% over the price which has been charged for approximately the last 10 years. The increase due in part to the competition imposed by the State of Alaska. This is a modest increase in that the hours of Programming have increased 3 times what it was 10 years ago. It will be impossible to continue to provide service and upgrade systems at the current rate if the State insists on competing with us. In addition to the hard subscriber loss count we can not calculate potential loss of Advertising Revenue (lower subscriber count= less viewers for advertising - less attractive for the advertiser.). We plan to upgrade the system for minimum of 12 TV Channels and other two way services. The state operates two (2) translators one on Channel 3 and one on Channel 9, rendering these channels unusable by us on our Cable and we understand they (The State) are planning on additional translators.

We don't know who the States TV Project is funded by but if from Oil Reverues, How is the TV Project going to be supported when the Oil Revenue is ended? What is current cost, per site and total and what is projected cost of completed system and yearly upkeep? In our opinion the State of Alaska has no business whatsoever in the Commercial TV Business. State television should be used for NEWS, Two-way Video Teleconferences for Education, Emergencies and to make Government more accessable and subjects of interest to Alaska - other than Commercial Programming, could be provided. As a Taxpayer I would be willing for my taxes to be spent in this manner, not for Commercial TV, especially where this service is already provided by Private Enterprise at less cost and higher quality and volume.

2) Not to get involved or as little involvement as possible.

3) Yes. First the Small Cable systems are hit with a loss of revenue, then they have to raise their rates to compensate. People don't like the higher rates and a percentage disconnect, then the rate again must go up to compensate and a dangerous cycle is started and Consumers end up with lower quantity and quality of Entertainment. This ensures that they will never gain the benefits possible over a Two-way Cable system.

4) The Villages should own and maintain their own Systems. A TVRO site, requires virtually no maintenance unless a physical trip by a qualified Technician is made to each site per month and the sole purpose of the trip is TVRO Maintenance. The cost should be more like $1000.00 per year plus parts for each site. (1 trip per year) A single frequency Agile Receiver, 6 Meter TVRO Antenna System with Modulator and Mini Two-Way Cable System can be purchased for $30,000.00-$40,000.00 depending on size of Village. Every set would have a quality picture and no mini-transmitter would be required. The system would also have potential use as intercom and Signaling system as well as all Two-way Cable Services, up to 12 Channels can be added. The State could make the Village a loan for equipment and installation. The State would have no say in programming. (It would be decided by the Village).

5) Yes. While we have the money. Improve the Phone System.

6) As we don't know anything about how they do it now, we can not offer an opinion for improved Data Transmitting.

7) Without knowing the particular needs of the State we can't pick any technology unless you have a given need. However, Digital Trasmission can be used for Two-way TV Transmission, but would suggest letting the very newest systems be tried and tested a year or two before purchasing.

8) N/A

9) The State should not encourage any Commercial Programming on State Television. This is strictly an expense and has no possibility of generating a return on our (the Taxpayers) investment.

A word about "BUSH". We moved down from Barrow, Alaska which is probably classified "BUSH". We engineered the Cable System in Barrow during our 3 years in business on the Slope. This Cable System supplies 12 Channels of programming and Services to Barrow, Prowerville and the Naval Arctic Research Lab. The Translator there is redundant, can only be picked up by a few people, and is a waste of Alaskans money. It (The Translator) only causes interference to the Cable. This Cable System has built-in Two-way capabilities. Similar situations exist in many "BUSH" communities. This has all been done totally without State help at lower cost than the State's TV Project. Is this an example of responsible spending of our Oil Revenue by our State Government. According to the Juneau Paper for Week of 9/14/81 Headlines read: "Oil Revenues Shrink-State spends $1 billion to much" How much of this is for State TV Project?

If the State insists on trying to out us (Cable Systems) out of business, We feel it is only fair we be reimbursed for each and every channel we can not use because of the State.

Thank you, and we look forward to hearing from you after the hearings.

Yours Truly,

Larry E. Blackin Pat'y A. Blackin

Larry E. Blackin president Patty A. Blackin Sec/Treas.

LG:pc
CC:
Governor Hammond
Lt. Governor, Terry Miller
Deputy Commissioner, Alex Hills
Commissioner, Hudson
Congressman, Don Young
Senator, Ted Stevens
President, Alaska Cable Assoc., Mr. Bob Watell
Society of Cable Television Engineers
F.C.C.
Alaska Public Utilities Commission
Alaska Cablevision
Alaska Television Productions
Alaskan Cable Network
Barrow Cable Television
B. C. Cable Co.
Bethel Cablevision
Frontier Color Cable
McCaw Communications
Multivisions, Ltd.
Port Lions Cable
Spectrum
Visions, Ltd.
Air Alaska
Alaska Business Newsletter
Alaska Construction & Oil
Alaska Bar
Alaska Business
Alaska Today Report
Alaska Industry
Alaska Review of Social & Economic Conditions
All Alaska Weekly
Anchorage Daily News
Anchorage Times
Bering Straights
Chugiak-Eagle River Star
Copper Valley Views
Cordova Times
Daily Sitka Sentinel

CC:
Delta Paper
Fairbanks Daily News-Miner
Greater Anchorage Today
Homer News
Juneau Empire
Kodiak Times
Kenai Peninsula Cheechako News
Ketchikan Daily News
Kodiak Daily Mirror
Lynn Canal News
Mukluk News
Petersburg Pilot
Polar Star
Sourdough Sentinel
Southeastern Log
Take Me Away
This Month in Fairbanks
Tundra Drums
Tundra Times
TV Viewer
Valdez Vanguard
Valley Sun
Weekly Dial
Wrangell Sentinel
KABN-AM
KENI-AM
KRAF-AM
KFSK-FM
KGOT-FM
KHNS-FM
KINY-AM
KJNP-FM
KNUP-AM
KMXT-FM
KNOM-AM
KUAC-FM

E.D. & D., INC.

ELECTRONIC DESIGN & DEVELOPMENT, INC.
P.O. BOX 454 · HAINES, ALASKA 99827 · (907) 766-2337

OCTOBER 15, 1981

MR. WILLIAM J. TRICARICO
SECRETARY, F.C.C.
1919 M STREET NW
WASHINGTON, D.C. 20554

RE: LOW BAND MINI-TV TRANSMITTER LICENSING

DEAR MR. TRICARICO,

THIS LETTER IS IN REGARDS TO FILES NUMBER

BPTVL810303EI
CHANNEL 11, SKAGWAY, ALASKA 99840
K11OE

KPTVL8103031J
CHANNEL 7, HAINES, ALASKA 99827
KO7RF

AS PER MY TELEPHONE CONVERSATION WITH MRS. PEGGY REED OF THE F.C.C., SHE ADVISED US THE LICENSING DEPARTMENT OF THE F.C.C. HAS NOT GRANTED THE ABOVE LICENSES. WE WOULE LIKE FOR YOU TO TAKE A FEW MINUTES TO READ THE ATTACHED LETTERS OF CONCERN FROM US AND DENY LOW BAND MINI-TV TRANSMITTERS IN HAINES AND SKAGWAY, ALASKA, OR FOR HAINES HAVE THE EXISTING TRANSLATOR SHUT DOWN AND MOVED ACROSS THE HILL SO THAT LUTAK INLET CAN RECEIVE THE SIGNAL AND IF ITS EDUCATIONAL LET US CONNECT DIRECT TO IT AND WE WILL SUPPLY IT FROM OUR CABLE TO THE TRANSMITTER TO THE PEOPLE OF HAINES AND SKAGWAY, ALASKA FOR FREE.

PLEASE DO NOT GET US WRONG, WE ARE FOR EDUCATIONAL PROGRAMMING, ALASKAN NEWS, ALASKA PRODUCED PROGRAMS OR SPORTING EVENTS THAT WE DO NOT CARRY ON OUR SATELLITE, BUT WE DON'T UNDERSTAND WHY THE STATE CAN COMPETE WITH US OR ANY PRIVATE ENTERPRISE.

WE FEEL THE STATE CAN REMOVE COMMERCIAL PROGRAMMING ON THE TRANSLATOR ALREADY RUNNING AND ADD THE EDUCATIONAL PROGRAMS. FOR EVERY CHANNEL THAT IS ADDED BY THE STATE ON LOW BAND MINI-TV TRANSMITTORS OVER THE VHF AIRWAYS RENDERS EACH CHANNEL UNUSABLE BY US OR ANY CABLE SYSTEM AND FOR EVERY CHANNEL THE STATE BROADCASTS ON AND WE REBROADCAST, WE HAVE TO BROADCAST ON A DIFFERENT CHANNEL ON OUR SYSTEM BECAUSE OF THE INTERFERENCE ON THE CHANNEL THEY BROADCAST ON WHICH CAUSES US TO PROVIDE LESS SERVICE TO OUR CUSTOMERS, COSTS US MONEY EVERY MONTH, CAUSES OUR RATES TO GO UP DUE IN PART FROM LOSS OF REVENUE AND COMPETITION FROM THE STATE AND THIS AMOUNTS TO OUR SUBSCRIBERS FOOTING THE BILL FOR PROGRAMMING THAT WE ALREADY SUPPLY ON OUR CHANNELS, AND THE STATE CHANNEL RUNS TIL THE EARLY MORNING HOURS WHILE THE PEOPLE ARE SLEEPING AND THIS IS A WASTE OF ALASKANS MONEY. ALL WE ARE TRYING TO DO IS HELP OUR COMMUNITY AND IF WE ARE TO CONTINUE TO GROW AND PROVIDE BETTER SERVICE WE NEED TO HAVE YOUR SUPPORT.

WE HAVE STARTED A PETITION IN OUR TOWNS AND WILL FORWARD TO YOU IN THE NEXT COUPLE OF DAYS.

THANK YOU FOR YOUR HELP AND WE LOOK FORWARD TO HEARING FROM YOU.

YOURS TRULY,

Patty A. Glackin

PATTY A. GLACKIN

PG

CC: MR. JERRY MARTIN, REPRESENTATIVE ✓
MR. ALEX HILLS, DEPUTY COMMISSIONER FOR TELECOMMUNICATIONS
GOVERNOR HAMMOND

MR. TED STEVENS, SENATOR
MR. BILL RAY, SENATOR
MR. JIM DUNCAN, REPRESENTATIVE
MR. MIKE MILLER, REPRESENTATIVE
MR. JAMES E. SUTHERLAND, F.C.C. FIELD OFFICE
MR. WILLIARD R. NICHOLS, F.C.C. CHIEF OF CABLE TV
MRS. MARJORIE S. REED, GENERAL COUNCIL FOR F.C.C.
MR. MARK FOWLER, CHAIRMAN OF THE F.C.C.
MR. JON HALLIWILL, MAYOR, HAINES, ALASKA (CITY)
MR. BOB HENDERSON, MAYOR, HAINES, ALASKA (BOROUGH)

Terry, This is a draft policy for your info.
Alex Hills

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

DEPARTMENT OF ADMINISTRATION

TELECOMMUNICATIONS

POLICY STATEMENT

BACKGROUND -

The State of Alaska presently operates low power television transmitters in a large number of Alaskan communities. These "mini-TV" transmitters are, in many cases, a part of the Satellite TV project, which carries commercial entertainment programming. Recently, we have installed a number of mini-TV transmitters in connection with the LEARN ALASKA educational television project. Thus, a community may have two mini-TV transmitters, one for entertainment and one for education.

What happens when Private Enterprise provides satellite

Some of the State's mini-TV transmitters operate in communities that are also served by cable television (CATV) systems. Although CATV systems are supposed to be closed systems and not susceptible to interference, signals from mini-TV transmitters sometimes penetrate the CATV systems and cause interference. This interference is not generally caused by any defect in the mini-TV signal, and, from a legal perspective, the State has no obligation to remedy such interference.

POLICY

Although there is (no legal obligation ? ethical) to do so, the Department of Administration will endeavor to take necessary steps to eliminate or reduce interference wherever it is both possible and practical to do so. The Department will cooperate with CATV companies where there is the potential for television interference and will strive for solutions as detailed below.

Where no CATV system exists in a community, both entertainment and educational television will be delivered on VHF* channels wherever possible.

In communities which are served by CATV, entertainment television will be delivered on VHF channels wherever possible, with CATV distribution of the same signal on the same VHF channels. Delivery of education will be by the following options, listed in order of decreasing preference:

1) Mini-TV on VHF channel, CATV on same VHF channel

2) Mini-TV on UHF* channel, CATV on same UHF channel

3) Mini-TV on UHF channel CATV on mid-band* channel

In each community, the most preferable (lowest numbered) option which is compatible with both the capability and usage of the CATV system will be used.

W. R. HUDSON, COMMISSIONER
DEPARTMENT OF ADMINISTRATION

October 23, 1981

* NOTE:

VHF Channels: channels numbered 2 thru 13

VHF Channels: channels numbered 14 thru 83

Mid-band channels: channels lettered A thru I

INTERIOR REGION EMERGENCY MEDICAL SERVICES COUNCIL, INC.

P. O. BOX 2120 • FAIRBANKS, ALASKA 99707
PHONE (907) 456-3978

October 28, 1981

COMMUNICATIONS PRIORITIES *

1. Expansion of the microwave system along the Parks Highway to complete the Anchorage to Fairbanks system.

2. Placing a base station on Reindeer Hill site near Cantwell for 155.160 State EMS Communication.

3. Identify and acquire a site for a microwave link between Delta and Paxson.

4. Priority to complete the microwave system between Harding Lake and the Border.

5. Extending communications along the pipeline haul road, including 155.160.

6. Expand dispatch capabilities in Tok to ensure 24 hour coverage.

7. Assist communities within the region with the development or expansion of central dispatch capabilities.

8. Ensure back-up power source for communications in communities.

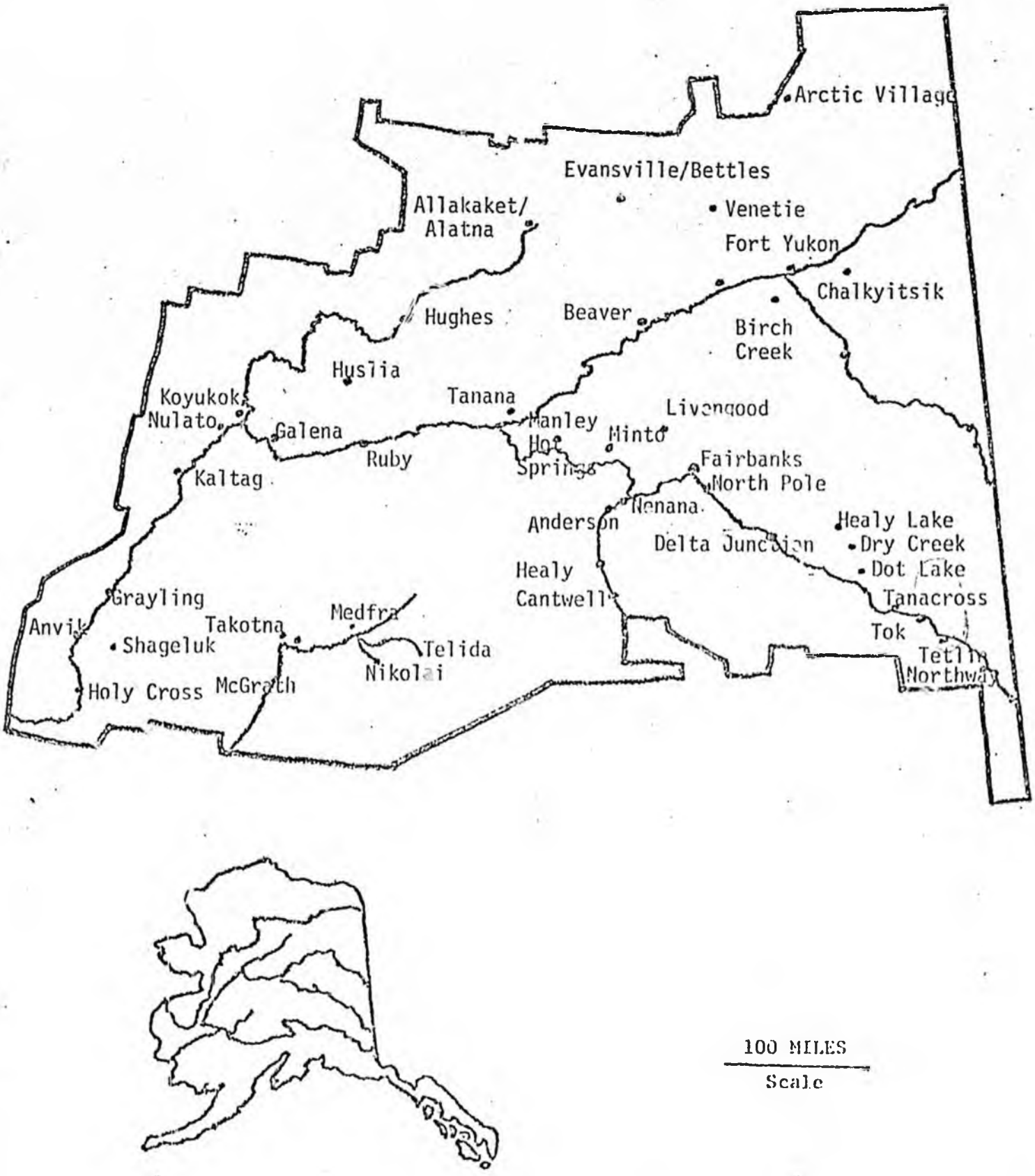
9. Explore the feasibility of no-charge emergency phone use on pay phones. Explore with A.P.U.C. the possibility of expansion of 911 system.

10. Expansion of console at Fairbanks Memorial Hospital, to include Civil Defense, outlying subregional clinics.

11. Develop telemetry capability from outlying clinics and ambulances to Fairbanks Memorial Hospital.

* These are not numbered in priority.

INTERIOR REGION

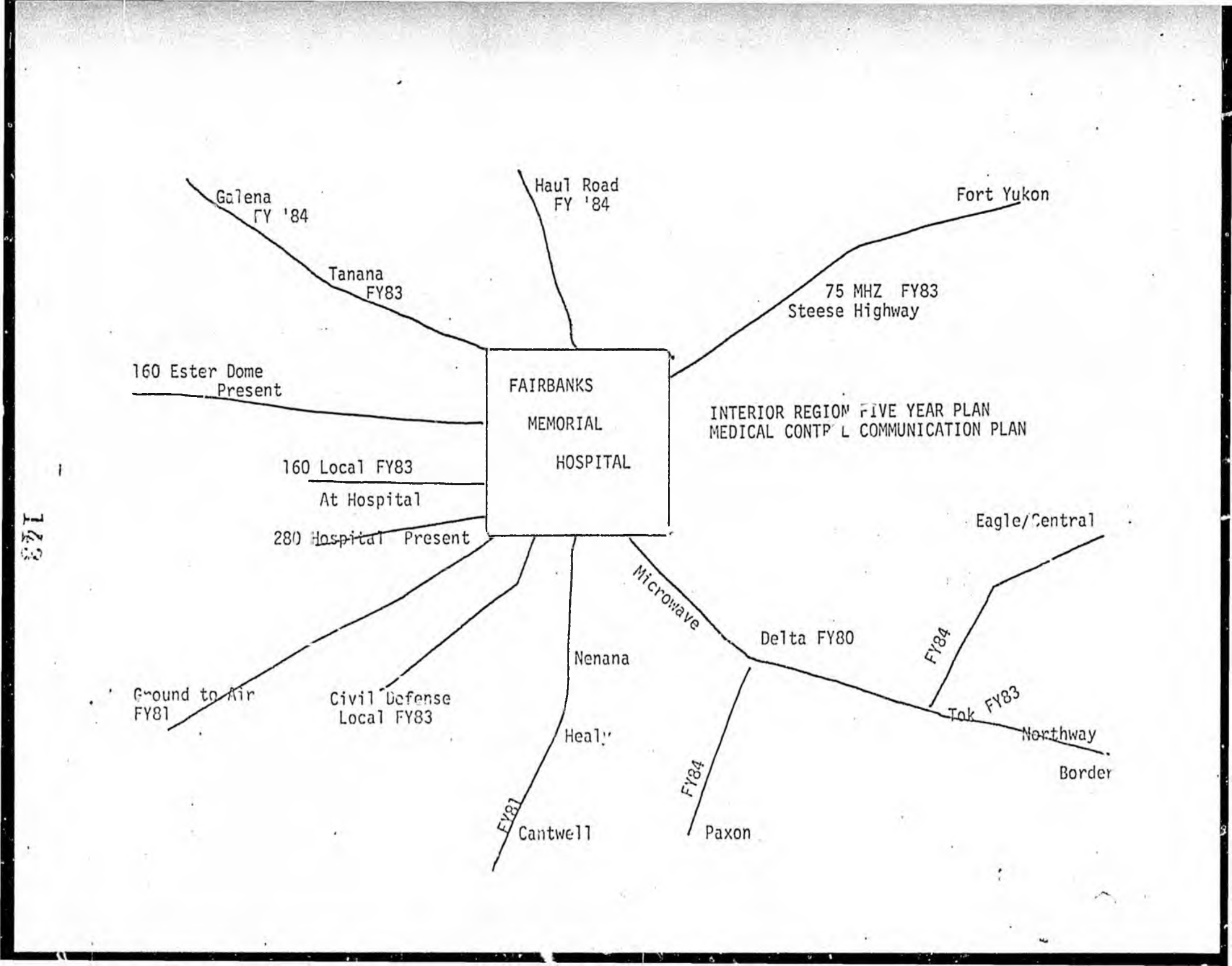


Five year Medical Control Plan

for Interior Region

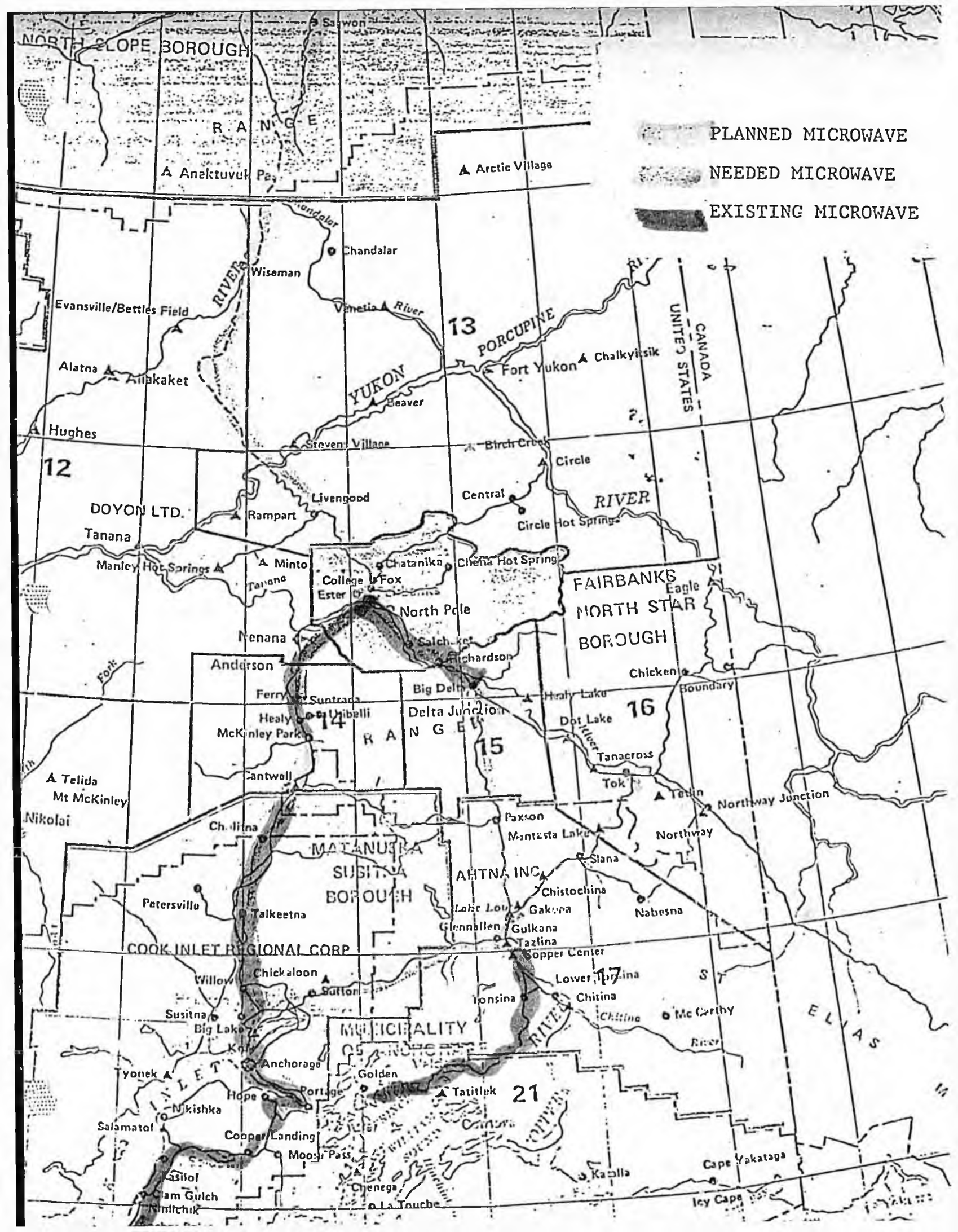
Once emergency access and response is assured, the most important goal that the communications system can meet is that of providing medical control for prehospital patient care when needed.

On the following diagram, the status of the Interior Region EMS Council's five year plan to improve medical control throughout the region, and the proposed implementation plan for the segments not yet in place are shown.


Galena
FY '84
Haul Road
FY '84
Fort Yukon
Tanana
FY83
75 MHZ FY83
Steese Highway
160 Ester Dome
Present
FAIRBANKS
MEMORIAL
HOSPITAL
INTERIOR REGION FIVE YEAR PLAN
MEDICAL CONTROL COMMUNICATION PLAN
160 Local FY83
At Hospital
280 Hospital Present
Eagle/Central
Microwave
Delta FY80
FY84
Nenana
Ground to Air
FY81
Civil Defense
Local FY83
Tok FY83
Northway
Border
Healy
FY84
FY81
Cantwell
Paxon

COMMUNICATIONS

THIS REQUEST WOULD ALLOW BACK BONE SYSTEM DEVELOPMENT AS SHOWN IN THE BLUE ~~BLACK~~ COLOR. THIS WOULD COMPLETE THE MICROWAVE SYSTEM FROM FAIRBANKS TO ANCHORAGE AND POINTS SOUTH AS WELL AS FROM DELTA TO THE BORDER. THESE ARE THE MOST TRAVELED ROADS.


PLANNED MICROWAVE
NEEDED MICROWAVE
EXISTING MICROWAVE
NORTH SLOPE BOROUGH
RANGE
Anaktuvuk Pass
Arctic Village
Chandalar
Wiseman
Evansville/Bettles Field
Alatna
Allakaket
Hughes
Vimetia
River
13
PORCUPINE
YUKON
Fort Yukon
Chalkyitsik
CANADA
UNITED STATES
Beaver
Steven Village
Birch Creek
Circle
12
DOYON LTD.
Livengood
Rampart
Central
Circle Hot Springs
RIVER
Tanana
Manley Hot Springs
Minto
Chatanika
Chena Hot Spring
College
Fox
Ester
FAIRBANKS
NORTH STAR
BOROUGH
Eagle
North Pole
Nenana
Salcha
Richardson
Anderson
Chicken
Boundary
Ferry
Suntrana
Big Delta
Healy Lake
Healy
Ohiballi
Delta Junction
14
16
Dot Lake
McKinley Park
15
Tanacross
Cantwell
Tok
Telida
Mt McKinley
Tetlin
Northway Junction
Nikolai
Chuitna
Paxson
Mentasta Lake
Northway
MATANUSKA
SUSITNA
BOROUGH
AHTNA INC.
Slana
Chistochina
Petersville
Talkeetna
Lake Louise
Gakona
Nabesna
Glennallen
Gulkana
Tazlina
COOK INLET REGIONAL CORP
Copper Center
Willow
Chickaloon
Sutton
Lower Tonsina
17
Tonsina
Chitina
Susitna
Big Lake
Chitina
McCarthy
ELIAS
MUNICIPALITY
OF
ANCHORAGE
Anchorage
Tyonek
Golden
Valley
Tatitlek
21
Hope
Portage
Nikishka
Salamatof
Copper Landing
Moose Pass
Kasilof
Clam Gulch
Kenitchik
Chenega
La Touche
Kanilla
Cape Yakataga
Icy Cape

VHF/MICROWAVE COMMUNICATIONS SYSTEM

ALASKA HIGHWA

	1977 Costs	+	1982 inflated costs at 10% per year	=	1982 Total
DELTA (Junction of Alaska and Richardson Highways)					
1 Microwave terminal, 2 gHz, Hot stby	21,800	+	10,900	=	32,700
1 Multiplex, 2 channels	2,000	+	1,000	=	3,000
1 Baseband bridge	800	+	400	=	1,200
1 Antenna, Microwave 6'	800	+	400	=	1,200
1 Transmission line and connectors	300	+	150	=	450
1 Installation hardware	500	+	250	=	750
	26,200		13,100		39,300
DOT LAKE (40 miles northwest of Tok)					
1 Microwave repeater, 2 gHz, Hot stby	43,600	+	21,800	=	65,400
1 Multiplex, 6 channels	6,000	+	3,000	=	9,000
1 Alarm reporting encoder	1,700	+	850	=	2,550
1 Antenna, Microwave 8'	1,600	+	800	=	2,400
1 Antenna, Microwave 6'	800	+	400	=	1,200
1 Transmission line and connectors	600	+	300	=	900
1 Batteries and charger	4,600	+	2,300	=	6,900
1 Tower 30'	3,500	+	1,750	=	5,250
1 Installation hardware	900	+	450	=	1,350
	63,300	+	31,650	=	94,950
CATHEDRAL BLUFFS (12 miles west of Tanacross)					
1 Microwave repeater, 2 gHz, Hot stby	43,600	+	21,800	=	65,400
1 Alarm reporting encoder	1,700	+	850	=	2,550
2 Antenna, Microwave 6'	1,600	+	800	=	2,400
1 Transmission line and connectors	600	+	300	=	900
1 Tower, 30'	3,500	+	1,750	=	5,250
1 Equipment building (10 x 12)	6,000	+	3,000	=	9,000
1 Batteries and charger	4,600	+	2,300	=	6,900
1 Installation hardware	700	+	350	=	1,050
	62,300		31,150		93,450

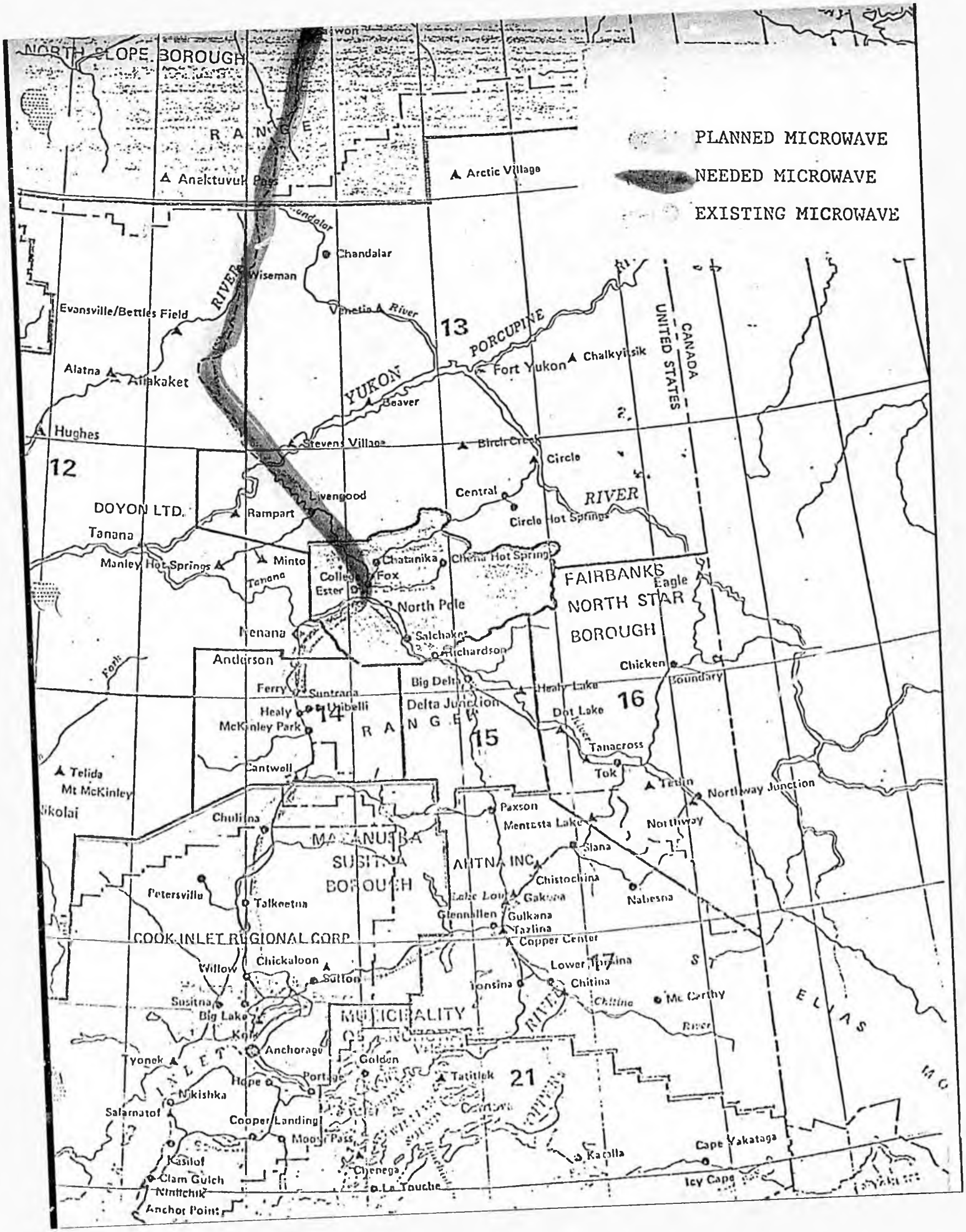
VHF/MICROWAVE COMMUNICATIONS SYSTEM

ALASKA HIGHWAY

	1977 Costs	+	1982 inflated costs at 10% per year	=	1982 Total
TOK (Junction of Alaska and Glenn Highways)					
1 Microwave repeater, 2 gHz, Hot stby	43,600	+	21,800	=	65,400
1 Multiplex, 12 channels	12,000	+	6,000	=	18,000
1 Alarm reporting encoder	1,700	+	850	=	2,550
1 Antenna, Microwave 6'	800	+	400	=	1,200
1 Antenna, Microwave 8'	1,600	+	800	=	2,400
1 Transmission line and connector	2,600	+	2,300	=	4,900
1 Tower, 150'	6,800	+	3,400	=	10,200
1 Equipment building (10 x 12)	6,000	+	3,000	=	9,000
1 Batteries and charger	4,600	+	2,300	=	6,900
1 Installation hardware	1,800	+	900	=	2,700
	81,500	+	41,750	=	123,250
BEAVER CREEK (3.5 miles north of Northway Junction)					
1 Microwave terminal, 2 gHz, Hot stby	21,800	+	10,900	=	32,700
1 Multiplex, 6 channels	6,000	+	3,000	=	9,000
1 Alarm reporting encoder	1,700	+	850	=	2,550
1 Antenna, Microwave 8'	1,600	+	800	=	2,400
1 Transmission line and connectors	400	+	200	=	600
1 Tower, 30'	3,500	+	1,750	=	5,250
1 Equipment building (10 x 12)	6,000	+	3,000	=	9,000
1 Batteries and charger	4,600	+	2,300	=	6,900
1 Installation hardware	700	+	350	=	1,050
	46,300	+	23,150	=	69,450

COMMUNICATIONS

THIS REQUEST WOULD ALLOW BACK BONE SYSTEM DEVELOPMENT AS SHOWN IN THE PINK COLOR.


PLANNED MICROWAVE
NEEDED MICROWAVE
EXISTING MICROWAVE
NORTH SLOPE BOROUGH
RANGE
Anaktuvuk Pass
Arctic Village
Chandalar
Wiseman
Evansville/Bettles Field
Venetie
River
13
PORCUPINE
Fort Yukon
Chalkyitsik
CANADA
UNITED STATES
YUKON
Beaver
Alatna
Allakaket
Hughes
Stevens Village
Birch Creek
Circle
12
DOYON LTD.
Livengood
Central
RIVER
Rampart
Circle Hot Springs
Tanana
Manley Hot Springs
Minto
Chatanika
Chena Hot Springs
College
Fox
Ester
FAIRBANKS
Eagle
NORTH STAR
BOROUGH
North Pole
Nenana
Salchaket
Richardson
Anderson
Ferry
Suntrana
Big Delta
Healy Lake
Chicken
Boundary
Healy
Dunbelli
Delta Junction
14
RANGE
15
16
McKinley Park
Dot Lake
Tanacross
Cantwell
Tok
Telida
Mt McKinley
Tetlin
Northway Junction
Nikolai
Chulitna
Paxson
Mentasta Lake
Northway
MATANUSKA
SUSITNA
BOROUGH
AHTNA INC.
Slana
Chistochina
Petersville
Talkeetna
Lake Louise
Gakona
Nabesna
Glennallen
Gulkana
Tazlina
COOK INLET REGIONAL CORP.
Copper Center
Willow
Chickaloon
Sutton
Lower Tonsina
17
Tonsina
Chitina
Susitna
Mc Carthy
Chitina
River
MUNICIPALITY
OF
ANCHORAGE
Big Lake
Knik
Anchorage
Tyonek
Golden
Portage
Tatitlek
21
Hope
Nikishka
Salamatof
Cooper Landing
Moose Pass
Kasilof
Clam Gulch
Kenai
Anchor Point
Chenega
La Touche
Kodiak
Cape Yakataga
Icy Cape

(1) Project Title	(2) Location(s)	(3) Election Districts Served	(4) Start Date	(5) Completion Date
HAUL ROAD COMMUNICATION SYSTEM	INTERIOR REGION		7/1/81	6/30/82

(6) AGENCY REQUEST			(7) Operational Cost & No. Personnel Increase -- (Decrease)		First Operating Year ____	Ultimate Annual Year ____	GOVERNOR'S REQUEST Approved	Deferred	Disapproved
1002	Federal Receipts		Funding Source	Federal Receipts			1002	Federal Receipts	
1003	G/F Match			General Fund			1003	G/F Match	
1004	General Fund	4,800.0					1004	General Fund	
1005	I/A Receipts						1005	I/A Receipts	
	G.O. Bonds		Total Annual Operational Cost					G.O. Bonds	
			Position (FTE)						
			Previous Year Priority	Agency Priority		Governor's Priority			
	Total	4,800.0						Total	

PROJECT DESCRIPTION (8) Plans for the public use and development of the North Slope Haul Road/Utility Corridor region of Alaska are currently underway by BLM and the state of Alaska. In anticipation of these actions, the standard services supplied by various government agencies such as road maintenance, law enforcement and emergency medical services which exist in other areas of the state must be extended to meet the public needs and demands in this area.

The situation at present has allowed the various affected agencies to plan for their future needs in this undeveloped area and work with other agencies which share similar needs in order to consolidate services and prevent the proliferation of redundant systems.

The system would establish a multitude of communication facilities on mountain tops scattered along the corridor to service the needs of the many inter-agency users.

The agencies' requirements are quite similar: 1) The extension of their existing mobile communication system to allow the continuation of agency standards, 2) The existance of and access to a highly reliable telephone system at the nodal camp facilities. The use of a telephone would allow communicaiton for general emergency purposes and would permit temporary and transit personel access to home offices for check in and or message follwup.

Many agencies are experiencing communication needs now and feel that are both jeopardizing the safety of their personal in this area and compromising their efforts because of this. In many instances the efficiencies of the operations could be improved dramatically by the existence and use of a reliable communication system. For these reasons the Division of Maintenance and Operations within DOT/PF, which is responsible for maintenance of the state facilities along the Haul Road/Utility Corridor submitted this request for $4,800. in their FY 82 operating budget to establish a communication network.

LEGISLATIVE MEMBER'S SIGNATURE: _____

(9) CATEGORY TRANSPORTATION

AGENCY DOT/PF

PROGRAM INTERIOR REGION HIGHWAYS

Page 1 of 1

Revised Date

FY 82

LEGISLATIVE REQUEST
PROPOSED CAPITAL
PROJECT

COMMUNICATIONS

THIS REQUEST WOULD ALLOW COMMUNITY

HOOK-UP TO THE BACK BONE SYSTEM

(1) Project Title	(2) Location(s)	(3) Election Districts Served	(4) Start Date	(5) Completion Date
EMS COMMUNICATION EQUIPMENT	STATEWIDE		7/1/81	6/30/82

(6) AGENCY REQUEST

1002	Federal Receipts	
1003	G/F Match	
1004	General Fund	823.5
1005	I/A Receipts	
	G.O. Bonds	
	Total	823.5

(7) Operational Cost & No. Personnel Increase -- (Decrease)

		First Operating Year ____	Ultimate Annual Year ____
Funding Source	Federal Receipts		
	General Fund	n/a	n/a
Total Annual Operational Cost			
Position (FTE)			

Previous Year-Priority	Agency Priority	Governor's Priority

GOVERNOR'S REQUEST

Approved	Deferred	Disapproved

1002	Federal Receipts	
1003	G/F Match	
1004	General Fund	
1005	I/A Receipts	
	G.O. Bonds	
	Total	

PROJECT DESCRIPTION (8)

This project will provide for design, purchase, and installation of essential Emergency Medical Services Communication equipment necessary to furnish the communications backbone between the EMT and a Physician or clinic/Hospital. There is a lack of appropriate EMS communication equipment along major transportation corridors, thus creating whole areas with minimal or no coverage. This project will fund equipment compatible with the current statewide EMS communication frequency (155.160) and provide for uniform statewide services.

SOUTHEAST REGION	88.0
SOUTHERN REGION	620.0
NORTHERN REGION	115.5
TOTAL	823.5

LEGISLATIVE MEMBER'S SIGNATURE:

CATEGORY (9) HEALTH

AGENCY HEALTH & SOCIAL SERVICES

PROGRAM PUBLIC HEALTH (EMS)

Page 1 of 1

Revised Date

FY 82

35 LEGISLATIVE REQUEST
PROPOSED CAPITAL
PROJECT

ALLEN
BLUME
SERVICES, INC.

P.O. Box 1608 • 211 Assembly Bldg. • Juneau, AK 99802 • (907) 586-9685

Mr. Chairman, members of the committee:

Thank you for this opportunity to testify before your committee. For the record, my name is Allen Blume, President of Allen Blume Services, Inc. and representing Mr. Stuart Browne, President of TELELINK Communications, Inc.

TELELINK Communications, Inc. was formed in May to provide Alaskan customers with several telecommunications services which include:

- Customized audio teleconferencing through TELELINK's Conference Message Exchange (CMX) service
- Telecom systems analysis, design and planning consultation
- The supply of automated office components such as sub-minute facsimile equipment, data communications terminals and electronic mail

TELELINK is in the unique position of being an end user of common carrier supplied services at the same time providing end-point "add ons" for our customers. This means we will be actively stimulating the increased use of the state's local and long distance telephone network, creating revenues for the telco's and long lines carrier. We are advising our clients that through the use of modern, comprehensive telecommunications systems such as our Conference Message Exchange, in conjunction with existing networks; new levels of productivity, substantial dollar savings, and reductions in travel costs can be realized.

The fact that America's GNP is tied to productivity and that increased productivity is possible through the use of telecommunications is becoming more and more apparent. Major industrial strides have been made in the automation of factories and in streamlining the production process. Today, with a majority of the national economy based on information flow, retrieval and storage, its important to streamline and automate Alaskan offices and business procedures.

TELELINK hopes that we can stimulate business users of telecommunications to take advantage of new office oriented services: teleconferencing, word processing, electronic mail and other telecommunications based services. With 60% percent of our National GNP related to "knowledge workers", TELELINK's products and services are available to help executives and knowledge managers achieve the efficiencies possible through telecommunications.

In Alaska, there are several areas where the State Legislature can help stimulate the telecommunications industry and the efficiencies that are inherent in this media. I believe we need:

1. Permissive legislation that will encourage the performance of ministerial, executorial and problem solving functions of state government and via legally established audio, video and computer teleconferencing services.
2. Greater emphasis by State government (and particularly this committee) on the use of telecommunications and particularly teleconferencing as an adjunct and alternative to high cost, time consuming travel; and the attendant loss of personnel productivity due to fatigue, lost office time, etc.

Less travel stagnat time.

could we have a starter and steeper session there

I would like to note for the record that these hearings have created a substantial loss of my time and revenues, as well as TELELINK's, simply because they were not teleconferenced. Originally we had not planned to testify before the committee, but rather sought to "listen in" to see what was transpiring.

However, when public issues are dealt with in a relative information vacuum, it becomes necessary to "jump in".

For the length of time and dollar cost that I have expended for:

a. Round-trip air fare from Juneau to Anchorage
b. Two day car rental
c. One day of hotel charges
d. Meals;

plus my absence from my desk, I could have otherwise walked across the street (or driven across town) to monitor these proceedings.

I am sure there are others who have been likewise affected.

Finally, we would like to endorse the beginning efforts of the principals in the new Division of Telecommunications Services for their accessibility and energy.

The provisions of Executive Order 50 have established firm grounds for the expansion and improvement of telecommunications services in Alaska. We look forward to a productive relationship with the Division and this committee.

Allen D. Blume
President
Marketing Associate for
Telelink Communications, Inc.

(5)

TELECOMMUNICATION ISSUES TO BE CONSIDERED BY THE HOUSE LABOR AND COMMERCE COMMITTEE. They are:

1.) Is there a danger of government "crowding out" private businessmen by becoming involved in telecommunications?

2.) What should be the state's policy regarding telecommunications?

3.) Is there a danger of a telecommunications monopoly developing in Alaska?

4.) Who should own the satellite T.V. "dishes" in the villages? The state does now and it pays Alascom $582 per month to maintain them.

5.) Should the state set up a loan program for telephone co-ops to replace the 5 percent federal loan fund which is being phased out?

6.) Can the state improve on its present system for transmitting computer data from all of the various departments?

7.) What new kinds of technology in telecommunications can give the state "the most bang for its buck?" The big technological developments now relate to digital transmission and packet contention, and two way television.

8.) The Governor (Executive Order 50) recently centralized all telecommunications programs in the Department of Administration. The Committee may want to do some oversight on the establishment of two new telecommunications divisions which were established.

9.) Should the state encourage more in-state programming and more Bush programming, or should it stay away from being involved in what plays on state-funded satellite television?

10.) There is a little bit of work being done on what social impact the introduction of television has on rural villages. You may be interested in these sorts of social impacts.

11.) Other concerns expressed by public or private enterprise.

United Utilities, Inc. NATIVE OWNED CORPORATION
5400 A STREET ANCHORAGE, AK 99503 PHONE: (907) 276-1959

September 24, 1981

Representative Terry Martin
Chairman, Labor & Commerce Committee
Juneau, Alaska

Dear Representative Martin:

RECOMMENDATIONS FOR STATE POLICY ON TELECOMMUNICATIONS

1. State government should encourage and support reliable and quality universal service at affordable rates. We feel that a realistic goal of basic telephone and television service for communities over 25 residents by 1984 is achievable and is desirable.

2. Delivery of telecommunication services should be through private enterprise in a fully competitive but regulated environment. Local control should be prefered in owning, operating and maintaining these systems.

3. Artificial regulatory and government barriers for growth and development of new and innovative services should be removed.

4. No company through sheer market power and size should be allowed to manipulate state policies and objectives of universal service at reasonable rates.

5. Companies owned and operated by Alaskan residents and based in Alaska should be given competitive edge over outside interests.

6. Any revenue shortfalls that cannot be met through rate design, rate integration and revenue pooling concepts should be supported through direct appropriations in forms of grants and loans to the providers of these services.

7. Long term and short term capital needs of the telecommunications industry should be supported by loans and grants at reasonable interest rates under reasonable terms, available to all providers of these services in the ratio of their ability to pay back such loans and based on genuine need when alternate sources of financing are unavailable.

Vinod Batra
President
VB:pa

MAILING ADDRESS: P. O. Box 4-2730 ANCHORAGE, ALASKA 99509

Please make 5 copies.

NORTHERN TELEVISION, INC.

THE BROADCAST CENTER

P.O. BOX 2200 ANCHORAGE, ALASKA 99510
KTVA-TV/KBYR-AM/KNIK-FM/MUZAK
(907) 272-3456

P.O. BOX 950 FAIRBANKS, ALASKA 99701
KTVF-TV/KFRB-AM
(907) 452-5121

September 22, 1981

Representative Terry Martin
Chairman of Labor and Commerce Committee
921 West Sixth Avenue Suite 250
Anchorage, AK 99501

Dear Representative Martin:

Although Northern Television, Inc. will certainly try to have a representative at the Anchorage meetings September 23 and 24 regarding telecommunications, neither Mr. Hiebert nor I will be able to attend, so we are submitting our comments in writing. As President of the Anchorage Associated Broadcasters, many of these same questions continue to come up each session, so we are grateful for this opportunity to make comments.

Question 1: We see a definite danger of government "crowding out" private businessmen by the sheer magnitude of the state's involvement already in telecommunications. The state should only involve itself when the private sector is unable to provide service or determines it is not economically viable. In a situation where the state does provide telecommunications service, it is the opinion of both the Anchorage Associated Broadcasters and Northern Television, Inc. that the services should be contracted or subcontracted to the private sector.

Question 2: Responding to what the state's policy regarding telecommunications should be could take several pages, but my response above to Question 1 certainly relates to policy. Also very important is the concern those of us have over the state's involvement in distribution of program signals that those of us who are network affiliates in Anchorage are responsible for to our networks. Even in the recent legislature, legislation was introduced without any consultation whatever with any of the commercial broadcasters, let alone determining whether the network programming would be made available to the state for distribution. The entire state television project could quickly be discontinued if the networks pulled our authorization to the state due to concern over the lack of proper controls in distribution of their programming.

Question 3: There definitely is a great danger of a telecommunications monopoly in Alaska.

Question 4: The villages should have the opportunity to own their own satellite earth stations if they have the expertise to operate and manage them. Otherwise they should be owned by Alascom, a local telephone utility, or some other common carrier; not the state.

Question 5: A state loan program to telephone co-ops would be beneficial if this would enhance improved service to the general public. However, since there is considerable danger of fiscal abuse, the loaning of money must go hand-in-hand with continued oversight and regulation by the Alaska Public Utilities Commission.

Question 6: We are not privy to how efficient or effective the present method of data transmission for state agencies happens to be. If there is a serious question, then an unbiased, competent third party firm should be engaged to make a comprehensive study so that an intelligent course can be followed in the future. The transmitting of computer data for the various state departments is another service that should be provided by the private sector.

Question 7: There are dozens of state-of-the-art technology developments which will provide the state with the best service in a cost-effective manner. Alascom's commitment to own a satellite within the next two year time frame is a basic example of how the potential of present and future new technologies can be implemented, consistent with the growing and expanding needs of the state. Alascom's proposed satellite is to be situated at an ideal orbital slot to provide a perfect "footprint" over Alaska, and at the same time will be able to cover adequate (and necessary) locations in the South 48 states, Hawaii, and the Pacific Rim. This is especially significant considering Alaska's growing economic ties to the Pacific. Capabilities of satellite transmission are such that new and emerging technologies (such as digital) can be perfected and used as they become cost-effective and required, and with no concern as to whether or not the satellite is capable of transmitting these new techniques. Satellites are capable of handling any new technologies that are likely to be developed during the life of the bird.

Question 8: Lt. Governor Terry Miller approached the Anchorage Associated Broadcasters and the commercial stations individually prior to the final draft of Executive Order 50, and our largest concern was again the distribution of programming by the state as authorized by the affiliated stations on behalf of their respective networks. We were assured that this would never happen, and twice since Executive Order 50, to my knowledge, the problem has surfaced. As we mentioned in responding to Question 2, legislation was introduced in the last session that did not address or request the rights to distribute programming, and most recently plans were well underway to take network programming signals "off the air" from monitors at the state's communications center rather than have the programming recorded by the network affiliates, delivered to the state, and then returned to the affiliated station for the tape to be erased as required by the network's authorization conditions.

There is also concern by Northern Television, Inc. that any commercial broadcaster, including us, utilizes the state satellite system for "commercial" purposes. We have purposely stayed clear of any inference whatsoever that advertising can reach any of the areas of the state via the state satellite system so that state or taxpayer money was not being used to our benefit. However, there are examples of stations using the state satellite system to their own commercial advantage and the telecommunications division responsible for this area should be especially aware of this practice.

Question 9: In-state programming or Bush programming can be beneficial to many sectors of the Alaskan community. However, the Division of Telecommunications should make sure all projects are cost-effective and that regardless of the cost to produce this programming, it should be monitored as to its effectiveness. I believe the state should always try to make the production of this programming available on a contract or bid basis from the private sector.

Again I thank you for the opportunity to respond, and if the legislature and the Administration "before the fact" both stay in touch with the broadcasters who are deeply obligated to our respective networks, it will save a lot of headaches and avoid jeopardizing the state satellite project in the future.

Sincerely,

Ron L. Moore
President
Northern Television, Inc.

cc: A. G. Hiebert, Chairman

RLM/AGH:cag

Alaska Cable Television Association

5 Copies

The Alaska Cable Television Association has the ability to bring state government much closer to the people of Alaska. As President of ACTA, I am writing to propose the creation of a system to place full coverage of proceedings in the House and Senate, plus elected committee meetings, on cable television throughout Alaska. The system ACTA proposes would also make it possible for individual legislators to report to their constituents regularly via cable TV without leaving the Capitol, and provide a phone-in link to receive questions and input from home districts.

We are calling the proposed system A-SPAN (for Alaska Satellite Public Affairs Network). The basic idea is borrowed from C-SPAN (Cable Satellite Public Affairs Network), the non-profit, cooperative effort of the nation's cable TV industry, which now brings live gavel-to-gavel coverage of the U.S. House of Representatives into more than eight million homes in all 50 states. C-SPAN also airs phone-in programs to allow Representatives to talk directly with constituents, and covers both House and Senate hearings. A bill to allow C-SPAN's cameras into the U.S. Senate is currently pending. I have enclosed a copy of a C-SPAN ad for your information.

The proposed A-SPAN system would do much to improve the accessibility of state government to the average citizen. Your support for A-SPAN does not necessarily imply any feelings one way or another on the Capitol move issue, and we at ACTA believe it will have a positive effect on all persuasions. If we move the Capitol, this is a good interim measure while we wait. If we don't move it, it may prove to be a very viable alternative. Either way, this form of communications has and will continue to greatly improve the dialogue and understanding between constituents and representatives. The potential for implementing a more effective system is greatly enhanced by the use of this medium.

Once the MultiVisions system is completed in Anchorage (by the end of 1984), 90% of Alaska's citizens will have access to cable television. By providing cable service in schools and libraries, A-SPAN can be made readily available even for people who don't subscribe to cable TV. This would give Alaska the most open and responsive State government of all the fifty states.

A-SPAN would interpose no editor between government and the people and would only inform the audience of who the speaker is and what the referenced bill is about. A brief suggested format is attached for your perusal.

A-SPAN would not be an expensive project, considering the enormous benefits it would bring to the State of Alaska and its people, and the Alaska Cable Television Association is very committed to making A-SPAN a reality as a public service project. However, the overall cost of the program will exceed our means, and the project's benefits to the statewide public lead us to hope that state funding might be made available to help us create the system. Perhaps, like C-SPAN, A-SPAN could be organized as a private, non-profit corporation and receive funding both from the State, the ACTA, the ABA and other interested parties. If there is substantial support for our concept among legislators, ACTA will develop a detailed proposal and budget by November.

I hope you will want to help ACTA turn this drama into a reality. I believe that A-SPAN would be the most positive step the legislature could take to provide Alaskans with freer access to their state government. I hope to speak with you about A-SPAN, in person or by telephone, before ACTA's next bi-annual meeting this November. At that time, I will report to the Association's members on the response of Alaska's elected representatives to the A-SPAN concept. I look forward to discussing this idea with you.

POSSIBLE PRODUCTION FORMAT -- A-SPAN

House and Senate Chambers

10:00 a.m. - 12:00 p.m. (Hours will lengthen as session progresses)

Description: "Live" television coverage of House and Senate session in progress (two separate channels). Through the use of remotely operated TV Color cameras, legislators, Speakers, and voting machine display boards of both chambers will be covered. A technical director, one assigned to each chamber/channel, will switch between cameras located in each chamber to keep up with the activities. Each director will have access to a title generator to identify who is speaking.

Committee Hearings

1:30 p.m. - 4:30 p.m. (Hours may vary as session progresses)

Description: "Live" television coverage of one (1) House and one (1) Senate Committee Hearing will be covered daily when in progress, using two separate TV channels (these would be the same channels earlier designated for coverage of the House and Senate sessions). The schedule of what committee hearings will be covered will be announced the day before on the "Electronic Information Center" channel. Each hearing will be assigned a technical director who will run and switch remote TV color cameras to cover the event. A title generator will be used to identify those speaking.

Electronic Information Center

10:00 a.m. - 7:00 p.m.

Description: This channel will run continuous listings of current and upcoming legislative events using a sophisticated character generator (television typewriter) which can be updated daily or as often as needed. Items will include House, Senate, and Committee Hearing calendars, schedule for the "Legislator Access" channel, times and places for special community hearings - statewide, and other timely announcements.

Legislator Access

4:30 p.m. - 6:30 p.m.

Description: This channel will be open for scheduling by legislators for short (10-15 min.) presentations on any topic they feel would be of interest to their constituents (regional or statewide). The public will be given a chance to react or to ask questions of the legislator via a direct call-in telephone line. The frequency of activity on this channel will be dependent on legislator usage, therefore the hours of operation will vary. However, a requirement will be that legislators must give adequate notice of topics and times so that notice may be given to the public via the "Electronic Information Center" ahead of time.

CABLEVISION

10512 N.E. 68TH STREET — KIRKLAND, WASHINGTON 98033
(206) 822-0252

April 10, 1981

Ms. Jane Demmert
Director of Telecommunications
221 Northern Lights Blvd.
Anchorage, AK 99503

Dear Ms. Demmert,

I am writing to you as a result of conversations I have had with several other people involved in the Low Power Transmitter applications that have been filed by the State of Alaska with the FCC.

First let me quickly introduce ourselves. Alaska Cablevision, Inc. operates Cable Television systems in seven Alaskan communities: Petersburg, Wrangell, Valdez, Cordova, Kodiak, Kotzebue and Nome. We acquired these properties in the fall of 1980. Since then we have assumed a very aggresive posture in terms of technically upgrading these facilities and introducing new satellite delivered programming. In addition, the principals of Alaska Cablevision own and operate several Cable TV systems in the "Lower 48". Four of the five principal partners have been very "hands on" involved in the Cable TV industry since the mid Sixties.

Our concerns over the pending LPT applications stem from the following:

1) The Cable Television industry has 12 VHF channels available to deliver its programming (channels 2 thru 13). To expand beyond that requires devices (converters) be placed at each subscribers set. In view of the multitude of programming available via satellite this is precious space to us and we must be able to use all of it without handicap.

2) The State of Alaska currently has in our communities a VHF transmitter for the State channel. The State transmitters cause us technical problems. The Cable TV subscriber now has 2 transmissions of the same channel arriving at his set: one via coaxial cable and one via the State transmitter. The result is a picture with an interference problem, called co-channel interference.

3) There are certain things a Cable operator can do to help protect his customers when this situation arises.

A technique known as phase locking is used to reduce the viewing problem from one of co-channel (very objectionable) to one of a ghosting problem (less objectionable). Also, the Cable operator must maintain the ingress/egress integrity of the Cable facilities to prevent off-air signals from entering the Cable system at a point and being carried along, the cable, again causing co-channel interference.

These things having been done, we have reduced, but not eliminated the problems at the customers set. However, the built in tuner and/or the built in antenna within the customer set, can with varying degrees of effectiveness, receive the off-air signal and add it to the one being delivered via the Cable system coaxial cable causing interference. The type of television, sensitivity of the built in antenna, distance from the transmitter, type and direction of the transmitting anterna, quantity of signal delivered by the Cable TV company all are factors in determining the degree of significance of the problem. Our problems vary from community to community but they do exist; and naturally the people turn to the Cable company, not the State for answers.

Yet, you can eliminate this problem. It is our hope that you would ammend the applications for Wrangell, Petersburg, Cordova, Valdez, Kodiak, Kotzebue and Nome such that the transmitter would be at a UHF frequency. At UHF all of the above mentioned problems for the subscriber would vanish. Virtually all of the sets have UHF tuners as well as VHF tuners, so the customer could simutaneously use UHF for State programming and VHF for Cable programming.

Some re-engineering of your application would be necessary, however, there would be some duplication in the seven applications that would diminish the size of that project. I am sure that time is of the essence for you in this project, however, I feel that ammending the applications would create no slow down in your time table, since the LPT affair is moving somewhat slowly at the FCC.

I hope you consider this request with an appreciation for our deepest concern. We have a limited space to do business. One channel is already troubled and if nothing is done, another will soon be also. Please appreciate our absolute need to deliver signals to our customers of the very highest quality.

Please feel free to contact me at any time.

Sincerely,

Robert Allison,
Vice President

RA/lk

April 16, 1981

Ms. Jane Demmert
Director of Telecommunications
221 Northern Lights Blvd.
Anchorage, Alaska 99503

Dear Ms. Demmert:

I received a copy of Bob Allison's recent letter to you regarding VHF/UHF transmitters. Before the ACTA makes certain assumptions, I wonder if you would be able to take some time to write me and tell me the main goals and objectives of your recent findings and how you see our member companies interfacing and/or complementing your needs and those of the rural areas of Alaska. Obviously, it is of great interest and concern to the ACTA since we have a substantial investment in most communities within the State of Alaska. Your time and consideration would be most appreciated.

Sincerely,

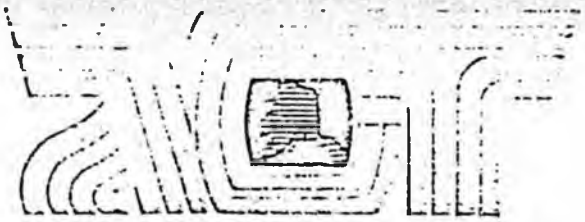
R. N. Uchitel

Robert N. Uchitel
President

cc: R. Allison

RNU:gh

Alaska Cable Television Association



May 14, 1981

RE: Work session report between R.N. Uchitel and Jane Demmert, Director of the University of Alaska Instructional Telecommunications Consortium, and Bill McCaughan, Director of the Operations Center of the University of Alaska Instructional Telecommunications Consortium, and Tom McNulty, Director of Marketing for MultiVisions.

Gentlemen:

Getting to the crux of your concerns, more specifically, the concerns expressed in the enclosed letter from Bob Allison to Jane Demmert, I wanted to explore with Jane what it is that she does, why she is doing it, where she's going with it, and how, if possible, it can benefit all of us without hurting any one of us. I believe, that both she and Bill are friendly, aware, and understanding of our position and our concerns about the State sompeting with, rather than complimenting, our service. I throw out for your consideration and quick response to me, several ideas which came from the meeting.

In those areas where cable does exist, the State os Alaska need not put up any kind of transmitter of their own, but instead, transmit their programming on one cable channel in the following fashion:

The cable operators would commit to hardwiring all the homes, or the very vast majority of the homes, in their community.

The State would purchase all the necessary trapping hardware, so that if people simply warted to see the "Learn Alaska Channel" and nothing else on the cable, the subscriber would be prevented from seeing the cable channels if they chose not to pay for it; therefore, the cable would be in their home without charge to them for watching that one State subsidized channel fourteen hours a day.

The State in turn, on their channel, would thank the cable operator in his community for participating in the project and recommend that the viewer look at other cable channels that are being trapped out, if indeed they are being trapped out, because of the good programming on those channels that they are missing. Thusly, the State would be marketing on their channel, for free, the use of and advantages of the other channels on the cable system.

In those communities where there is no cable, the Alaska Cable Television Association would go along with the concept of allowing various cherry-picked programming from the satellite, that has traditionally been the programming source of the Cable Operator, and help them to show that programming in those communities until cable became a viable alternative. I see this as being potentially a great plus for us, because, it would finally show us to be the

conduit and broker that we prefer to be. Eventually, depending on regulation and proven costs, perhaps we could charge the State and other groups for the use of that cable channel.

Free marketing on the part of the State is a unique, and I believe, positive concept that can only lead to maximizing penetration in all markets. If we don't go along with the things that I have just suggested or other things that have been discussed, I believe that the relationship between the two organizations is still a healthy and viable one and that we haven't lost anything or given up anything and, of course, neither have they. Right now, they are willing to cooperate and will put up money to that end on our behalf. Let me know your thinking so that I may pursue it further or drop the whole issue. Thank you for your consideration, and I again hope to see you all during our Preview Presentation for Alaska 1984 in the first week of June.

Most sincerely,

Robert N. Uchitel
President

P.S. In a subsequent conversation with Augie Hiebert, he suggested and I concurred in our common alliance to protect ourselves from certain bills now before the House that potentially compete with us on a more serious basis than the above legislation. I would like to hear your feedback on that because the Broadcasters Association will be meeting shortly and would like our help on the pending problem. In addition, Augie would like to expand the idea to Satellite broadcasting of KBYR to Bethel and would like to have the participation of all cable systems throughout the State. He's indicated that he's gotten positive feedback from many of you and any thoughts I can pass along to him for you or you directly to him, I think he'd appreciate. Thanks again.

RNU:gh

encls:

(1) Put into Legislation - per John Lindauer

A Bill to get the state out of competing with private business and to stop state officials from using their offices and influence to control the news should have the following parts:

OK 1. No advertising or acknowledgements or name mentions shall be provided for any business product by public radio stations, public television stations, or public networks in response to money payments, grants, or donations.

OK 2. No commercial advertisements shall be carried in state funded or state subsidized programs or in programs transmitted by state funded or state subsidized satellite channels.

OK 3. No corporation doing business in Alaska shall charge higher prices to Alaska private broadcasters than it charges an Alaskan public broadcaster.

OK 4. The production of all news and other programming that would otherwise be provided by the Alaska Public Radio Network or any other similar organization shall be put out to competitive bid and awarded to the lowest qualified bidder. The cost of having the Public Radio Network or any other state-funded group provide the service shall be revealed in the bid request so that private bidders will know what price they have to beat in order to get the contract.

5. The state's public radio stations may buy any programming service they desire and no programming shall be pre-funded by the state in order to preempt their choices. Said programming services so desired will be put out to competitive bid and awarded to the lowest qualified bidder.

OK 6. It shall be felony bribery for an employee of the state or a public radio or television station to solicit any payment for the purpose of directly or indirectly influencing a public official or the content of any newscast or program carried by public stations or any commercial newscast carried by satellite at state expense.

7. ~~The~~ public radio stations in cities with populations in excess of 1800 people ~~shall~~ may be sold to the highest bidder who will contract to maintain or increase the current level of service and the proceeds will be used to increase services in communities not now served by public radio.

(3)

Chairman Martin, Members of the Committee:

Alaska is currently first in revenue per capita of the 50 states. Alaska is 50th in television reception. Alaska is the only state that does not have full time "live or real time" TV broadcast of the three major networks and the public broadcast system.

The loss to the people in education, health, information opportunities, reaction to current events, and entertainment is enormous - and uncalculable.

The loss to our rural citizens is even greater as they do not as a whole have daily newspaper coverage.

Currently the major networks are going more and more to special events and special commentations by top reporters, rather than carrying the story on the news. In most cases Alaska misses these specials.

During the last session, HB 517 was introduced by Representative Oral Freeman and was originally co-sponsored by 24 members of the House - to correct this deplorable situation.

The Freeman bill would bring 4 channels of "real time" television to 94% of the state's residents. It is designed to give Alaska citizens equal programming on major networks with all the people in the other 49 states.

Thousands of Alaskans would be receiving 4 channels live on real time television for the first time in the history of Alaska.

This program could be installed with the very latest in technical equipment at a cost of $50 per person statewide and an operation cost of $1.25 per person per month. Total cost for hardware was estimated at $25.5 million - operation $5 million.

The greatest benefit to live real time TV is its educational and informational value. It is without a doubt that TV is the greatest method to reach the people with information available today. Yet thousands of Alaskans have no television or delayed programs and our bush communities have no freedom of choice, receive only one channel. We in the major cities miss important news programs of vital events because a two-week delay makes the event no longer news.

And then the station must fill that gap by reruns of much older programs having received nothing from the Networks.

In the proposed project the private TV stations would indeed be benefitted as all programs would necessarily be channeled through the licensed network franchise and their individual advertising would be carried into a larger area by satellite.

This program while providing real time coverage of major network TV will not interfere with cable or pay TV. Every city in the other 49 states has live network TV and the cable business is flourishing.

At this point I might add that although I do represent one telecommunicati company their only request is to have an equal opportunity to bid on the various elements of this program and to encourage free competition in telecommunications in Alaska.

The question of state versus private enterprise in the case of tele-communications the answer is quite obvious. Even in the largest cities it is not economically feasible for private business to pay the transmission charges to Alaska. It is reasonable to assume that in smaller cities and rural areas it will perhaps never be feasible.

It is extremely beneficial to the state that the people be well informed. The costs are minimal when spread over the entire population.

The earth stations should be owned by local private telephone companies where one exists and by non-profit local co-ops where no telephone company exists.

Under this proposal the state would not be involved in programming as the four channels would give each household their individual choice of major network programs.

It is my hope that thru this committee that the state will provide this great service to all its people. The costs are small and each and every citizen, rich or poor, can benefit equally from this state expenditure.

Russ Me tins

(4)

Robert Wold Company of Alaska, Inc. testimony on Telecommunications before:

Alaska State Legislature

House of Representatives

Labor and Commerce Committee

September 23, 1981

Chairman Martin and Members:

I am Gene Deck, Vice-President and Associate Director for Robert Wold Company of Alaska. Mr. Wold, due to other commitments, is unable to attend and has asked me to relay his apologies. We thank you for this opportunity to appear before this committee on such an important issue as Alaska's telecommunications future.

Recently, we have seen Alaska's executive and legislative branches take the much-needed step to increase the efficiency of telecommunications functions in state government. We are in agreement with this step and laud you for it. We are encouraged by the intent to develope in this new organization policies which will:

- facilitate and develope basic and advanced telecommunications services and facilities.
- minimize the size and influence of state government by promoting private ownership and control of telecommunications facilities.
- recognizes the state's dependence upon innovative use of new telecommunications services and techniques.

We believe these policies will permit growth of telecommunications services and facilities, only if, competitive forces are allowed to thrive in Alaska's marketplace.

It is well known that Alaska's telecommunications atmosphere has been a monopoly since 1970 when private enterprise took over the Alaska Communications System. Monopolies are well known for exclusive control of a commodity or service in given markets which makes possible the fixing of prices and virtual elimination of free competition. Additionally, monopolies have no incentive or motivation to keep prices down or introduce innovative services and new techniques.

The other forty-nine states are presently benefitting from the government's well-established policies of promoting competition in terrestrial and satellite communications. While the established providers of these services and facilities understandably resisted such policies at the outset, there is almost unanimous agreement in the communication industry and in all other sectors that competition fosters efficient, economic, and well-directed communication services and that it has not adversely affected any group or segment in the society.

New technologies offered by new entrants into the telecommunications field are here and Alaska should take advantage of these technologies by making them available to its citizens. For instance:

- Digital television transmission techniques which permit a multiple number of TV channels in a single satellite transponder.
- Time Division Multiple Access techniques which permit a multiple number of users to access the same facilities for message telephone and data services.

These are only two of many which are available.

Open market competitive policies can make these technologies available to Alaska's citizens.

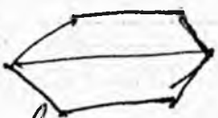
In summary, I would like to leave this message with you.

> "It should be the policy of Alaska's state government to rely wherever and whenever possible on marketplace competition and on the private sector to provide all telecommunications services. Marketplace competition will result in technological innovation, operating efficiencies, and availability of a wide variety of telecommunications techniques that are now or may become available in the future, and will promote the equitable and efficient use of such technologies to provide services to all geographical areas of Alaska."

Thank you.

Oct. 28th - Forbs hearing - State-Telecommunications.

Rep. Fred Brown
Dick Edge - FCC - Wash. D.C. specialist SB 888
Timothy Wirth - U.S. House - "Universal Services"

Get back to basics - [redacted] -
"Compelling Interest" of State -

Do you see the day-out seals of basic needs
Alascom - bury just the small rural companies - Anti-trust Law.

Cable T.V. - F.C.C. thru A.P.U.C.

* Consider sending telegram to Sen. Stevens + F.C.C.

Jeannie Otness - E.M. telecomm
See planned program for addition to FY 83 Budget.

See State funding 911 State wide - meet cost for local
Needs more education for E.M.'s continuous
phone companies.

Glenn Standley - consultant

---

75 yrs - Learn A.B. -
* [credited courses] re invent the wheel. -
production - cost of equip - generals

Use of PBS system +
" " Cable " +

Mr Brad Brooks. E.M. $700,000 FY82
USPHS, State Troopers.
BIA
* Military etc.
Packet relay.

Annie - Moderator
Welcome to Beautiful Kobuk - I & E's Telecomm Hearings -- Great participation in Sept. hearings we look for same in Kotz today
Rep Brown -

State people are not here but you can be assured that as your reps. we will strongly

---

Kodiak - Is 6 m State demonstration Marie T.V. Demonstration - K.O.T.V. Channel 9 served 9 to 16 hours
Dave Thompson - Bill Glenn . Compelling interest? How many People served & ranked
↓ Is there unfair competition
Feels that Public Broadcast is now on a very good path.
Sam Decnelli - Port Lions owner

Bill Glenn - Interference fears of cable T.V. people..
Problems were eliminated when T.V. switch to another channel
stealing channel

Juneau - Alp Hill - compelling interest. State Sat. - "out of business"?
"no legal obligation" ethical procedures
strict letter of the law? production
alternatives ⇔
New ? -
48 employees

Petersburg -

Kotzebue $440 M's in loan for T.V.
How can we help your system in Anak

Barrow - Thank for your very frank report.
Tom Safter - Barrow Cable T.V. Great need for all involved to communicate.

Growth Policy report - State should avoid state - will send his written report.
* make use of local maintenance services not e.g. send out own employees or

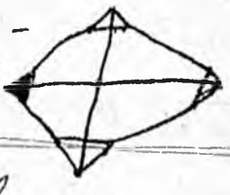
Bob Allison - Peterbergs - ITV - Learn AR.
Problem is with delivery method choosing channels.

Anch - David Hammett. - good observations pts. -
wants to allow rural outlets to clock on private lines
What about electrical power for villages - basic needs.
Much to think about -

Legislature meetings + Board meetings - astronomical legal questions.

PAT-NET

Larry Blackin + Patty - Haines -
New policy of Mr. Hills



Harver Dallain - Peterbergs -
Channel 9 interferrence problems -

David Morzeb - Peterbergs
Exec. Order 50 ⟷ Thanks for position note.
need input on programming.

Betty - AB. Coal Conf.
Lack of communication with private + State

Fairbanks Guest —

Alex Hill —

This whole ~~Div~~ Dir is kind of on a ~~tight~~ rope !!!

New Div. of Telecomm — problem is that next year a new Governor may dissolve the Div. — Leg. may not approve appropriation — only in law is there a permanent status —

Cart before the horse — hardware & staff before ~~state policy~~ development.

Private Vs Public developing —

Girdwood

Kenai

Soldotna

Everything and anything —

What is future staff coming to.

Hero's or Villians

Mr. Russ MacLean Sr. ——

HB 517 — 24 sponsors ???

Letter of intent by Commerce Comm. ??

$50 ea per person ——

Mr. Dave Deck — Vice Pres. Robert W. Deck Co. —

Tele. in AK. is a monopoly —

Other states establish incentive for maximum competition

? In other States — AK. "monopoly" — utilities need for protection. — water, telephone

Mr. John Lindauer - State should spend fewer dollars and allow private dollars to do the job -

No more need for State expenditures.

State is influencing public news and concepts.

Massive political abuses in the back.

Alascom. was ordered twice by gov's office to announce supposed news releases - this is against the FCC regulations. -

Direct broadcasting is coming - most of what is developing now under State may be out of date - too late - too costly -

---

Mayo Weatherly - APUC. the electric of AK.

Our future is to be determined by Wash D.C - F.C.C. the Fed. give monies to many area in need, but AP. is conceived as having enough $$$.

VS SB 696 - attempts to set State policies -

Do we need APUC to monitor cable T.V.

Need to set of procedure + policies for certifications

HB 606 - $46,000,000 loan bill - most this for develop. of rural telephone - will = REA Fed low % loans.

need interim financing to take place of R.E.A.

AS 42.05 - cable T.V.

Why often Us hang their own systems.

Mr. Robert Blodgett - Is interested in private sector feels public

Mukluk Tel. Comm - has gotten financing through REA - $3M's for 35 yrs.

Loans - not limited to co-ops - allow independents op. also. - Decrease regs to make

Mr Bloodgett. - uses data to order groceries at Gottstein. improve on dates etc.

State VMA tape — 35 mil. too limited

Data can greatly reduce mail.

Safety Comm Network - OK.

State programming - individual choice —

Social impact to villages - good in decreasing alcohol use - Villages do have council that have entertainment authority - movies etc. T.V will allow more at home.

T.V evaluation 80% entertainment 20% educ. and other

Bloodgett is going to build his cable network - equip in this field is decreasing in cost.

Competition with State is cost him in need for more equip. and double equip in some areas.

Micro-processor will greatly change all lives in comm, and social beings —

AK. Cable Tele. Co.

Sam Evans - 6,000 families - 7 stations

Kat, Kenai, Wald, Cordo, Wrngl,

84 employees - 36 in AK.

Have switch from 4 channels to 11 channels.

Impact not being over regulated through APUC

Enthused with State cable openness -

Fears competition with State every fall what they are now paying for.

Conflict with U of A - Learn & Prog. - UA wants to use channel 4 that his company now has. The Co. can give better quality and free service but UA is persistent and has asked FCC to adjudicate the problem.

They feel UA is now commercial not T.V.

V of N. in Oct. —
Public Safety

Allen Blume - Juneau. —

Clarke Northrup —
Repeater service is smaller communities —
will this decrease many small staff in every
small area or is there instances that rural area feel they
own local people for local interest - everyone gets their
own name or grp on air waves —

appropriation ? Find itemized out by Gov last yr.
this yr sent before Gov's signature

Why Feb: for develp. policy -

Ep 50 - prohibit direct production —

Frank Price - Meteor Data Inc.
FCC now limits use of meteor data - State did
put his ferm somewhat out of business do to establishing
its own system - however Leg. did change direction
through RSP - req wil fr. — proposers ----
Alascom - Meteor Inc. competed for bid.

Owners of local satilite disc —
private - State put up for bid — ?? one may pay
fee for long term purpose.

Bob Herron —
Owner of Bethel Cable - Feels there is a
crowding out of local business.
State is spreading out too much —
Learn AB said they will use Channel 2 when
local station has been using this it - for
four years. over ↗

Bethel TV is investing $1 + million for satellite.

I-TV and Learn Alaska.

Bob Allison – Alaska Cablevision

I'm jealous of what you are doing – an modern thing in Anch.

HJR
49

COMMITTEE REPORT

HOUSE

4/23/81

(5)

FURTHER:

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HJR 49

Requesting the United States Congress to exclude state unemployment insurance trust funds from the federal unified budget.

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____ CHAIRMAN

H 60 (Rev. 3/81)

Bill No. House Joint Resolution No. 49

Date April 24, 1981

Title Relating to exclusion of state unemployment insurance trust funds from the federal unified budget.

Contact: Judy Knight J Knight
465-2700

Funds used for unemployment compensation are generated by payroll taxes enacted by State Legislatures. These funds can be used only to pay unemployment compensation in the state in which they were collected and are held in trust by the federal government and drawn as needed to pay benefits. Since 1969, these funds have been included in the unified budget. The "bottom line" impact of inclusion of state trust funds in the unified budget is that all unemployment compensation--including benefits paid completely from dedicated state funds--appear as federal outlays. This makes unemployment insurance programs the target for budget-balancing proposals such as taxation of benefits, pension offsets, removal of extended benefit claimants from the computation of unemployment rates, and other cost-cutting proposals like those included in the Omnibus Reconciliation Act of December 5, 1980.

In addition to those set out in the Resolution itself, there are a number of other reasons unemployment compensation trust funds should not be included in the unified budget, as follows:

1. The majority of the federal payroll tax is not collected from employers, but is credited if employers participate in an approved state program and are subject to contribution rates set by the state.

2. The operations of the U.S. Treasury do not require that the accounts be included in the unified budget. The Treasury currently handles accounts for several "off-budget" agencies.

3. Basic program decisions--level and duration of benefits, contribution mechanisms, eligibility, and many administrative functions--are almost entirely in the hands of state legislators.

Policy calling for removal of funds has been adopted by the National Governors' Association, the Interstate Conference of Employment Security Agencies, the Federal Advisory Council on Unemployment Insurance, and the National Commission on Unemployment Compensation. These policy positions were adopted recently and the issue is not yet well-known in Congress. One way to speed consideration of this important issue is to ensure that states' Congressional delegations recognize the impact of inclusion of state unemployment trust funds in the unified budget and are aware of the states' strong desire to remove the funds from the budget. The proposed resolution could be used to convey Alaska's sentiment on this issue to national policy-makers.

Position: The Department of Labor supports the proposed resolution and recommends immediate approval.

POSITION PAPER/Department of Labor

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Position: The Department of Labor supports the proposed resolution and recommends immediate approval.

POSITION PAPER/Department of Labor

SB
19

COMMITTEE REPORT

HOUSE

2/26/81

FURTHER: FINANCE

(5)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had SB 19am

"An Act relating to the legal rate of interest; and providing for an effective date."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for SB 19 am [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

Terry Gardner

Terry Martin

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

CHAIRMAN

H 60 (Rev. 12/78)

Fact Sheet: SB 19 "An Act relating to the legal rate of interest."

Purpose: Amend the usury statute (1) to reduce the number of loans on which the interest rate is set by law rather than by free market forces; and (2) to adjust the procedure by which the legal rate of interest is set, by making it more timely.

At present, the usury statute applies to all loans originated in Alaska under $100,000. For those loans, the interest rate may not exceed five percentage points above the discount rate set by the Federal Reserve Bank of San Francisco (12th District) on the 25th day of the month preceeding the commencement of the present calendar quarter.

The following chart illustrates how this works:

QUARTER:	DATE RATE SET:	USURY RATE:
January, February, March	December 25, 1979: 12%	17%
April, May, June	March 25, 1980: 13%	18%
July, August, September	June 25, 1980: 11%	16%
October, November, December	September 25, 1980: 10%	15%
January, February, March	December 25, 1980: 13%	18%

If SB 19, as amended, were to become law, two things would happen:
(1) the usury ceiling would only apply to those loans under $25,000; i.e. those loans between $25,000 - $100,000 upon which the interest rate is presently set by law, would be made at whatever the lender and borrower decided was the market rate (essentially the cost of the money to the lender plus a reasonable profit); and
(2) the usury rate would be based on the present discount rate at the time the loan commitment is made.

Rationale: Although usury ceilings were originally designed to protect borrowers from unduly high interest rates, it is more likely that in today's market, they tend to deny financing to relatively riskier (or smaller) borrowers. For example, in November of 1980, several Alaska banks were lent money from the Department of Revenue in the form of certificates of deposit yielding from 15.25% - 16%. That was the cost of money to the banks. In November, banks were restricted by the usury ceiling from charging interest on loans of less than $100,000 to 15%. The question is, why would a bank make such a loan? The answer is, they wouldn't.

The reason for adjusting the procedure by which the usury ceiling is set, is simply that the present formula doesn't reflect present fluctuations in the capital market. For example, the legal rate of interest during the fourth quarter of 1980 was set at five points above the discount rate in effect on September 25, 1980, i.e. 15%. During the fourth quarter, however, the discount rate went up one percent on September 26, one percent on November 17, and one more percent on December 5. If SB 19, as amended, were to become law, lenders could have charged, say on December 5, 18%. As it was, they were limited by law, to charging 15%. Our guess is that consumer lending was down during this period.

Footnote: On March 31, 1980, Congress passed 96-221, "Depository Institutions Deregulation and Monetary Control Act", the most significant banking legislation pas ed since the Great Depression. One of the features of the bill allows the federal government to preempt state usury ceilings. Consequently, since April 1, 1980 the actual usury ceiling for business and agricultural loans over $25,000 has been five points above the discout rate at the time the loan commitment is made. There are provisions in the law for state override of the federal preemption. The state should take advantage of those provisions, and it is expected that the Senate Commerce Committee will be considering a further piece of legislation on this matter later this session.

HUGHES THORSNESS GANTZ POWELL & BRUNDIN
Attorneys at Law

JOHN C. HUGHES
DAVID H. THORSNESS
RICHARD D. GANTZ
JAMES M. POWELL
BRIAN J. BRUNDIN
*MARCUS R. CLAPP
KENNETH P. JACOBUS
GARY W. GANTZ
JERRY E. MELCHER
JOE M. HUDDLESTON
SIGURD E. MURPHY
RICHARD D. THALER

CARL J. D. BAUMAN
FRED B. ARVIDSON
ROBERT T. PRICE
*DENNIS M. BUMP
MARY K. HUGHES
FRANK A. PFIFFNER
*RALPH R. BEISTLINE
GORDON J. TANS
R. CRAIG HESSER
ROBERT L. MANLEY
*DORIS R. EHRENS
JAMES M. GORSKI

TIMOTHY R. BYRNES
JAMES M. SEEDORF
BONNIE L. THIE
PAUL J. ERICKSON
*GARY G. FOSTER
FREDERICK J. ODSEN
*MICHAEL L. LESSMEIER
STEVEN S. TERVOOREN
GARY L. MARSHALL
MATTHEW K. PETERSON
JOSEPH R. D. LOESCHER
*RONALD E. NOEL
JAMES F. KLASEN

509 WEST THIRD AVENUE
ANCHORAGE, ALASKA 99501
Telephone (907) 274-7522
Cable Address: DENALI
Telecopier: 274-7525
Telex: 090-26376

3550 AIRPORT WAY
FAIRBANKS, ALASKA 99701
Telephone (907) 479-3161
Cable Address: DENALI

*Fairbanks Office

February 6, 1981

Please reply to: ANCHORAGE

Amendment #2

Senator Patrick Rodey
Pouch V
Juneau, AK 99811

RE: Senate Bill No. 19

Dear Senator Rodey:

I would like to take this opportunity to offer some suggestions for amendments to Senate Bill No. 19, "An act relating to the legal rate of interest; and providing for an effective date," introduced January 13, 1981 under your sponsorship and presently referred to the Senate Labor and Commerce Committee.

Due to apparent oversight by the legislature in prior sessions, an inequitable anachronism has been carried forward in the statutes of Alaska. AS 09.55.440(a) provides that the rate of judgment interest awarded under a declaration of taking proceeding will equal six per cent per year on the amount finally awarded which exceeds the amount paid into court under the declaration of taking. This provision was enacted in 1962, and has never been amended (ch. 101, § 13.21, SLA 1962 .

By way of background, a declaration of taking is often used by the State of Alaska in lieu of a complaint for condemnation and the correlative court order for possession. It provides for immediate possession in the State; otherwise the State must await the execution of an order giving it possession. The impact upon Alaskan landowners is the same regardless of whether their land is taken by a declaration of taking or a complaint for condemnation. However, a different rate of interest is paid to the landowner depending upon which method is used by the State. When a complaint seeking condemnation and an order for possession is used,

interest due the landowner (on amounts not deposited by the State) is governed by AS 09.55.330 which provides that the "lawful" rate of interest (AS 45.45.010) applies. This provision was enacted along with the provision applying to declarations of taking in 1962 (ch. 101, § 13.10, SLA 1962). Accordingly, it can be seen that in 1962 the legislature provided for the payment of interest at the rate of six per cent whether a declaration of taking or complaint seeking condemnation and an order for possession was used. However, in 1976 the statute setting the "lawful" rate of interest in Alaska [AS 45.45.010(a)] was amended to increase the rate of interest from six per cent to eight per cent. However, it would appear that no one has brought to the attention of the legislature the fact that interest under a declaration of taking condemnation remains at six per cent. Subsequent increases in the legal rate of interest have similarly failed to be reflected in AS 09.55.440(a).

It has been my unfortunate experience to witness the inequitable application of the six per cent interest statute to many landowners whose land is taken for public use. Surely, the procedural means by which possession is taken by the State should not dictate the rate of interest to be paid landowners on compensation which is delayed. However, attorneys in the Office of the Attorney General for the State of Alaska, while apparently recognizing the inequity of such differential treatment, are bound by AS 09.55.440(a).

The inequity in treatment was recently noted by the Supreme Court for the State of Alaska in State of Alaska v. Alaska Continental Development Corporation and Alaska General Properties, Inc., No. 2254, December 31, 1980 (emphasis added):

> We note the disparity between the interest rate specified in AS 09.55.440(a) and the other statutes mentioned. We also are concerned about the inequity in awarding a higher rate of interest on judgments obtained in one form of eminent domain proceeding than in another, as may result from the current provisions of AS 09.55.440(a) and AS 09.55.330. We strongly urge the legislature to consider amending what appears

to be a defect in the current statutory scheme. But we decline to repeal by judicial action the clear and unambiguous provision of an enactment of the legislature on the grounds that it must be an oversight.

Although the Alaska Supreme Court's recognition of the doctrine of separation of powers is admirable, landowners in the State of Alaska remain in need of an amendment to bring the rate of interest under a declaration of taking eminent domain proceeding in line with the other interest rate provisions in the Alaska statutes.

Since Senate Bill No. 19 will focus the legislature's attention on interest rate matters, it would seem an amendment or amendments may be attached to the bill which will remedy the inequitable situation described above. I would recommend for your consideration amendments to Senate Bill No. 19 along the following lines:

1. Insert a new Section 3--"AS 09.55.440(a) is amended to read:

   (a) Upon the filing of the declaration of taking and the deposit with the court of the amount of the estimated compensation stated in the declaration, title to the estate as specified in the declaration vests in the plaintiff, and that property is condemned and taken for the use of the plaintiff, and the right to just compensation for it vests in the persons entitled to it. The compensation shall be ascertained and awarded in the proceeding and established by judgment. The judgment shall include lawful interest [AT THE RATE OF SIX PERCENT PER YEAR] on the amount finally awarded which exceeds the amount paid into court under the declaration of taking. The interest runs from the date title vests to the date of payment of the judgment.

2. Renumber present Section 3 of Senate Bill No. 19 as Section 4.

I am enclosing for your convenience a copy of the relevant section from State of Alaska v. Alaska Continental Development Corporation and Alaska General Properties, Inc., No. 2254, December 31, 1980, and a version of Senate Bill No. 19 with the suggested amendments. Please feel free to contact me should you have any questions or need for further information with respect to this matter. I thank you for your time and consideration.

Very truly yours,

Steven S. Tervooren

SST/bs

Enclosure

cc: Senator Mulcahy, Chairman
Senate Labor and Commerce Committee

Mr. Chairman, I am John E. Malarkey, State Bank Commissioner for the State of Delaware, and Vice Chairman of the Federal Legislation Committee of the Conference of State Bank Supervisors on whose behalf I am appearing today. The Conference is the nationwide organization of state officials who serve as the primary chartering, examining and regulatory authorities for approximately 10,500 state-chartered commercial and mutual savings banks with total assets of approximately $500 billion.

My comments this morning will focus on the proposal to establish a Consumer Usury Study Commission. Although I am not aware of the full details of your proposal, the Conference is very concerned about federal preemption of states in the usury area and the need for a broader recognition of the efforts of states to establish greater flexibility in the lending area in order to meet the credit needs of their residents.

I note that your proposed Study Commission would be directed to the question of federal preemption of state usury ceilings and to possible alternatives to further federal preemption as well as to a number of other related areas. The Conference always has stressed its position that in setting usury ceilings, the states are in a better position to more responsively reflect the needs of their respective citizens than is the federal government. That is still our basic position, even though we have seen in recent months usury ceilings in a number of states become anachronistic, in part because of underlying conditions over which states had no direct

January 16, 1981

Mr. Roger D. Moore, President
SECURITY NATIONAL BANK
Pouch 7-777
Anchorage, Alaska 99510

Dear Mr. Moore:

RE: Interest rates applicable under Depository Institutions Deregulation and Monetary Control Act of 1980

I am enclosing a copy of an Attorney General's Opinion #J-66-452-81, dated January 2, 1981, for your information and comment. You will note that the text of this opinion is specifically directed to state-chartered credit unions. However, this division has had further contact with Ms. Leslie Ludtke, and she has informed me that this opinion is applicable to all insured despository institutions. 3672

This opinion effectively establishes three loan categories which are as follows:

1. Loans under $25,000 which the maximum interest rate allowable is 8 percentage points above the Federal Reserve Discount Rate as calculated on the first of the month proceeding the end of the calendar quarter.

2. Loans from $25,000 to $100,000 which the maximum interest rate allowable is 5 percentage points above the Federal Reserve Discount Rate as calculated on the 25th of the month proceeding the end of the calendar quarter.

3. Loans in excess of $100,000 which have negotiable interest rates.

If there are any questions, please contact this division at 465-2521.

Sincerely,

Willis F. Kirkpatrick
Director

WK/kkk5/3

Enclosure

MEMORANDUM State of Alaska

TO: Julius Brecht
Banking & Securities
Dept. of Commerce and Economic Development

DATE: January 2, 1981

FILE NO: J-66-452-81

TELEPHONE NO: 465-3675

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Depository Institutions Deregulation and Monetary Act of 1980.

By: Leslie J. Ludtke
Leslie J. Ludtke
Assistant Attorney General

You have requested this department's opinion regarding interest rates applicable to state chartered credit unions under the Depository Institutions Deregulation and Monetary Control Act of 1980. (Public Law 96-221) You have asked whether 12 U.S.C. §1757(5)(A)(vi) (1980 Deregulation and Monetary Control Act §310) applies to state chartered credit unions. We conclude that it does not.

Section 1757 of the federal Credit Union Act applies only to federally chartered credit unions. 12 U.S.C. § 1757 states that "A federal credit union . . . shall have power." The term "federal credit union" is defined under 12 U.S.C.. § 1752 as "a cooperative association organized in accordance with the provisions of this chapter . . ." Therefore, the provisions of 12 U.S.C. § 1757 do not apply to state chartered credit unions. 12 U.S.C. § 1757(5)(A)(vi) provides in part:

> (vi) the rate of interest may not exceed 15 per centum per annum on the unpaid balance inclusive of all finance charges, except that the Board may establish
> (I) after consultation with the appropriate committees of the Congress, the Department of Treasury, and the Federal financial institution regulatory agencies, an interest rate ceiling exceeding such 15 per centum per annum rate, for periods not to exceed 18 months, if it determines that money market interest rates have risen over the preceding six-month period and that prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in liquidity, capital, earnings, and growth;

Recently, the National Credit Union Administration (NCUA) Board raised the interest rates under this section to 21 percent. This rate supercedes the otherwise applicable rate established in 12 U.S.C. § 1785(g)(1) (1980 Deregulation and Monetary Control Act § 523). In relevant part, this section states:

> (g)(1) If the applicable rate prescribed in this subsection exceeds the rate an insured credit union would be permitted to charge in the absence of this subsection, such credit union may, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this subsection, take, receive, reserve, and charge on any loan, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such insured credit union is located or at the rate allowed by the laws of the State, territory, or district where such credit union is located, whichever may be greater.

Additionally § 528 of the 1980 Deregulation and Monetary Control Act provides that if one or more provision of the Act, or of any other law, applies to the same loan, the loan may be made at the highest applicable interest rate. The issue raised is therefore whether state chartered credit unions may charge 21 percent interest as authorized by 12 U.S.C. §1757(5)(A)(vi) or whether state chartered credit unions are limited to the rate set by 12 U.S.C. § 1785 when federally chartered credit unions are permitted to charge a higher rate under 12 U.S.C. § 1757(5)(A)(vi). Our conclusion that state chartered credit unions are not permitted to charge the higher rate established by the NCUA Board under 12 U.S.C. § 1757(5)(A)(vi) is based on three factors.

First, 12 U.S.C. § 1757 is not directly applicable to state chartered credit unions. This section sets out the powers which a federal credit union may exercise. The NCUA regulates the activities of federal credit unions by adopting rules to carry out this section. The activities of state chartered credit unions are not regulated by the NCUA and state chartered credit unions are not subject to the limitations nor are they granted the powers of federal credit unions under 12 U.S.C. § 1757. The conference report on the 1980 Deregulation and Monetary Control Act reinforces the conclusion that state chartered credit unions are not subject to 12 U.S.C. §1757.

The report states in part:

> The conferees adopted a provision which would allow federal credit unions to raise their loan rates up to an annual rate of 15 percent subject to rules issued by the National Credit Union Administration. The legislation would also permit the National Credit Union Administration to raise the loan ceiling above 15 percent for periods not to exceed 18 months, after consultation with appropriate Congressional committees, the Department of Treasury, and the other federal financial regulator agencies. 1980 Deregulation and Monetary Control Act. CCH Reports, paragraph 2036, pg. 211.

State chartered credit unions are, however, subject to regulation under 12 U.S.C. § 1785 which sets out the requirements governing federally insured credit unions. State chartered credit unions are federally insured. The Conference Report on 12 U.S.C. § 1785, 1980 Deregulation and Monetary Control Act § 523, states in part:

> State usury ce[illegible]gs on all loans made by Federally in[illegible]ed depository institutions (except national banks), and small business investment companies will be permanently preempted...

Because state chartered credit unions are federally insured depository institutions, the preemptive interest rate set out in 12 U.S.C. § 1785(g)(1) applies.

Secondly, 12 U.S.C. § 1785(g)(1) permits state chartered credit unions to charge interest at a rate of "not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such insured credit union is located or at the rate allowed by the laws of the State...where such union is located..." The phrase "at the rate allowed by the laws of the State" has been interpreted to mean at the highest rate allowed by the state to be charged by any lender for a particular type of loan.

For example, small loan licensees are permitted to charge a higher rate of interest under AS 06.20 for loans under $25,000 than other financial institutions may charge for these same loans.

Therefore, 12 U.S.C. § 1785(g)(1) would permit a federally insured state chartered credit union to charge the same rate as the small loan licensee for a loan under $25,000. 1/

The phrase "at the rate allowed by the laws of the State" is derived from the National Bank Act, 12 U.S.C. § 85, and is commonly referred to as the "most favored lender" doctrine. This doctrine originally was established to ensure parity between national banks and state chartered financial institutions. It allows a national bank, or in this instance a federally insured, state chartered credit union, to charge the same interest rate as any state chartered or licensed financial institution would be permitted to charge on a particular type of loan. 2/ The national bank, or state chartered credit institution, is granted parity by being permitted to charge the highest rate allowed for the state's most favored lender. The doctrine therefore focuses on the type of loan offered rather than establishing parity with the same type of financial institution. 12 U.S.C. § 1785(g)(i) incorporates this concept of most favored lender. It does not, however, establish a state chartered credit union's right to parity with a federally chartered credit union.

1/ The fact that a credit union is not licensed under AS 06.20 would not alter this result. See n.2, below.

2/ In Marquette Nat'l Bank v. First of Omaha Corp., 439 U.S. 299, 314 (1978) the Court stated that the "most favored lender" doctrine had "been interpreted for over a century to 'give advantages to National banks over their state competitors'." 12 C.F.R. § 7.7310 incorporates the "most favored lender doctrine", as expressed by case law, into the regulations of the Comptroller of the Currency. 12 C.F.R. § 7.7310 reads:

> §7.7310 Charging interest at rates permitted competing institutions . . .
>
> (a) A national bank may charge interest at the maximum rate permitted by State law to any competing State-chartered or licensed lending institution. If State law permits a higher interest rate on a specified class of loans, a national bank making such loans at such higher rate is subject only to the provisions of State law relating to such class of loans that are material to the determination of the interest rate. For example, a national bank may lawfully charge the highest rate permitted to be charged by a State-licensed small loan company or morris plan bank, without being so licensed.

The "most favored lender" doctrine refers to the highest permissible rate under state law. The authority to charge 21 percent on loans, under 12. u.s.c. § 1757(5)(A)(vi) is not a right granted by state law, but a right given by federal law. No law of Alaska specifically allows any financial institution to charge on a loan. Nor does state law incorporate any maximum rates set under federal law in establishing allowable state maximums. Therefore, although the concept of most favored lender is incorporated into 12 U.S.C. § 1785(g)(i), state chartered credit unions are not granted parity with federal credit unions. To construe the phrase "at the rate allowed by the laws of the State" to include the rate permitted by 12 U.S.C. 1757(5)(A)(vi) would constitute a misapplication of the "most favored lender" doctrine.

Third, Section 528 of the 1980 Deregulation and Monetary Control Act does not authorize state chartered credit unions to charge the rate set by the NCUA Board under 12 U.S.C. § 1757 (5)(A)(vi). This section reads:

> Sec. 528. In any case in which one or more provisions of, or amendments made by, this title, section 529 of the National Housing Act, or any other provision of law, including section 5197 of the Revised Statutes (12 U.S.C. 85) apply with respect to the same loan, mortgage, credit sale, or advance, such loan, mortgage, credit sale, or advance may be made at the highest applicable rate.

This section permits financial institutions to charge interest at the "highest applicable rate". Because we have concluded that 12 U.S.C. §1757(5)(A)(vi) does not apply to state chartered credit unions, Section 528 does not by its terms permit state chartered credit unions to charge a higher rate of interest than what would otherwise be permitted by 12 U.S.C. § 1785(g)(1). Section 528 authorizes the lender to charge the higher rate only when "one or more provisions. . .apply with respect to the same loan". 12 U.S.C. § 1757(5)(A)(vi) does not apply to loans made by state chartered credit unions.

It is our conclusion that state chartered credit unions are limited to charging the maximum interest rate established by 12 U.S.C. § 1785(g)(1). Although this provision incorporates the "most favored lender" doctrine, it does not grant state chartered credit unions most favored lender status with regard to interest rates set by federal law.

Additionally, it should be noted that the reference to state interest ceilings in 12 U.S.C. § 1785(g)(1) incorporates the relevant state law as to how interest may be computed and what charges are considered interest. 3/

LJL:wjp

3/ See First National Bank in Mena v. Nowlin, 509 F.2d 872 (8th Cir. 1975)

SB
50

COMMITTEE REPORT

HOUSE

4/7/81

(5)

FURTHER: JUDICIARY
(Added 4/.1/81)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had CSSB 50(L&C)

"An Act relating to unemployment insurance; and providing for an effective date."

under consideration and reports it back as follows:

[ ] 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:

_____

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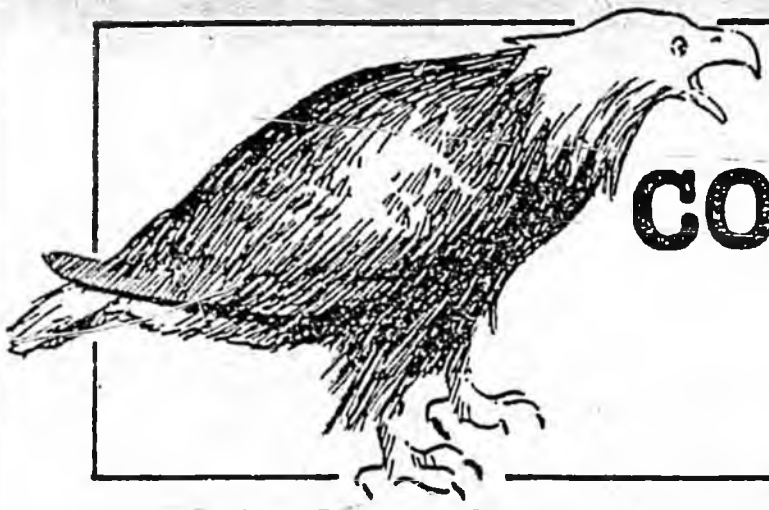
CHAIRMAN

H 60 (Rev. 3/81)



ISSUES & COMMENTARY

ALASKA DEPARTMENT OF LABOR, RESEARCH AND ANALYSIS SECTION APRIL 1981

SHOULD ALASKA OPT OUT OF THE FEDERAL/STATE UNEMPLOYMENT INSURANCE SYSTEM?

By Scott T. Hannigan

The Social Security Act of 1935 established an Unemployment Insurance (UI) program in the United States under joint federal/state management. The major role of the federal partner was administration of a uniform employer tax to fund the program. States were encouraged by the Act to pass local UI legislation with the reserved right to set qualifications and standards for the payment of unemployment compensation. The Act contained provisions for employers to receive credit against the federal tax for contributions to a state UI plan and for states to receive grants to administer their programs. The availability of employer tax credits and state administrative grants were made contingent upon states' compliance with certain features in the Social Security Act. These features were generally found acceptable to the states and a nationwide federal/state UI program was in full effect by 1937. Over the ensuing years, however, numerous amendments to the Act and additional UI legislation by Congress (requiring conforming state legislation) has led to conflicts in the federal/state partnership. The federal government has generally held the upper hand in these conflicts by virtue of the enormous financial clout provided by the tax credits and administrative grants provisions of the Social Security Act. This paper will review the historical beginnings of the federal/state UI program, some of the conformity issues facing the states, and the possibility of future changes including complete separation of the federal and state systems.

Prior to 1935, states had no programs to provide assistance to the unemployed, with the notable exception of Wisconsin, which legislated a comprehensive UI law in 1934. The major obstacle to enactment of UI laws at the state level was directly related to taxes. Specifically, it was felt that a new tax burden on employers would have a detrimental effect on interstate competition. Congress eliminated this obstacle by passing (as part of the Social Security Act) Title IX, which levied a uniform tax on all employers in the country. Title IX allowed employers a 90 percent credit against the tax if they contributed to an approved state UI program. The remaining ten percent of the tax assessment was returned to the states in the form of administrative grants. These financial incentives in Title IX plus the deepening crisis of the 1930's depression strongly encouraged enactment of state UI laws and all states had unemployment insurance programs in operation by 1937. Provisions of Title IX were removed from the Social Security Act and were placed in the Internal Revenue Code by the Federal Unemployment Tax Act of 1939 (FUTA).

Original proponents of the Social Security Act vigorously debated the type of UI program to be recommended--a wholly federal system or a federal/state plan. Arguments for a national system included, among others, that a national system would provide uniform protection from the risks of unemployment, protect the interests of multi-state employers and workers, provide for a national pooling of reserves, and streamline reporting requirements and the payment of taxes. Those who favored a federal/state program argued that a national system would be cumbersome to operate, that centralization would tend to paralyze action, that controversial issues would not receive proper debate and discussion by the states, and that a federal/state system would allow states to tailor the program to fit their needs and would allow wide latitude for experimentation by the states and so aid in producing a better system.[1/] The federal/state plan was the one that finally emerged.

The issues of conformity have existed since the very start of the unemployment insurance program. The Social Security Act contained several provisions that the states were to comply with. Titles III and IX of the Act required state UI laws to include the following major provisions: (1) payment of UI benefits solely through public employment offices or other approved agencies, (2) opportunity for a fair hearing on denied claims, (3) payment of all tax monies collected to the U.S. Treasury (Unemployment Trust Fund), (4) expenditure of all money requisitioned from the Trust Fund for UI benefits only, (5) no benefits to be paid until two years after commencement of tax collections, and (6) several provisions protecting conditions of work acceptance by claimants. Other provisions refer to administrative and reporting requirements. To enforce state conformity to these provisions, the Social Security Act allows for the denial of all employer tax credits and the suspension of state administrative grants. On numerous occasions since the inception of unemployment insurance, Congress has passed amendments to the Act necessitating conforming legislation at the state level. A major example has been amendments that have extensively increased UI coverage to such worker groups as state and local government employees and employees of non-profit institutes.

More recent conformity issues have included pension offset provisions (P.L. 96-364) and provisions of the 1980 Omnibus Reconciliation Act (P.L. 96-499). The pension offset provision requires a reduction of a claimant's weekly benefit by the amount of any pension (attributable to a base period employer) received by the claimant. The Reconciliation Act requires conforming state legislation to deny the payment of extended benefits for voluntary quits and discharges for misconduct regardless of applicable state law for regular benefits (i.e., if state law reinstates benefit entitlement for regular benefits after a penalty period, the entitlement would be cancelled for extended benefits). Failure to accept suitable work (as defined by federal law) or failure to seek work also results in denial of extended benefits.

Even further encroachment by the federal government will occur if recent proposals of the Reagan Administration are adopted. These include (1) changes in the extended benefits program to eliminate the national trigger and to revise the methods of calculating state triggers (both of which determine when extended benefits are to be paid); (2) requirements that unemployed workers who have collected 13 weeks of state UI accept any job that meets minimum wage and safety standards if the wages are equal to or greater than their UI benefits; and (3) eliminate UI for those who leave the military voluntarily.

The rising spectre of federalism in unemployment insurance has caused concern in

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1/ William Haber and Merril G. Murray, Unemployment Insurance in the American Economy, Richard D. Irwin, Inc. 1966.

Alaska and many other states. In most conformity issues, the states have grudgingly complied with federal legislation because they fear to lose tax credits for their employers and administrative grants for their programs. The mere threat of sanctions has kept states in line and the sanctions have never been fully applied. A specific instance where Alaska has run headlong against the federal government has been on the issue of interstate benefits. In 1955 and again 1960 Alaska reduced the maximum weekly benefit amount to out-of-state claimants in order to curtail the amount of UI dollars leaving the state.* The state was required to retreat from this position in 1972 when Congress decided the practice was discriminatory to the rights of workers to move from state to state seeking employment. This interstate question has become a point of concern in recent years as Alaska has seen one-third of all its UI dollars pouring out of the state, aiding the economies of other states instead of our own. An even larger problem looms in the future amid talk of federal benefit standards requiring a maximum benefit equal to 2/3 of a state's average weekly wages. Alaska traditionally pays more benefits per dollar of total wages than any other state. This standard would put employer costs through the ceiling and could possibly drain the state's trust fund.

Potential solutions to the partnership problem are varied and complex. Many people over the years have advocated complete federalization of unemployment insurance. Most states, however, take a dim view of this type of encroachment on their rights. Another course would be to maintain the present system with some sort of systematic court review of conformity sanctions.2/ The most extreme solution would be for a state to permanently refuse to comply with federal legislation.

The remainder of this paper discusses ramifications if Alaska chooses to remove itself from the federal/state system. The most direct effect would be monetary. Shown below are cost estimates for Alaska's UI program in 1982 comparing an out of conformity situation with a conforming one.

	Estimated Costs for 1982	
	In Conformity	Out of Conformity
State Taxes	$63.6 million	$63.6 million
FUTA Taxes	7.0 million	34.0 million
UI Administration	Federal Grants (From FUTA Taxes)	11.5 million
ES Administration	Federal Grants (From FUTA Taxes)	7.9 million
Extended Benefits (50% Federal)	Federal Reimbursements (From FUTA Taxes)	4.5 million
TOTAL	$70.6 million	$121.5 million

*Ch. 5, ESLA 1955 and Ch. 60, SLA 1960.

2/ Ibid.

The comparison shows that operating the current program while failing to conform to federal requirements would result in additional costs of $50.9 million. Most of the cost ($27 million) would be levied on employers as a result of lost FUTA tax credits. Employers might also be expected to pay administrative costs as well as funding full benefit outlays. If that were the case, employer costs would increase by approximately seventy percent. This burden could be reduced if employee contributions were increased and/or the state absorbed administrative costs.

One major question of the conformity issue concerns federal responsibility if employers opt to pay the full FUTA tax. The system was designed to pay benefits equal to 2.7 percent of taxable wages. Of the three percent FUTA tax, this 2.7 percent was to be dropped if employers contributed to the benefit fund of an approved state program. The implication is clearly that the 2.7 percent was to be used for paying benefits. Further, if employers opt to pay the full FUTA tax, the implication is that no state taxes would be necessary because the federal partner should be responsible for benefits.

The system was not--at least, should not have been--designed to coerce states into setting up their own unemployment insurance programs. Since costs would be three percent of taxable wages under a state or federal system, states would obviously find it attractive to design systems to fit their own social and economic conditions rather than accept standards determined in Washington. This "logical interpretation" does not coincide with the "legal interpretation." According to an unofficial opinion of the Solicitor General, the federal government has no power to implement an unemployment insurance program in any state. In other words, the system was designed to force states to implement unemployment insurance programs via making them pay for one whether they have one or not.

Failure to maintain an approved program would result in the 2.7 percent "credit" flowing into the federal administrative account rather than a benefit account, with the state receiving no funds in return. No state has informed the federal partner that it intends to drop its own program in favor of federalization and so the position remains unchallenged. It is conceivable that the "back door" federalization now in progress will change this situation in the future. The issue is not a simple one and raises a host of questions about the federal/state relationship. Some alternative relationships that might be considered for the operation of an unemployment insurance program in Alaska are discussed below.

The discussion centers on estimates of the average employer cost per worker (with annual earnings at or above the taxable wage base of $13,[illegible] and includes the current system for comparison purposes.

CURRENT SYSTEM		
FUTA Tax (0.7% of first $6,000)†	=	$ 42
State Tax (3.3% of first $13,300)	=	439
TOTAL TAX	=	$481

One (untested) alternative is to drop the state system in favor of a federal program funded from the maximum FUTA tax. Employers would then pay the full FUTA tax of $204 per employee and all program provisions would be determined in Washington.

FEDERAL SYSTEM		
FUTA Tax (3.4% of first $6,000)†	=	$204
TOTAL TAX	=	$204

A second alternative would supplement a federal system with a separate state system. Costs would be dependent on the level of benefits the state wishes to provide. The state system would also require administrative funds of approximately $19 million.

An independent state program is a third alternative. The cost figures below assume that the full FUTA tax is paid and that the state receives no funds in return. Obviously the combined cost of running a state system and paying penalty FUTA taxes could exceed the capabilities of many employers to pay. Some form of state assistance may be necessary (especially in light of expected increases in the taxable wage base for FUTA which will probably become effective in 1983 or 1984). The most plausible forms of state assistance are assumption of the liability for FUTA taxes and/or administrative costs and state support of benefits through appropriations to the UI Trust Fund.

INDEPENDENT STATE SYSTEM		
State Tax (3.3% of first $13,300)	=	$439
FUTA Tax (3.4% of first $6,000)	=	$204
Administrative Costs		$120
TOTAL TAX	=	$703

There are a number of areas where Alaska could effect some cost savings if the state were running an independent UI program. Some cost saving areas and approximate dollar amounts are listed below:

†The FUTA tax is set at 3.0 percent of the first $6,000 of each employees wages. The rate was temporarily increased to 3.4% to reduce the national debt in the FUTA account. If a state's UI law is in conformity with federal law, then employers receive a 90 percent credit on their FUTA taxes and pay in effect 0.7 percent (10% of 3.0% = 0.3 + 0.4 added tax = 0.7%).

Discussion of opting out is often the result of frustration with the expanding role of the federal partner and of a realization that this expansion cannot be successfully countered by piecemeal resistance to individual intrusions on state prerogatives.

Before taking a radical step, alternatives should be considered. The level of interference by the federal partner has increased substantially since the unemployment insurance trust funds were placed in the federal unified budget in 1969. In attempts to reduce budget deficits, Congress has enacted several changes to the UI system. Although the changes may have been proposed primarily for their budgetary effect, they have had profound impact on the program and on the nature of the federal/state cooperative arrangement. The key to a return to true partnership may lie in removal of state trust funds from the federal unified budget. Alleviating budgetary pressure may accomplish many of the desirable goals of opting out without some of the negative aspects. That is, removal of the trust funds from the budget could reverse the tendency toward federal intervention and would not carry the potential to destroy the existing federal/state partnership.

Briefing Paper: CSSB50
Conformity Amendments to Unemployment Insurance Law (AS 23.20)
April 28, 1981

Replacing current law with a benefit schedule that pays no extended benefits but pays 32 weeks of regular benefits is expected to cost about $16 million in 1982. Claimants would receive approximately $6 million of this additional cost. The cost analysis is easier understood if broken into three parts. These are explained in the following discussion and summarized in the table below.

Eliminating variable duration and adopting a fixed 26 week duration would give an additional $12.1 million to claimants. Naturally, employers must pay this cost, but additional costs would be incurred when some claimants shift from extended benefits (for which the state and feds pays equal shares) to regular weeks (for which the state pays the full amount). This cost would be approximately $2.7 million in 1982 and brings employer costs to $14.8 million.

In going from a 26 week program (still paying EB) to the 32 week proposal with no EB, benefit amounts would be unaffected but contributions would have to be increased to cover the federal share of weeks 27 through 32. This amounts to half of the $8.2 million payable to that group, or $4.1 million. Elimination of weeks 33 through 39 would save the trust fund $3 million, but claimants would lose $6 million of combined state and federal funds.

Effect of Replacing Current Law with a Program
Paying 32 Weeks of Regular Benefits and No EB
(Estimates for 1982)

	Employer Cost/(Savings)	Claimant Gain/(loss)
Elimination of variable duration	$14.8 million	$12.1 million
Federal share of weeks 27-32	4.1	0
Nonpayment of weeks 33-39	(3.0)	(6.0)
TOTAL	$15.9 million	$ 6.1 million

In considering this proposal, several other points should be discussed. Some of these are listed below.

1. The work search and acceptance requirements in CSSB50 are federal conformity issues. Alaska will be out of conformity if we fail to pass all of CSSB50, even if Alaska adopts a 32 week program and does not pay extended benefits. Whether we are out of conformity by a little or a lot makes no difference -- the penalty is the same. The impact of failure to conform is massive and was communicated in the latest "Issues and Commentary".

2. There are three variables which affect benefit outlays in the unemployment insurance program -- benefit amount, duration of benefits, and eligiblility. These variables were balanced in the law adopted last year and altering only one of the three will throw the system out of balance.

3. Interstate benefits would be payable for 32 weeks rather than the 21 week average payable (under the revisions included in CSSB50) to claimants in states not triggered on to the extended benefits program. This factor is not included in the estimates above, and would add about $1 million to costs.

4. The 32 week proposal would reduce potential duration for the 42 percent of claimants who presently qualify for more than 32 weeks.

5. With duration fixed at 32 weeks and no EB, people with strong attachment to the labor force would get 7 weeks less entitlement than today while claimants with very weak attachment would get 8 weeks longer duration than today. Some claimants could be entitled to more than they earned: e.g. claimants with earning of $1,000 would be entitled to ($34 x 32 =) $1,088 instead of $816 ($34 x 24) as today.

6. Coupled with the current benefit schedule, fixed duration provides a disincentive to work, particularly for claimants with weak attachment to the labor force. This increases the potential for abuse and causes additional costs which are hard to measure and have been omitted from the estimates.

Alaska State Legislature

Senate

Judiciary Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 20, 1981

Mr. John Quinn
Naval Security Group
Adak, Alaska 99695

Dear John:

Thank you for your comments on CSSB 50.

The bill was not referred to the Judiciary Committee before it passed the Senate. The bill is now in the House Labor and Commerce Committee, chaired by Representative Hurlbert. I have taken the liberty of forwarding a copy of your remarkes to him for his information.

I appreciate your thoughts on the matter.

Sincerely,

Senator Patrick M. Rodey
Chairman

cc: Representative Hurlbert, Chairman
House Labor & Commerce Committee

April 12 Th

NAVAL SECURITY GROUP ACTIVITY
ADAK ALASKA
WESTERNMOST LINK

NAVAL SECURITY GROUP
ADAK, ALASKA

RECEIVED
APR 16 1981

Dear Pat

I would like to know if CSSB50 which you opposed has been put through the judiciary committee to determine the bills constitutionality. It is very logical that a person would move to a state with very low unemployment inorder to seek meaningful work. Under this bill if I relocate to a high unemployment state, then I can be eligible for benefits. I would like to hear from you and wish your associates in the House will see the contradiction in the Bill outlined above.

Best Wishes

John Quinn

Bill No. Senate Joint Resolution No.

Date April 20, 1981

Title Relating to exclusion of state unemployment insurance trust funds from the federal unified budget.

Contact: Judy Knight JK 465-2700

Funds used for unemployment compensation are generated by payroll taxes enacted by State Legislatures. These funds can be used only to pay unemployment compensation in the state in which they were collected and are held in trust by the federal government and drawn as needed to pay benefits. Since 1969, these funds have been included in the unified budget. The "bottom line" impact of inclusion of state trust funds in the unified budget is that all unemployment compensation--including benefits paid completely from dedicated state funds--appear as federal outlays. This makes unemployment insurance programs the target for budget-balancing proposals such as taxation of benefits, pension offsets, removal of extended benefit claimants from the computation of unemployment rates, and other cost-cutting proposals like those included in the Omnibus Reconciliation Act of December 5, 1980.

In addition to those set out in the Resolution itself, there are a number of other reasons unemployment compensation trust funds should not be included in the unified budget, as follows:

1. The majority of the federal payroll tax is not collected from employers, but is credited if employers participate in an approved state program and are subject to contribution rates set by the state.

2. The operations of the U.S. Treasury do not require that the accounts be included in the unified budget. The Treasury currently handles accounts for several "off-budget" agencies.

3. Basic program decisions--level and duration of benefits, contribution mechanisms, eligibility, and many administrative functions--are almost entirely in the hands of state legislators.

Policy calling for removal of funds has been adopted by the National Governors' Association, the Interstate Conference of Employment Security Agencies, the Federal Advisory Council on Unemployment Insurance, and the National Commission on Unemployment Compensation. These policy positions were adopted recently and the issue is not yet well-known in Congress. One way to speed consideration of this important issue is to ensure that states' Congressional delegations recognize the impact of inclusion of state unemployment trust funds in the unified budget and are aware of the states' strong desire to remove the funds from the budget. The proposed resolution could be used to convey Alaska's sentiment on this issue to rational policy-makers.

Position: The Department of Labor supports the proposed resolution and recommends immediate approval.

POSITION PAPER/Department of Labor

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 50
SECTION BY SECTION ANALYSIS

Section 1: AS 23.20.362

This section repeals and re-enacts AS 23.20.362 with the following changes:

1) The pension deduction provision required by Sec 3304(a)(15), FUTA, is amended to conform with Public Law 96-364. Under this amendment, a pension would be deductible from benefits otherwise due only if the pension is provided under a plan maintained or contributed to by a base period employer, and the claimant's service in his base period increased the amount of, or affected his eligibility for, the pension or other retirement pay. In addition, that portion of the pension attributable to the claimant's own contributions will not be deducted from his benefit amount. Public Law 96-364 does not require these changes to state pension deduction provisions; rather, it allows the state this option of liberalizing the required provisions. However, the changes are equitable and would benefit Alaskan workers. For example, the previous provision required a 100% deduction even if part or all of the pension was based on employee contributions. This, in effect, penalized individuals for saving some of their wages by deducting amounts which had actually been earned long before the unemployment insurance claim was filed.

2) The proposed amendment also distinguishes between pension payments and payments received for dismissal pay, accrued vacation and sick leave, or holidays. The previous provision had the effect of prohibiting deductions for dismissal pay, vacation pay, or holiday pay unless the week <u>began</u> in a period for which such payment was made. The proposed amendment provides simply that any such payment attributable to a week will be deducted from benefits payable for that week. Sick leave has been added to the list of deductible payments. The rationale for deducting vacation pay, holidays, etc., applies to sick leave as well.

Section 2: AS 23.20.375(b)

This section repeals and re-enacts AS 23.20.375(b) to require a waiting week on all claims. The current provision waives the waiting week requirement on transitional claims. However, Public Law 96-499 now requires that any state which provides for payment "(at any time or under any circumstances) of regular compensation to an individual for his first week of otherwise compensable employment" will not be reimbursed for the federal share of the first week of extended benefits paid in the state. This requirement is not a standard for certification of state laws. The requirement must be met, however, if the state is to receive the 50% reimbursement of the federal share of the first week of extended benefits. This amendment conforms to Public Law 96-499.

Section 3: AS 23.20.390(b)

This section makes <u>both</u> "good faith" and "hardship" a requirement for waiver

of overpayments. The current provision allows an individual who has not acted in good faith to nevertheless be absolved from liability for repayment if he can show that great hardship would result from charging him with repayment.

Section 4: AS 23.20.406

This section amends AS 23.20.406 by adding new eligibi requirements for receipt of extended benefits. These requirements are c formity standards established by Public Law 96-499 and must be included in a state's law for weeks beginning after March 31, 1981, in order for the law to be certified by the Secretary of Labor on October 31, 1981, and thereafter.

The amendments require the following:

1) Denial of extended benefits to an individual who has been disqualified for regular UI benefits for voluntary quit, discharge for misconduct, or job refusal, unless the disqualification was terminated by subsequent employment.

2) Denial of extended benefits to an individual who does not actively seek, apply for, or accept suitable work when referred to such work. Suitable work is specifically defined in the provisions. The disqualification can be terminated only by new employment of at least four weeks and earnings of four times the weekly benefit amount.

Section 5: AS 23.20.408

This section amends AS 23.20.408 to specify that only the first two weeks of extended benefits are payable to an individual who files on an interstate basis from a state in which an extended benefit period is not in effect. This change is required, for certification of all state laws, by Public Law 96-364.

This amendment was requested by Alaska and introduced by Senator Stevens. House Joint Resolution No. 59 passed by Alaska's Legislature last year supported this change.

The provisions of Sections 1, 2, 4, and 5 are conformity issues to comply with federal law.

SB

84

COMMITTEE REPORT

HOUSE

(5) FURTHER:

1/11/82

Date: Feb 17 '82

Mr. Speaker: (Taken from calendar 1/11/82)

The Committee on LABOR & COMMERCE has had HCS SB 84(2d Rules)amH

"An Act relating to the granting of land use authorizations by state agents."

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

[ ] do pass [ ] do not pass

[X] do pass with attached amendments(s)

[X] replace 2d House with CS for CS FOR SENATE BILL 84 (L&C) [ ] same title [X] new title

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Terry Martin

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martin Do Not Pass until 1 Amended

Terry Martin
CHAIRMAN

H 60 (Rev. 12/78)

2nd Reading. Ask adoption of committee amendments.

HCS-SB 64

H. Labor & Commerce 1981-

Date Filed 1-11-82
Date Rec'd. 1-14-82
Referred
Comm. Hearing 2-12-82 - held over & 2/24
Comm. action 2/19/82 - Passed out of Comm. with amendments
Com & type amendments - She sent to Legal Affairs & have drafted
2/22/82 Rec'd & chief Clerks' Office.

2-4-82
Rec'd new Fiscal
2nd House C.S.
Gov's office dropped
Atty Generals' office"
John Telling Last & he
in attendance.
Dept of Resources & Gil
F/N & Ltr. Mary Holloran
She will bring (6) Copies
of Com. Her testimony will
be dependent of position
papers.
Field & Jones - McWeeks - Position papers
Mary Jo Lonski out. & F/N
Environmental Cons. John Hollen
Last dept to be back in and
to supply F/N & position papers
Glenn Cubbage

STRAUB } SOH.O
BARNETT }

O. K. GILGREATH-HOGA

Public Officials notified of Hearing 7-8-2

Jonathan K. Tillinghast - (atty generals office)

Jerry Lenwood - Gov's Office

John Katz - Dept of Natural Resources

Ernest Mueller - Dept of Environmental Conservation

Konrad Skoog - Dept. Fish & Game

James Sandy - Div. of Policy Development & Planning.

MEMORANDUM State of Alaska

TO: The Honorable Terry Gardiner
Representative

DATE: February 26, 1982

FILE NO:

TELEPHONE NO:

FROM: Mary Halloran MHalloran
Special Assistant to
the Commissioner
Department of Natural Resources

SUBJECT: Impact of Proposed Budget Reductions on DNR's Permitting Procedures

Per your request, this memorandum identifies the Department of Natural Resources' projects eliminated or reduced at the proposed $35.0 million funding level which would impact the agency's ability to issue permits.

The definition of "permit" under SB 84 (both the 2nd rules and the latest draft versions) includes all agency authorizations and approvals, including those in conjunction with disposals of an interest in land. Thus, the legislation is more encompassing than might be evident at first glance.

PERMIT-RELATED PROJECTS IMPACTED BY $35.0 MILLION FUNDING LEVEL

Priority	Original Request	Revised Request	Positions Eliminated	Projected Name & Consequences of Reduced Funding
20	1283.2	1184.2	2.0	Water Rights Admin.
	This revision would reduce number of water rights adjudicated particularly in placer mining area, reduce from 5 to 4 the number of basin wide adjudications, and will increase backlog in water permitting.			
48	31.0	-0-	0.5	Geothermal Lease Sales
	This revision would eliminate a proposed geothermal lease sale for FY 83 and will eliminate the issuance of 15 anticipated non-competitive permits and leases.			
69	374.3	-0-	7.7	Preference Rights
	This deletion would eliminate processing of preference rights applications. Consequently, claims would be resolved by lawsuit.			
83	59.7	-0-	1.0	Interagency Water
	This deletion would reduce coordinated reviews with ADF&G and DEC regarding water permits and projects which affect water use and quality; where reviews are done separately, they may require more time.			

Also affected indirectly would be another project:

91	203.6	60.6	4.0	Public Information

This revision would reduce the number of public information officers from 5 to 1 and would drastically reduce public responses and referrals and information dissemination by DNR. Public Information Officers serve as the Department's "intake" personnel for permits.

98	2[illegible].6	-0-	2.0	Water Mgmt. Plans

This deletion would eliminate computerizing water data for use in adjudication, increasing the time necessary for adjusication.

The above-listed figures do not include additional costs that will be incurred as the specific result of the adoption of SB 84. Those costs will be covered in a fiscal note to be submitted by the Department.

We hope this information is of help to you as the Legislature continues its deliberation of this legislation.

cc: Rep. Martin
Members of House Labor & Commerce

Please keep for Governor's Lunch
Fri 2/12/82
After session break.
Terry Martin

2nd HOUSE CS FOR CS FOR SB NO. 84 (L&C)

PROPOSED ADMINISTRATION AMENDMENTS

AMENDMENT 1

Page 2,1.12..

application [.] ,unless a public hearing is held on the application, in which case a final decision must be issued within 85 days after the date of receipt.

75 days. Power.

1st - 30 days.
Obj by Adm ⇒ 65 days.

~~They have don't have to~~
It encourages the agency to not wait until the 29th day to decide if hearing necessary.

AMENDMENT 2

Page 2, ls. 26-28.

under the Appellate Rules of Procedure. Unless the applicant and the agency otherwise agree, [T]the time period may not be extended more than 120 days beyond the time period specified in AS 44.62.632(a).

Passed

AMENDMENT 3

Page 4, lines 6 -- 29

Delete all of sec. 44.62.635(a) and (b) and insert the following in its place:

(a) There are established lead agencies which are solely responsible for issuing coastal management consistency determinations under AS 46.40 and for preparing and submitting state comments on federal permit applications for all projects which include the conveyance of an interest in state land or water or at least one class II permit decision. The lead agency may vary for classes of activities, but shall be that agency that has principal responsibility for authorizing the overall activity. For classes of activities for which no agency with principal responsibility exists the governor shall designate a lead agency by administrative order no later than October 1, 1982. In performing its functions under this section the lead agency shall consult with other resource agencies and with coastal resource districts under AS 46.40. The lead agency shall balance competing factors in reaching its decision. Substantive consideration shall be given to the comments of resource agencies within their primary areas of expertise.

(b) If a coastal resource district with an approved and applicable district coastal management program appeals the lead agency's consistency determination, AS 44.62.560--44.62.570 govern judicial review. However, notwithstanding

4640.100

AS 44.62.570(c), abuse of discretion is established if the reviewing court determines that the consistency determination is not supported by a preponderance of the evidence in the administrative record.

AMENDMENT 4

Page 5, ls. 1-2.

(c) Except as otherwise required by federal law, [N]no state agency other than the lead agency may comment to a federal permittingaagency.

AMENDMENT 5

Page 5, ls. 3-5.

Delete existing subsection (d) and insert the following:

(d) For activities involving both a disposal of interest in land, or plan of operations approval under a previous disposal, and a certification under sec. 401 of the Clean Water Act (33 U.S.C. sec. 1341), the lead agency shall be the Department of Natural Resources.

AMENDMENT 6

Page 5, lines 22 - 23.

Administrative appeals [EXCEPT AS PROVIDED IN THIS SECTION THE PROCEDURE IS] conducted under this section need not comply with AS 44.62.330 - 44.62.630.

AMENDMENT 7

Page 5, line 24.

(b) Except when applicable due process rights may require more formal administrative proceedings, the [THE] adminstrative appeal must be resolved within 45 days

Page 6, ls. 12-13.

Procedure. [THE RIGHT TO APPEAL IS NOT AFFECTED BY THE FAILURE TO SEEK FURTHER REVIEW UNDER AS 44.62.637.] The review is governed by the

AMENDMENT 9

Page 6, ls. 15-17.

(b) An appeal taken under this section [HAS] should have preference on the calendar of civil actions before the court and [SHALL] should be decided without unnecessary delay.

AMENDMENT 10

Page 5, 1s. 16-17.

extend the time period specified in this section. [FOR UP TO AN ADDITIONAL 30 DAYS.]

AMENDMENT 11

Page 7, line 12

Resources, the Department of Enviromental Conservation, the Alaska Coastal Policy Council, and the Depart-

CHANGES TO PROPOSED ADMINISTRATION ADMENDMENTS TO SB 84
(2nd House CS for CS for SB 84 Labor & Commerce)

AMENDMENT 1 - No Change.

AMENDMENT 2 - No Change.

AMENDMENT 3 - See Attached.

AMENDMENT 4 - No Change.

AMENDMENT 5 - No Change.

AMENDMENT 6 - Replace with the following:

Page 5, ls. 16=17

extend the time period specified in this section. (FOR UP TO AN ADDITIONAL 30 DAYS.) However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the lead agency must issue a final decision.

AMENDMENT 7 - Revise as follows:

Page 5, ls 22 - 23

Administrative appeals (EXCEPT AS PROVIDED IN THIS SECTION THE PROCEDURE IS) conducted under this section are not subject to the procedures in AS 44.62.330-44.62.630.

AMENDMENT 8 - No Change.

AMENDMENT 9 - Revise as follows:

Page 6, ls. 12 - 13

Procedure. The right to appeal is not affected by the failure to seek further review under AS 44.62.637 if either solely a question of law is at issue or in those instances in which an administrative appeal would be futile. The review is governed by the

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(b) In performing its function under this section, the lead agency shall consult with other resource agencies and with coastal resource districts under AS 46.40. The lead agency shall consider facts, data, opinion, conclusions or recommendations submitted by the commenting agency and the coastal resource districts within their areas of expertise. The lead agency shall then balance competing factors in reaching its final decision. No resource agency other than the lead agency has primary expertise on the balancing of competing factors.

(c) In its consideration of the comments of other resource agencies, the lead agency shall give substantive consideration to the facts and data, and to the (opinions, conclusions or recommendations substantiated by said facts and data) which are submitted by commenting agencies within their primary areas of expertise. An opinion, conclusion or recommendation is adequately substantiated under this subsection if it is based on facts or data reasonably relied upon by experts in the field.

(d) If a coastal resource district with an approved and applicable district coastal management program appeals the lead agency's consistency determination, AS 44.62.560 -- 44.62.570 govern judicial review. However, notwithstanding AS 44.62.570(c), abuse of discretion is established if the reviewing court determines that the consistency determination is not supported by a preponderance of evidence in the administrative record.

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Alaska Oil and Gas Association

AOGA

505 W. Northern Lights Boulevard
Suite 219
Anchorage, Alaska 99503
(907) 272-1481

June 4, 1981

The Honorable Jack Fuller
Chairman
Administrative Regulation Review Committee
Pouch V, State Capitol
Juneau, Alaska 99811

Re: Analysis of Uniform Permit Procedures Regulations

Dear Representative Fuller:

As promised in our letter of May 29, we are pleased to submit our detailed analysis of the Uniform Permit Procedures Regulations which are being adopted by the Administration.

Regulatory Reform History in Alaska

In early 1979, Governor Hammond initiated efforts within his Administration toward specific regulatory reform objectives. Wide public appeals were made for assistance in identifying troublesome and onerous regulations. AOGA was also concerned about unnecessary regulations and established a Regulatory Reform Coordinating Committee (RRCC) to work with the Administration.

During the past two years, AOGA's RRCC analyzed regulations and procedures which have a significant impact on our industry. It found a pattern of duplication, layering, unnecessary time delays and unreasonable operating requirements.

During the same period, Bill McConkey first undertook an analysis for the Administration and later for the Legislature and reached similar conclusions. In his December 1980 report to the Legislature, he recommended extensive revision of the regulatory process, including in particular the adoption of legislation establishing permitting time limits such as contained in CSSB 84.

In response to the effort of Mr. McConkey and others, and the support for SB 548 in last year's session, the Administration has proposed Uniform Permit Procedures Regulations (22 AAC 10) as an alternative to legislation. At a press conference on December 5, 1980, Governor Hammond stated that the permit regulations were being written to establish firm reasonable deadlines by which permit decisions must be reached in order that individuals and businesses do not waste time as a result of procedural delays. It is our judgment that these regulations are the antithesis of regulatory reform and do not meet the objectives of regulatory reform.

Regulatory Reform Objectives:

True regulatory reform should accomplish the following:

1. Streamline the coastal management consistency approval process.

2. Decrease permit processing time.

3. Provide certainty in the timely processing of permits to facilitate project planning.

4. Reduce duplication and redundancy.

5. Decrease permit processing costs to both applicants and government.

6. Simplify the permit process to require fewer state employees, and

7. Establish a lead agency.

Failure to meet Regulatory Reform Objectives:

In contrast to the above objectives, the regulations only succeed in accomplishing the direct opposite. The regulations fail to meet these objectives as follows:

1. The coastal zone consistency determination procedures are not streamlined. The regulations grant ultimate control to local districts over resource development projects on state land. This jeopardizes the freedom the state needs to encourage development of its natural resources in the coastal zone. The regulations undermine the objective of obtaining a single consistency determination for projects. The existing problems with joint state/federal permits

are perpetuated and intensified.

2. According to a memo from a Division in the Department of Natural Resources dated January 2, 1981, permit processing time will be increased. In fact, the Division estimates the new regulations will almost double the processing time. Although the estimate was made on an earlier draft, the Division indicates the estimates would not be changed significantly for the final regulations.

3. Substantially new and complex procedures are established which create uncertainty through the provisions for public hearing and appeals. In addition, the new regulations provides numerous opportunities for litigation by third parties. The regulations are so complicated that procedural errors are inevitable, hence creating the basis for legal challenges. Special interest groups are given extraordinary access to the day to day decisions of duly authorized agencies responsible for regulating development of the state's resources. They invite individuals to file capricious appeals, thereby blocking approval of development permits.

4. The new regulations institutionalize and expand existing duplication. The inter-agency review section and the relevant definitions are unduly complicated. Under these regulations, the same agency may review the same project in order to (a) issue a permit under its own authority; (b) comment on an application in the inter-agency review coditied by the regulations; and (c) comment on a federal permit application. Further, the regulations give the agency authority to create law by stipulation, a procedure not endorsed by state statute.

5. The permit processing costs to both industry and the state will be increased. One division of the Department of Natural Resources has estimated it will cost an additional $200,000 per year to implement the regulations affecting oil and gas operations. Since this estimate involves the regulation of only one industry by one division of one of the agencies, it seems likely that the total cost of implementation will be substantial. The increased complexity will require dedication of more people by industry to the permitting process. Delay in the permitting process will result in less efficient utilization of people and equipment on the project. Legal costs to both industry and government will be increased because of the appeals process. Increased lead times will add to the costs of projects as materials and equipment are held on a standby or non-productive basis while waiting on permit approval. The resulting

increased cost will ultimately be borne by the public.

6. More, rather than fewer, state employees will be required to implement these provisions. One division has estimated that four additional employees will be required to process permits and it seems reasonable to assume that other divisions and agencies will also require additional employees.

7. Although the regulations purport to establish the "lead agency" concept of handling permit applications, in fact no true lead agency is created. The lead agency is required to give "great weight" to the comments of other agencies. The definition of "great weight" requires the lead agency to prove by a preponderance of the evidence that a proposed stipulation is not justified. This definition is so onerous that a lead agency may elect to accept the stipulation rather than contest its merits. Unless the lead agency is given reasonable discretion to reject proposed stipulations by commenting agencies, it cannot be fairly alleged that a lead agency concept has been adopted.

The Administration claims that these regulations constitute genuine progress in ending some of the regulatory abuses which most annoy the public. We do not agree. The regulations are unworkable and should not be implemented.

Detailed Analysis

Our members have made an extensive and careful analysis of each draft of the regulations and have submitted comments to the Administration at every opportunity. Copies of some of these statements are attached. For the most part these comments have been ignored.

Our article by article comments follow:

ARTICLE I. GENERAL PROVISIONS

22 AAC 10.010 Scope of Chapter

This section requires each of the four departments adopting the regulations to modify its own regulations by classifying its permits and appeals. If these procedural regulations become effective before the individual agencies have revised their current regulations, the entire permitting process may very well come to a halt. Apparently there has been little effort to coordinate the promulgation of the procedural regulations

with the revision of individual agency regulations. These regulations should not be adopted until the substance of individual agency regulations is known.

22 AAC 10.020 Deadline on Permit Issuance:

Under subsection (a)(1), action on permit applications can be postponed for an unspecified period of time by finding that "unusual complex issues" exist. Although the Governor stated in his letter to you that major changes had been made in these regulations as a result of public comment, this open-ended provision has remained in the proposed regulations.

Also under subsection (a)(3), the deadline can be extended if the applicant agrees to "a more lengthy review period". Since the applicant needs the approval to conduct his business, he may have no choice but to agree to a longer period for permit review.

To summarize, there is no enforceable deadline for timely action on permit applications. Certainty in the timely processing should be a major objective of regulatory reform.

22 AAC 10.030 Additional Information

This section establishes two different time periods, depending on class, for agency assessment of the need for additional information. Upon receipt of an application for either a class I or class II permit the agency should immediately assess whether additional information is necessary in order to process the permit. Assessment should not require more time for class II permits than for class I permits. We believe that a 15 day period is adequate for both classes of permits.

This section allows an agency to delay action on a permit application by asserting that "additional information" is required of the applicant. Only one request for information should be allowed by an agency and the additional information required should be clearly specified. This section is another example of the Administration's unwillingness to put teeth in its regulatory reform regulations.

22 AAC 10.040 Signing of Applications

Even this seemingly innocuous provision lends itself to the snarling of the permitting process. Since there is no clear definition of who should be qualified to sign the permit application, the agency can arbitrarily assert that the applicant's representative is not "duly authorized" to sign the application.

This has not been a problem in the past. There is no need to formalize requirements for the signing of applications.

22 AAC 10.050 Oral Public Hearings

Public hearing rights are created by these regulations where none are required by statute. The regulations thus allow an agency to override an implicit finding of the Legislature that no hearings should be required.

A plan of operations for a lease never has required public notice. The new regulations require public notice. These activities are approved pursuant to leases already issued by the state, and are subject to the inter-agency review process set up by MOU's between the deciding agency and the commenting agencies. Plans of operations should not be subject to these regulations.

Under this section, new and complex requirements for public notice and hearings are created. These requirements will complicate and lengthen the permitting process and the approval of the lease plan of operations rather than simplify these procedures. We also point out that additional bureaucrats will have to be placed on the public payroll since the agencies will argue that the requirements for public hearings are a new and additional aspect of its work. Again, these requirements are fundamentally at odds with any genuine effort for regulatory reform.

22 AAC 10.060 Decision on Applications

There is no reason why the agency's decision should contain an invitation to contest the decision. Also, serving a decision on any person requesting a copy or who has made comments on the application is a burdensome requirement.

22 AAC 10.070 Permit Conditions

Delay is not the only problem an applicant faces. He also faces the prospect of having virtually any condition, however ill-conceived or contradictory, imposed on the permit approval. The proposed regulations fail to address this important reform. Under questionable statutory authority or regulations written by the agency, virtually any requirement or condition may be imposed unilaterally on the applicant. Meaningful reform of the regulatory process must place some limits on the conditions which can be placed on the permittee.

The state statutes do not authorize the deciding officer to attach design and operating stipulations to a permit.

22 AAC 10.080 Permit Limitations

Operations in Alaska often require changes from planned activities. Under this section, any minor deviation from the plan described in the application would require the applicant to cease operations under the old permit and go back to the agency for a new or amended permit.

The requirement for the agency to determine if a change in plans will result in "significant adverse impacts" brings in a whole new procedure. An affirmative finding would require a new permit. In the past, changes have been reviewed but not under these criteria. A prudent operator would have to shut down operations until such a finding has been made and a new permit issued in the event of an affirmative determination. Any deviation from the approved permit should only require an amendment to the original permit and not require a new permit.

22 AAC 10.085 Memoranda of Understanding

The regulations do not make clear that existing MOU's as well as subsequent MOU's must comply with the requirements of this chapter. All existing MOU's between agencies should either be revised to comply with the chapter or be withdrawn.

Rather than encouraging joint processing of permit applications, the regulatory reform effort should attempt to limit federal participation in the permitting process where possible. This section provides that such agreements, which extend any deadline, are authorized only where "procedural burdens on the applicant" are reduced. However, it will be the agency, without provisions for applicant imput, that decides whether or not such agreements are "good" for the applicant.

ARTICLE 2. CLASS I PERMIT

It is difficult to visualize any oil and gas activity which would be classed as Class I permit. DNR personnel have indicated an intent to designate oil and gas plans of operations as Class I but because of the numerous exceptions which they intend to apply to that classification, virtually all oil and gas plans of operations will be Class II.

If the applicant is aggrieved by a decision, his only recourse is the elaborate Class A or Class B appeals machinery under

Articles 6, 7 and 8. These are excessive measures for what should be a simplified process as discussed later on page 10.

ARTICLE 3. CLASS II PERMITS

Nearly every permit covering activities on oil and gas leases will fall into the Class II category. Although an agency decision on a permit application is due within 65 days, the regulations provide multiple methods for extending that period almost indefinitely. Public notice must be given when a Class II permit is received and the public is given a 30 day comment period. Oil and gas exploration and development in Alaska, until recently, has proceeded in a satisfactory manner without a public notice requirement.

Despite the history of environmentally safe oil and gas operations, the state administration now considers public notices to be necessary. It is difficult to understand what benefits the public can derive from these elaborate, time consuming measures. Public notices provide unlimited opportunity for protests, comments and demands from activist groups, whose objectives include stopping any development or progress.

The regulations make no provision for a specified time in which public notice must be given following receipt of a permit application.

These regulations would allow an expanded opportunity for commenting agencies to interfere with the legitimate right granted by an oil and gas lease. Such leases require the payment of rentals and place an obligation on the leaseholder to diligently explore for oil and gas during the lease term. If a leaseholder is proposing to conduct safe and prudent operations under a lease issued by a state agency, a commenting agency should not be able to deny the lessee the opportunity to exercise those rights.

Section 140 requires exhaustive and formal records and transcripts to be maintained during the public hearing and comment period. Section 150 requires that all oral communications on any "matters of substance" between the applicant and the agency must be reduced to writing. The regulations do not indicate any criteria for determining what are "matters of substance." Many more state employees must be added to the payroll to maintain a process which has no recognizable benefits.

ARTICLE 5.
COASTAL MANAGEMENT CONSISTENCY DETERMINATIONS

22 AAC 10.500 Single Determination Required for Certain Projects:

The regulations attempt to designate a lead agency. We endorse the concept of the lead agency being one with expertise in the matter. For oil and gas operations this would be DNR. We also endorse one consistency determination for state and federal purposes. There is currently a duplication of jurisdiction, and no method is provided in the new regulations to settle disputes between agencies. The following ambiguous language opens the door for an interpretation that the consistency determination is not in fact conclusive:

> "The determination made under sections 520-540 is conclusive to the extent of its coverage, but does not affect the jurisdiction of any agency over a proposed project under its own statutes and regulations. Nothing in sections 500-580 of this chapter may be construed as limiting local government jurisdiction over any project."

Other agencies and local governments may seek to impose consistency determination-type conditions on a project that has already received the "single consistency determination".

Any regulation must firmly establish that once a single consistency determination is made, other agencies or local governments having jurisdiction are bound by that determination, and may not seek to abrogate that determination under their own permitting or regulatory authorities.

22 AAC 10.510, 520 and 530

The OCS consistency determination should be a responsibility of DNR, the agency with the expertise, and not DPDP. These regulations do not give DNR the authority to make the consistency determination for all oil and gas activities including the OCS but splits the responsibility among three state agencies.

22 AAC 10.540 and 550

Section 540 states that consistency determinations on "other direct state and federal activities will be made by the appropriate state agency." This section opens the door for further confusion between the state agencies as to the appropriate agency for purposes of making a consistency determination.

While we do not express an opinion as to what NOAA's position will be on this matter, we would point out that these consistency determination regulations do not comply with Section 306 (c)(5) of the Federal Coastal Zone Management Act and its implementing regulations which require a designated agency for state consistency determinations. We believe that the split agency concept as well as all other consistency provisions of these regulations will require NOAA approval, and in view of the substantial deviation from NOAA's designated agency requirements, the state risks not receiving that approval.

22 AAC 10.570 Procedure for Consistency Determinations:

Local coastal resource districts should not be accorded the status of a state "resource agency".

Section 570(b) when read in conjuction section 130(c), requires a deciding agency to give "great weight" to the comments of Coastal Resource Districts with an approved coastal plan. This effectively grants local coastal districts a veto power over projects proposed in their district. Local agencies should not be allowed to block projects of statewide or national importance. The Uniform procedures do not comply with section 306(c)(8) of the Federal CZM Act, which requires the national interest to be accorded full consideration by an approved program, nor section 306(e)(2), which requires that approved programs have a mechanism for assuring that local regulations do not unduly restrict or exclude uses which are in the state and national interest.

22 AAC 10.580 Applicant Responsibility in Multiple Permit Cases:

The effect of this section is to condition the approval of one permit on the approval of another permit. Each permit should stand on its own merits.

ARTICLES 6, 7 & 8. APPEALS

Far from avoiding litigation, the appeals procedure invites protracted litigation on the part of any interested individual. Moreover, these procedures will impede orderly administration by the agencies.

Problems arising primarily from these areas are: (1) no limitation on the eligibility of those who can file appeals ("standing"); (2) the length of the appeals process; (3) complexity of the appeals process; (4) burden on permit applicants; and (5) conflicting appeal procedures.

1. Standing:

Section 060(b) of the regulations requires a copy of the permitting decision to be served upon any person who has commented on the permit application. Section 620 allows any person to serve notice of appeal. Section 640 specifies that a person has standing to appeal if (i) he would be injured in fact by the agency's decision; (ii) he has raised material issues; (iii) the specific issues presented on appeal were raised by the appellant in comment or hearing testimony; and (iv) the requirements of Section 620 have otherwise been met.

This standing requirement is so broad that it might allow state agencies to appeal the issuance of a permit. It is AOGA's position that state agencies ought not be permitted to appeal such decisions.

The test for standing for an individual challenge of an agency decision appears to be similar to that used by courts in allowing an individual to challenge agency actions by judicial means. Under that test, courts have gone so far as to allow individuals to challenge federally permitted hunting and capturing of wild horses simply on the basis that the individual had seen wild horses before and would like to continue seeing them. This test, if applied under the regulations, would allow virtually anyone to claim "injury in fact" and thereby gain standing to file an appeal. If thus interpreted, the regulations provide for an excessively broad spectrum of potential appellants.

Section 640(b) also allows individuals not served with the initial decision to petition for intervention in the appeal. AOGA firmly believes that no provision for intervention should be included in the regulations. While the agency should consider any portion of the prior record that it wishes, intervention should not be permitted during the agency appellate review.

2. Length of Appeals Process:

The appeal processes are excessively long. (See flow chart attached). A Class A appeal can take as long as 95 days without a hearing, and 125 days with a hearing, not including any extension of the allotted time periods. The Class B appeals can take as long as 175 days, and perhaps longer, depending upon the length of time required for the agency to certify the record. The length of the permit process, when combined with the length of the appeals process, establishes an impermissibly long period between the time the application is submitted and the time of final resolution. This, of

course, does not include any time which may be spent in the Superior Court and the Supreme Court in further appeals.

3. Complexity:

The appellate process is extremely complex and difficult to administer. Many of the provisions would require the best skills of an experienced trial judge to properly implement.

The sheer number of steps which the agency is required to follow is mind-boggling. In fact, the steps are not even set out in a logical sequence. Section 160 requires that three different sorts of findings be appended to every decision on a permit issued by any of the four agencies. Each of these findings is subject to attack on appeal. Copies of the decisions must be furnished to anyone who has requested it. The pre-hearing conference required by Section 810 will require the specialized services of an attorney. These are only a few of the many intricate legal steps which are beyond the capabilities of existing departmental personnel. More legal help will be required by each of the Departments. It is difficult to understand how such elaborate appeals procedures grew out of an effort to simplify the process.

4. Burden on Permit Applicants:

Section 640(a) requires the applicant to become a part of the appeals procedure even if he doesn't wish to.

The Class B appeal process is almost identical with a trial in the Superior Court. It includes publication of notice of appeal, intervention by third parties, discovery proceedings, pre-hearing conference and pre-hearing order, de novo hearing, formal evidence rules, full records certification, etc. These extraordinary requirements are beyond the appeals procedures outlined in the APA. They are a burdensome requirement to impose on the applicant.

All permit applicants will be required, as a practical matter, to hire additional legal help.

5. Conflicting Appeal Procedures:

These appeal procedures are certainly in conflict with existing agency regulations for administrative appeal. Existing regulations must be substantially reviewed and revised to eliminate conflicts with the new regulations. This will further complicate the efforts of the agency to bring its procedures into conformance with the new regulations within any reasonable time frame.

The regulations may conflict with the Administrative Procedures Act. Under that Act, the initiation of a hearing to determine whether a right, license, or other privilege should be granted, issued or renewed is made by filing a statement of issues, rather than a notice of appeal. A notice of hearing must be issued at least 10 days prior to the hearing. Finally, adjudicatory hearings are to be presided over by a hearings officer. The regulations may not be in agreement with the above provisions.

We thank you for the opportunity to comment. We urge your efforts to prevent implementation of these counter-productive regulations which nearly totally miss the mark of their intended objective of regulatory reform.

Anytime at your convenience we stand ready to discuss this matter and lend whatever assistance we can.

Very truly yours,

WILLIAM W. HOPKINS
Executive Director

WWH:km

Attachment

Enclosures

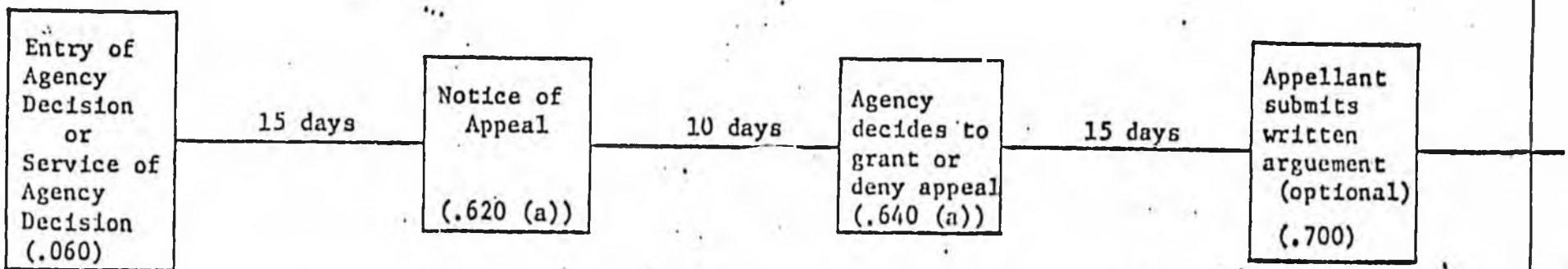
cc: Governor Jay S. Hammond

UNIFORM PERMIT PROCEDURES REGULATIONS (22 AAC 10)

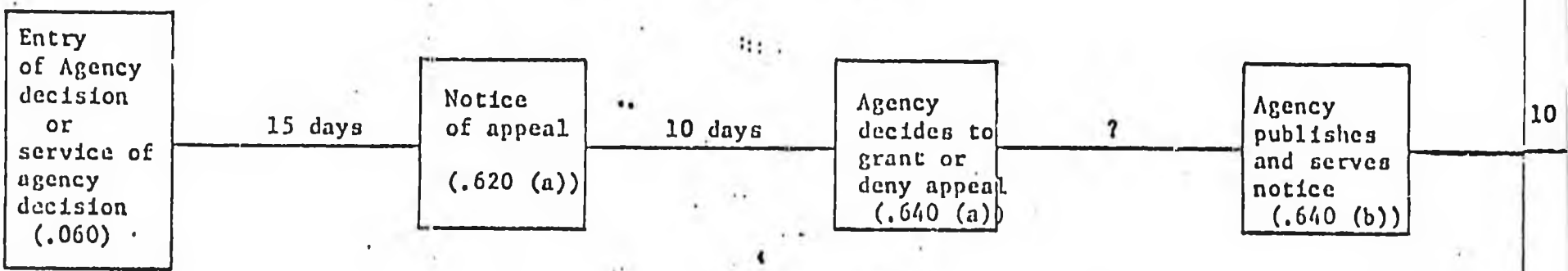
APPEALS PROCEDURES

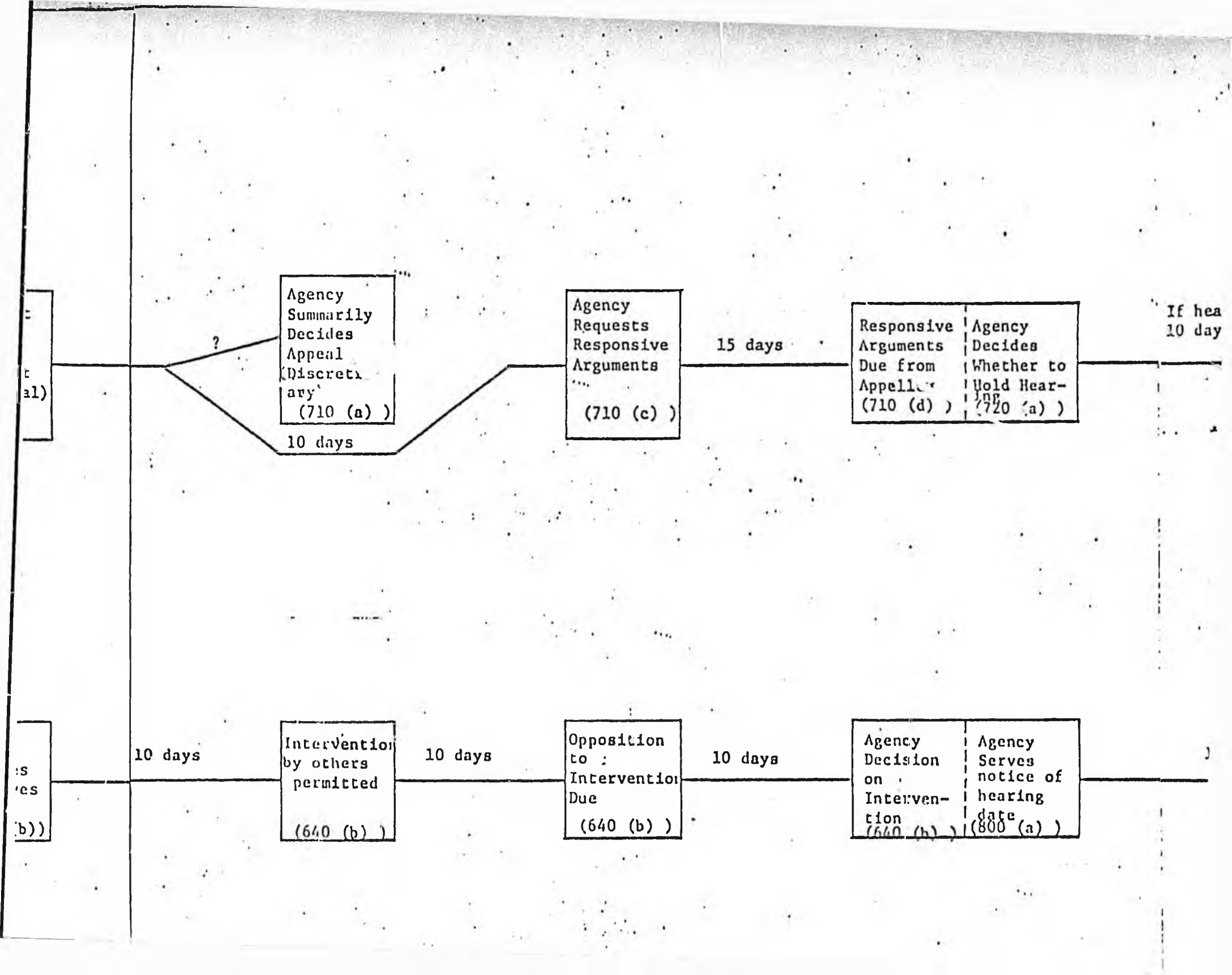
ARCTICLES 6,7 and 8 ...

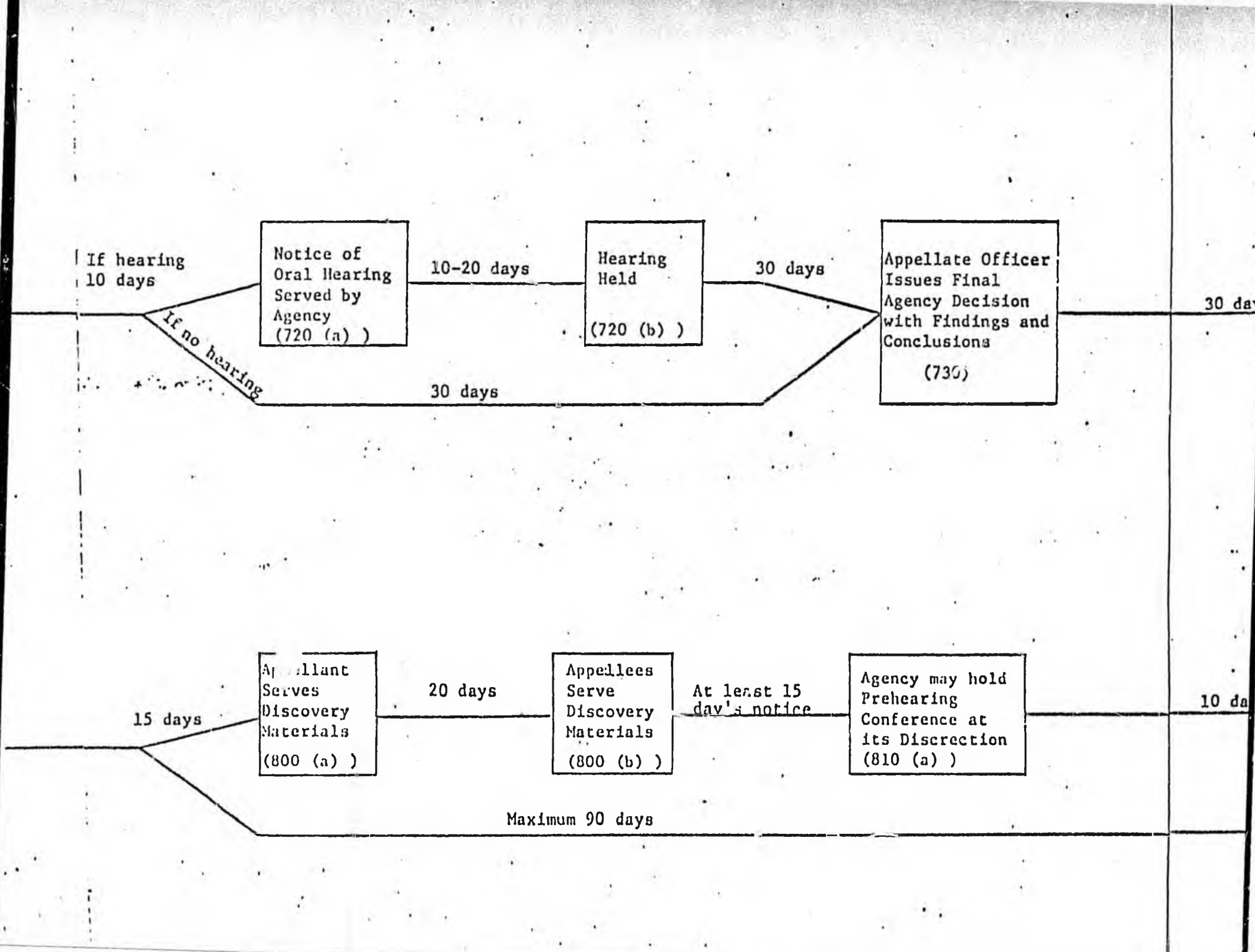
"CLASS A" APPEALS

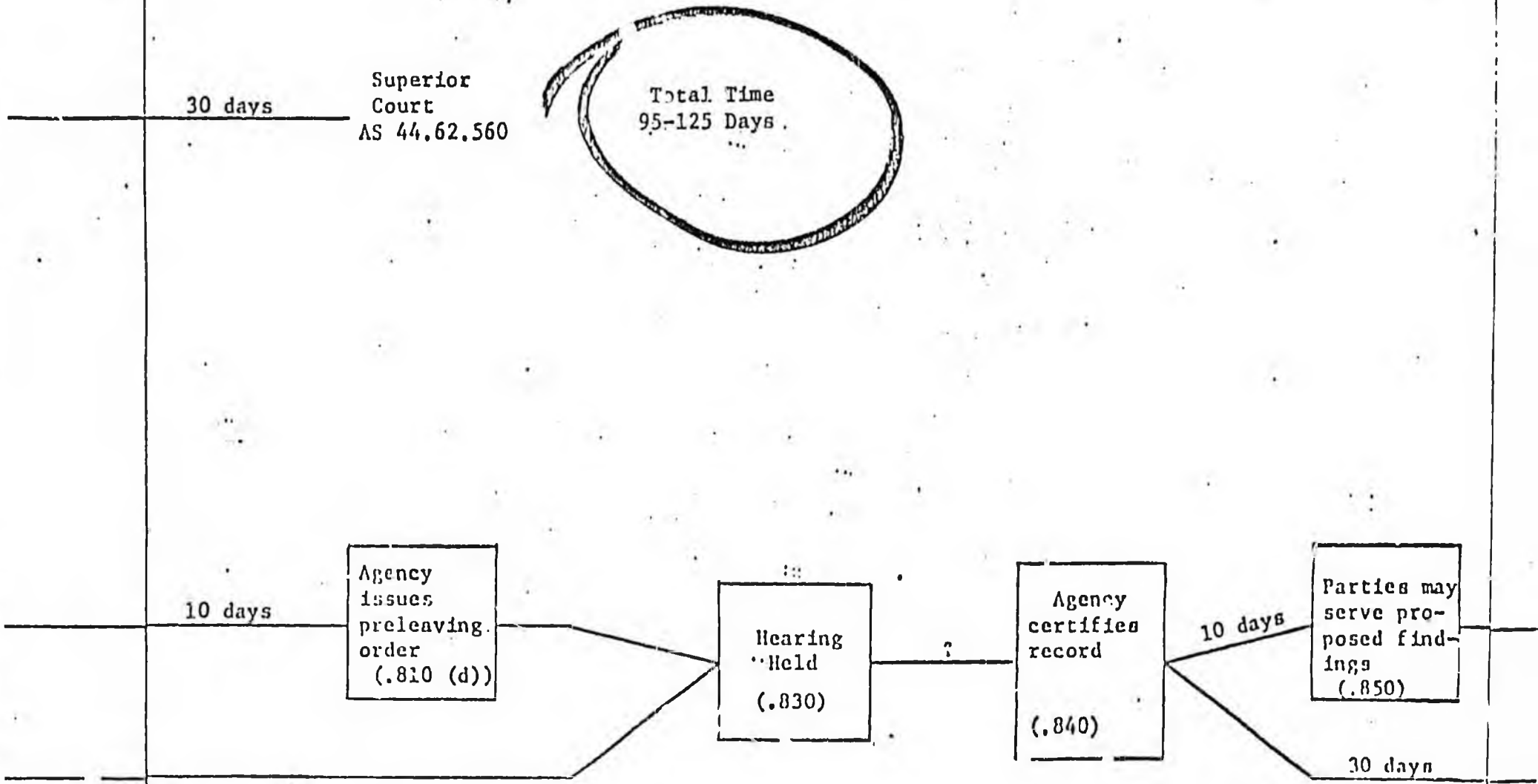


"CLASS B" APPEALS




Agency Summarily Decides Appeal (Discretionary (710 (a))
?
10 days
Agency Requests Responsive Arguments (710 (c))
15 days
Responsive Arguments Due from Appell (710 (d))
Agency Decides Whether to Hold Hearing (720 (a))
If hea
10 day
10 days
Intervention by others permitted (640 (b))
10 days
Opposition to Intervention Due (640 (b))
10 days
Agency Decision on Intervention (640 (b))
Agency Serves notice of hearing date (800 (a))


If hearing
10 days
Notice of Oral Hearing Served by Agency (720 (a))
10-20 days
Hearing Held
(720 (b))
30 days
Appellate Officer Issues Final Agency Decision with Findings and Conclusions
(730)
30 day
If no hearing
30 days
15 days
Appellant Serves Discovery Materials
(800 (a))
20 days
Appellees Serve Discovery Materials
(800 (b))
At least 15 day's notice
Agency may hold Prehearing Conference at its Discretion
(810 (a))
10 da
Maximum 90 days


30 days
Superior Court AS 44.62.560
Total Time 95-125 Days
10 days
Agency issues preleaving order (.810 (d))
Hearing Held (.830)
Agency certifies record (.840)
10 days
Parties may serve proposed findings (.850)
30 days

Norpac Exploration Services, Inc.

ALASKA DIVISION
P.O. BOX 599
ANCHORAGE, ALASKA 99510

MILE-HI EXPLORATION CO., INC. PACIFIC WEST EXPLORATION CO.

2-18-82

Norpac Exploration Services fully supports Senate Bill 84 concerning the processing of permits by state agencies. It has become abundantly clear in the last few years that the particular mechanisms now in place are used to delay and in some cases kill programs that might have been planned. The permitting process is entirely too lengthy and too broad. It would facilitate matters immeasurably if the process could be streamlined to reflect earlier days. During the 60's, only one permit was required for onshore seismic work and this could usually be obtained in a maximum time frame of 2 weeks, often the permit would be issued in 2 or 3 days. Now the review process must clear 3 or 4 agencies, both federal and state, before the permit is issued. Of particular importance in the subject Bill, is the time limits imposed upon the agencies to respond to exploration requests. Alaska exploration work requires more intricate forward planning than comparable work in the South 48 and a timely permit will mean the difference between go, or no go, on a project.

Charles J. Dubman

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

TESTIMONY FOR SB 84

MY NAME IS VAL MOLYNEAUX. I AM REPRESENTING VECO, INC., AN ALASKAN CORPORATION, PROVIDING OIL FIELD SERVICES BOTH IN THE PRUDHOE BAY, BEAUFORT SEA AREA AND THE KENAI AREA IN ALASKA.

OUR WORK IS BECOMING PROGRESSIVELY MORE INVOLVED IN THE REGULATORY PERMIT SYSTEM IMPOSED UPON ALL NEW DEVELOPMENTS BY FEDERAL, STATE, AND MUNICIPALITY GOVERNMENT. NOT THAT WE CONSIDER PERMITTING UNNECESSARY, BUT WE FEEL THE CUMBERSOME DOCUMENTATION AND DUPLICATION OF PERMITS IS WITHOUT JUSTIFICATION, THE NUMBER OF AGENCIES AND THE TIME INVOLVED TO OBTAIN THE PERMITS IS EXCESSIVE, ALL OF WHICH RESULT IN HIGHER COSTS TO THE CLIENT AND ULTIMATELY THE CONSUMER.

IN THE DEVELOPMENT AND PLANNING STAGES OF A NEW PROJECT IT IS AT FIRST NECESSARY TO IDENTIFY THE PERMIT REQUIREMENT AND THE RESPECTIVE AGENCIES FOR THE SUBMITTAL OF PERMITS. IN SOME CASES VOLUMES OF PAPERS ARE REQUIRED WHICH NECESSITATE MANY MAN HOURS TO COMPILE, RESULTING IN EVEN MORE MAN HOURS OF DELAYS RESEARCHING GOVERNMENTAL AGENCY INQUIRIES.

IT APPEARS THAT THE GOVERNMENTAL AGENCIES GIVE NO CONSIDERATION FOR THE CONTROLLING COSTS RESULTING FROM THESE OVERBURDENSOME REQUIREMENTS.

PERMIT REQUIREMENTS HAVE IN SOME CASES CAUSED YEARS OF DELAY AND, IN OTHER CASES, CHANGE OF THE LOCATION OF LABOR PROJECTS. IT HAS RESULTED IN SPIRALING COSTS. WE MUST GIVE MORE CONSIDERATION TO THE COSTS OF THESE BENEFITS WHICH THE PERMITTING SYSTEM IS MEANT TO PROVIDE US WITH.

IT IS TO THIS END THAT WE SUPPORT THE SECOND HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SYSTEM FOR THE SENATE BILL 84 LABOR AND COMMERCE.

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

NORTHERN DRILLING SERVICES, INC.
Anchorage, Alaska

3216 Iliamna Avenue
Anchorage, AK 99502
907 243-6389

February 18, 1982

To Whom it May Concern:

My name is Ronald Jordan, President of Northern Drilling Services in Anchorage, Alaska.

We provide weather, radio, medical and labor services to the oil companies. We also lease and rent equipment to these oil companies.

This testimony is in favor of the Second House Committee Substitute for Committee Substitute for Senate Bill #84, Labor and Commerce.

A subcontractor usually knows of an upcoming contract from an oil company and therefore plans for it. Therefore, because of the regulatory agencies method of issuing permits to the oil companies, we, the subcontractors find it very difficult to plan the courses of action in dealing with these contracts. We have our obligations to fulfill, and planning ahead, as we do, costs us money when we have to shelf an item because of a delay in a permit that is not issued to an oil company.

It is very difficult to even think about a full time crew for each contract as we can not afford to pay for a crew to be on stand by while waiting for a contract which is depending on a permit.

I believe this Bill would eliminate duplication and speed up the processing of permits.

Sincerely,

Ronald L. Jordan

Ronald L. Jordan
Northern Drilling Services, Inc.

RLJ:kh

ALASKA
SUPPORT INDUSTRY
ALLIANCE
P.O. Box 100, Anchorage, Alaska 99510

TESTIMONY BEFORE THE HOUSE LABOR AND COMMERCE COMMITTEE

ON SENATE BILL 84

BY

JOE MATHIS, PRESIDENT, ALASKA SUPPORT INDUSTRY ALLIANCE

FEBRUARY 19, 1982

MR. CHAIRMAN AND MEMBERS OF THE HOUSE LABOR AND COMMERCE COMMITTEE. MY NAME IS JOE MATHIS. I AM OFFERING THIS TESTIMONY ON BEHALF OF THE ALASKA SUPPORT INDUSTRY ALLIANCE.

THE ALLIANCE IS A NON-PROFIT ORGANIZATION REPRESENTING INDIVIDUALS AND SUPPORT COMPANIES INVOLVED IN THE MINING, CONSTRUCTION AND PETROLEUM INDUSTRIES. THE PURPOSE OF OUR ORGANIZATION IS TO FOSTER AND PROMOTE THE INTERESTS OF THE SUPPORT INDUSTRY AND MORE PARTICULARLY TO IMPROVE PUBLIC UNDERSTANDING OF THE INTER-RELATIONSHIP OF POLITICAL DECISIONS, INDUSTRY ACTIVITIES AND THE ECONOMIC HEALTH OF ALASKA.

THIS BRINGS ME TO WHY THIS TESTIMONY IS BEING OFFERED. WE OF THE SUPPORT INDUSTRY HAVE SUFFERED--ALMOST UNNOTICED BY GOVERNMENT. OUR SUFFERING COMES NOT IN A DIRECT WAY, BUT AN INDIRECT--ALTHOUGH VERY REAL--WAY. EACH TIME BUREAUCRACY DELAYS THE PROGRESS OF MAJOR INDUSTRY BY OVER-REGULATING AND DUPLICATING OF PERMITTING REQUIREMENTS, IT IS CREATING A REAL HARDSHIP ON THE SUPPORT INDUSTRY AS WELL. THERE IS AN APPARENT LACK OF AWARENESS

ALASKA
SUPPORT INDUSTRY
ALLIANCE
P.O. Box 100, Anchorage, Alaska 99510

BY SOME REGULATORY AGENCIES AS TO THIS CHAIN OF EVENTS OF INDUSTRY ACTIVITY AND WHAT IMPACT THEIR INEFFICIENCY AND FOOT-DRAGGING HAS ON IT. THIS IS WHAT REGULATORY REFORM SHOULD SEEK TO HELP.

WE OF THE SUPPORT INDUSTRY NEED THE 2ND HOUSE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 84 AS MUCH AS, IF NOT MORE THAN, THE MAJOR INDUSTRIES OF THIS STATE.

SUPPORT INDUSTRY SURVIVES BY BEING EFFICIENT AND ABLE TO RESPOND TO THE NEEDS OF MAJOR INDUSTRY. AS SUBCONTRACTORS WE MAY NOT BE REQUIRED TO HAVE THE PERMITS, BUT WE MUST WAIT ALL THE SAME UNTIL THEY ARE GRANTED. UNNECESSARY DELAYS HAVE A REAL AND SUBSTANTIAL IMPACT ON THE SUPPORT INDUSTRY. THE IMPACT COMES IN THE FORM OF LOST TIME, HIGHER UNEMPLOYMENT, AND JUST PLAIN OLD ANXIETY AND WORRY DUE TO EQUIPMENT SITTING IDLE AND CREDITORS KNOCKING AT THE DOOR. THIS INABILITY TO PLAN, BUDGET, AND OPERATE EFFICIENTLY IS VERY MUCH A PROBLEM IN OUR INDUSTRY.

THIS PROBLEM IS CARRIED STILL FURTHER DOWN THE CHAIN. OUR EMPLOYEES HAVE CAR PAYMENTS, HOUSE PAYMENTS, AND FAMILIES TO CARE FOR AND ARE FACED WITH THESE SAME UNCERTAINTIES AND WORRIES ON AN INDIVIDUAL LEVEL.

AS YOU CAN SEE, LACK OF A COMPREHENSIVE AND EFFICIENT REGULATORY SYSTEM REACHES ALL THE WAY DOWN TO THE WAGE-EARNER.

ALASKA
SUPPORT INDUSTRY
ALLIANCE
P.O. Box 100, Anchorage, Alaska 99510

INDIFFERENCE BY REGULATORY AGENCIES NOT ONLY DOES INJUSTICE TO PRIVATE INDUSTRY, BUT IT ALSO AFFECTS THE ALASKAN WORKING PEOPLE.

WE AGREE THERE IS A NEED FOR REGULATION. WE FEEL THE BILL BEFORE YOU NOW WILL MORE THAN ADEQUATELY PROTECT THE INTERESTS OF THE PEOPLE OF ALASKA, AS WELL AS ASSIST MAJOR INDUSTRY AND THEREBY GREATLY AID THE SUPPORT INDUSTRY. THEREFORE, I URGE YOU TO SUPPORT THIS LEGISLATION WITHOUT DELAY OR AMENDMENT.

THANK YOU FOR YOUR TIME.

HOUSE LABOR AND COMMERCE COMMITTEE
REGARDING 2 HCS CSSB-84 (L&C)

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. MY NAME IS ETHEL H. NELSON, AND I AM AN EXPLORATION LAND REPRESENTATIVE FOR TEXACO INC., AND AM REPRESENTING THEM HERE TODAY.

WE APPRECIATE THE OPPORTUNITY TO COMMENT TO YOU ON THE PROVISIONS OF HCS CSSB 84. AS YOU KNOW, THE MATTER OF REGULATORYREFORM AND SPECIFICALLY PERMITTING REGULATORY REFORM HAS BEEN THE SUBJECT OF MANY PUBLIC HEARINGS DURING THE PAST THREE YEARS. THESE HEARINGS HAVE BEEN CONDUCTED ON THE UNIFORM PERMIT REGULATIONS PROPOSED BY THE ADMINISTRATION (22 AAC 10) AS WELL AS SB 84.

THERE HAS BEEN, IN THE PAST, A STALEMATE WITHIN INDUSTRY REGARDING SOME PORTIONS OF EARLIER DRAFTS OF THE BILL. HOWEVER, THE AREAS OF DISAGREEMENT BETWEEN COMPANIES HAVE BEEN SOLVED AND THERE IS NOW UNITED SUPPORT BY AOGA MEMBER COMPANIES OF THIS BILL.

INDUSTRY HAS MADE EXTENSIVE AND CAREFUL ANALYSES OF EACH DRAFT OF THE REGULATIONS,AND THE BILL, AND HAS SUBMITTED CONSTRUCTIVE COMMENTS, MADE IN GOOD FAITH, TO THE ADMINISTRATION AND TO VARIOUS LEGISLATIVE COMMITTEES AT EVERY OPPORTUNITY. THESE COMMENTS HAVE BEEN SELECTIVELY IGNORED BY THE ADMINISTRATION.

HEARING BY THIS COMMITTEE LAST WEEK.

THE ADMINISTRATION, HOWEVER, HAS REQUESTED SEVERAL AMENDMENTS TO THE BILL, SOME OF WHICH WE SUPPORT AND SOME OF WHICH WE FEEL ARE NOT IN THE BEST INTEREST OF THE STATE OR THE PUBLIC BECAUSE THEY DO NOT PROMOTE ORDERLY DEVELOPMENT OF THE STATE'S RESOURCES. IN THE INTEREST OF TIME, I WILL NOT DISCUSS THESE AMENDMENTS EXCEPT TO SAY THAT DESPITE THE FACT THAT THERE IS A GREAT DEAL OF COMPROMISE ALREADY REFLECTED IN THE VERSION BEFORE YOU, WE ARE, IN GOOD FAITH AND IN THE SPIRIT OF FURTHER COMPROMISE, WILLING TO JOIN WITH OTHERS IN ACCEPTING THIS BILL AS DRAFTED EVEN WITH THESE PROBLEM AREAS, AND THAT WE ARE IN FULL AGREEMENT WITH TESTIMONY WHICH WILL BE GIVEN BY MARC BOND ON BEHALF OF AOGA A LITTLE LATER.

SPECIFICALLY, I WOULD LIKE TO COMMENT ON SOME OF THE BENEFITS OF THIS BILL TO ALASKA AND ITS CITIZENS.

NUMBER ONE, ASSUMING WE CAN START ALL OVER WITH THE DRAFTING OF REGULATIONS TO IMPLEMENT THE BILL, IT GIVES THE STATE THE OPPORTUNITY TO IMPLEMENT UNIFORM PERMIT PROCEDURES AND GIVES SOME MEANINGFUL REGULATORY REFORM.

ALSO, FOR THE FIRST TIME IN THE HISTORY OF STATEHOOD, THIS BILL GIVES LOCAL RESOURCE AGENCIES THE <u>STATUTORY RIGHT</u> TO BE HEARD REGARDING PERMIT ACTIVITIES IN THEIR COMMUNITY AND THE RIGHT FOR SUBSTANTIVE CONSIDERATION BY THE STATE OF THEIR DOCUMENTED

AGAIN, ASSUMING REASONABLE TIME FRAMES ARE INCLUDED IN THE REGULATIONS IMPLEMENTING THIS BILL, THE PERMIT PROCESS TIME AND THE NUMBER OF STATE EMPLOYEES NECESSARY TO CARRY OUT THE PROCESS WILL BE CONSIDERABLY LESS THAN IT WOULD BE UNDER THE PROVISIONS OF EARLIER DRAFTS OF THE BILL AND THE PENDING UNIFORM PERMIT REGULATIONS.

MR. CHAIRMAN, THE PROBLEMS THIS LEGISLATION IS DESIGNED TO CURE ARE REAL PROBLEMS. THEY MAY SOMETIMES BE SIMPLE, BUT THEY ARE ALL PART OF THE COMPLEX BUSINESS WHICH IS REPRESENTED BY THE PETROLEUM INDUSTRY IN PARTICULAR AND OTHER MINERAL EXTRACTING INDUSTRIES IN GENERAL.

ALASKA'S WEALTH IS ALMOST ENTIRELY DEPENDENT ON THE PRODUCTION OF ITS MINERAL RESOURCES; THAT PRODUCTION IS, UNDER THE PRESENT PERMITTING PROCEDURES, TIME CONSUMING AT BEST AND COSTLY TO BOTH THE STATE AND THE INDUSTRY IT SHOULD BE SERVING.

I WOULD LIKE TO REITERATE THAT WE STRONGLY SUPPORT THE BILL AND ASK THIS COMMITTEE TO APPROVE IT.

AGAIN, WE THANK YOU FOR THE OPPORTUNITY TO DISCUSS THIS VERY IMPORTANT LEGISLATION WITH YOU.

THANK YOU.

DELANEY, WILES, HAYES, REITMAN & BRUBAKER, INC.
ATTORNEYS AT LAW
SUITE 400
1007 WEST 3RD AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE 279-3581
TELECOPIER 279-3587
AREA CODE 907

JAMES J. DELANEY
EUGENE F. WILES
GEORGE N. HAYES
STANLEY H. REITMAN
JOHN K. BRUBAKER
RAYMOND E. PLUMMER, JR.
DANIEL A. GERETY
ROBERT L. EASTAUGH
STEPHEN M. ELLIS

CLAY A. YOUNG
KAREN L. HUNT
FRANK S. KOZIOL, JR.
WILLIAM E. MOSELEY
MARC D. BOND
JACQUELINE CARR-AGNI
J. MICHAEL MOXNESS
J. D. CELLARS
GREGORY J. MOTYKA

February 24, 1982

Mr. Jeff Barry
House Labor & Commerce Committee
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Re: 2nd HCS CSSB 84(L&C)

Dear Jeff:

As promised, enclosed is a copy of the testimony which I had prepared for presentation to the committee last week. As you will note, this testimony deals exclusively with the amendments which the administration, via Attorney General Condon, had proposed to the Labor & Commerce Committee Substitute for SB 84.

Should you have any questions regarding these comments, please do not hesitate to contact me.

Very truly yours,

DELANEY, WILES, HAYES,
REITMAN & BRUBAKER, INC.

Marc D. Bond

Marc D. Bond

MDB/cs
Encl.

AOGA COMMENTS ON PROPOSED ADMINISTRATION
AMENDMENTS TO HCS CSSB 84 (L&C)

Presented by Marc D. Bond,
Counsel for Chevron U.S.A. Inc.

2-19-82

The bill that we support is "2nd House Committee Substitute for Committee Substitute for Senate Bill No. 84 (Labor & Commerce)". I will discuss amendments to that bill that have been proposed by Attorney General Wilson Condon. These comments are concurred in by all the members of AOGA who have worked on this issue.

1. Amendment #1.

This amendment would allow 85 days for the processing of a Class II permit, if a public hearing were held on the application. Initially it should be noted that this appears to be a replacement in the bill of the provision allowing for a 20-day extension for all classes of permit applications if a hearing was held. That provision was contained in § 633(c) of the 2nd Rules substitute which has not been superseded.

It is industry's position that this provision is unnecessary and unwarranted. When SB 84 was originally introduced, a 30-day maximum handling time was applied to all permit applications. Bowing to administrative persuasion, it was agreed that hearings, which are mandated by statute,

could not be held in the 30-day period. Accordingly, the bill was rewritten as it is now: § 632(a)(2) allows 65 days for applications upon which public notice on interagency review is mandated.

Since an additional 35 days were included expressly for the purpose of accommodating public hearings, the extra 20 days are unnecessary and a contradiction of the purpose behind the Class I, Class II permit distinction.

For these reasons we oppose this amendment.

2. Amendment #2.

This amendment would allow the applicant and the agency to agree to an extension of the application period beyond the 120 days (4 mos.) already permitted by § 633(a). This amendment is very similar to a provision in the 2nd Rules version which would have allowed the time period to be extended in all cases by mutual agreement.

What appears to be an innocuous provision is actually probably unnecessary and an express invitation to further delay. It appears that even without this provision, an applicant may be able to authorize an extension of the time limits if he felt it was in his best interests. On the other hand, stating this expressly in the bill provides the agency with a potential fulcrum to buy additional time. We therefore oppose Amendment #2.

3. Amendment #3.

This amendment rewrites all of § 635(a) and (b). This section is one of the key provisions of the bill insofar as it establishes the lead agency principle for coastal management consistency determinations and comments on federal permits. Before discussing the proposed amendments, it is important to set forth the objectives of this section.

Under current law, any permit that affects the coastal zone cannot be approved unless it is found to be consistent with the coastal management program. If more than one permit is required for the project, each permit involves a redundant CZM consistency determination. Contrary determinations can be reached by different agencies on the same project. In the same vein, any project that requires a water quality certification by the U.S. Army Corps of Engineers is subject to comment by all state agencies.

It is industry's view that the state should speak with one voice in both cases. In each case, the agency which has the principal responsibility for dealing with the overall activity should be the lead agency. In order to function as a true lead agency, the agency must have the discretion, after due consideration, to accept, reject or modify the comments made by other agencies. In order to assure that the state speaks with one voice, non-lead agencies must be prohibited from making separate comments to federal agencies.

The proposed amendment changes the bill in several significant and adverse ways:

a. It limits the lead agency concept to projects involving the conveyance of an interest in state land or water, or at least one Class II permit decision. There is no reason to so confine this idea. Only one decision on consistency and only one comment on federal permit applications should be made regardless of the class or number of permits needed for the project.

b. The proposed amendment does not specify that the lead agency must be a "resource agency" as defined in AS 44.62.640(c)(4). In permitting the use of land or water, no agency other than the "resource agencies" should become the lead agency, because no other agency has the necessary expertise.

c. The proposed amendment requires the lead agency to give "substantive consideration" to the "comments" of other resource agencies. Neither term is defined, and it appears that the administration would probably define "substantive consideration" by regulation in the same way it defined the term "great weight" in the proposed Uniform Permit Procedure Regulations, 22 AAC 10.920(7) - i.e., shifting the burden of proof to the deciding agency to reach a contrary conclusion.

The deciding agency should have this burden, if at all, only as to the documented factual statements and data produced by the commenting agency. The administration amendment would impose this burden on the deciding agency as to factual statements, comments, opinions and recommendations, since the term "comment" is not defined.

d. The proposed amendment places a heavier burden on the lead agency with respect to an appeal by a coastal resource district of a consistency determination. This section is burdensome, unnecessary and conflicts with the provisions of AS 46.40.100 of the Alaska Coastal Management Program:

i. No reason exists to give greater emphasis to the comments of coastal resource districts than to those of other state agencies. In effect this provision constitutes the districts as the lead agency for consistency review - a result not intended by the legislation and not in the best interests of the state.

It should be pointed out that the bill as drafted requires the lead agency to consider documented facts produced by coastal districts. This is not a requirement under current law, and thus gives more emphasis to the comments of local districts.

ii. The appeal right implicitly granted to districts by subsection (b) conflicts with the enforcement provisions

of AS 46.40.100. That section specifies how complaints concerning perceived violations of the district plan are to be handled. It allows a district, a citizen of the district or a state agency to petition the Alaska Coastal Policy Council for a hearing on the matter. The Council can then order an offending district or agency to comply with the plan in question. In addition, the section provides that such orders may be enforced by the superior court. No justification for circumventing this procedure is given by the administration. The bill as drafted would leave the enforcement provisions in AS 46.40.100 intact.

We believe the bill as drafted encompasses the concerns raised by the administration, and the agreement reached last fall concerning the relationship between local districts, state agencies and the lead agency.

For these reasons we oppose the proposed amendment.

4. Amendment #4.

This amendment would allow a state agency other than the lead agency to comment on a federal permit application where federal law so requires. Federal law sometimes requires that comments be solicited from a particular state agency concerning a project which is undertaken by a federal agency

or which requires a federal permit. An example is the Fish and Wildlife Coordination Act, which requires consultation with the head of the agency exercising administration over the wildlife resources of the state. 16 USC § 622(a). Cf. 42 USC § 4334.

We believe that federal law requiring the solicitation of comments from specific state agencies would override the section as written. Nevertheless, we support the proposed amendment in order to make the exception explicit.

5. Amendment #5.

The proposed amendment would specify DNR as the lead agency in certain instances. The amendment does not accomplish the intended result.

The amendment is confusing and difficult to understand. The provision could be interpreted to require DNR to complete § 401 certifications; DNR does not presently have the expertise to do this.

Our language is clear: the completion of § 401 certification by an agency does not alone constitute that agency as the lead agency.

6. Amendment #6 (Condon #7).

This proposed amendment attempts to state that appeals of permitting decisions are not subject to the normal

APA procedures. The proposed language states the appeals "need not comply with" the APA procedures. While we support the intent of the change, we propose that the amendment be modified to read as follows:

> "Administrative appeals [EXCEPT AS PROVIDED IN THIS SECTION THE PROCEDURE IS] conducted under this section are not subject to the procedures outlined in AS 44.62.330 - 44.62.630."

With this change, we support the amendment.

7. Amendment #7 (Condon #8).

The proposed amendment would allow the administrative appeals time limits to be extended "when applicable due process rights may require more formal administrative proceedings." We object to this amendment.

a. No agency or individual is set forth whose responsibility it is to determine when "applicable due process rights" require more time.

b. This undefined catch-phrase may become a vehicle by which administrative appeals may take longer than the specified time period as a matter of course, rather than exception.

c. "Due process" in the constitutional sense requires notice of an action affecting a person and an oppor-

tunity to be heard thereon. Kodiak-Aleutian Chapter of Alaska Conservation Soc. v. Kleppe, 423 F.Supp. 544 (D. Alaska 1976). No one has a vested right in any particular mode of procedure such that legislative change is prohibited. Arctic Structures, Inc. v. Wedmore, 605 P.2d 426, 436 (Alaska 1979). Due process requires only that a substantial and efficient remedy remain available. Id. There appears to be no reason why a constitutionally permissible appeal procedure could not be outlined by regulation and completed within 45 or 65 days.

d. If there are statutes which require a longer period of time, the phrase "Except as otherwise required by federal law," could be inserted in front of subsection (b).

8. Amendment #8 (Condon #9).

This proposed amendment would require every appellant of a permitting decision to seek an administrative appeal prior to initiating a court appeal. It would require the "exhaustion of administrative remedies."

We believe that the potential appellant should have the option to decide whether the administrative record is sufficient for a court appeal. In many cases, further administrative appeal will result only in a rubber stamp of the initial permitting decision. In other cases, a question of law may be raised that should be resolved with dispatch by a

court. In such cases, a mandatory administrative appeal only serves to waste time.

9. Amendment #9 (Condon #10).

This proposed amendment would effectively eliminate the preference right of a permit appeal on the civil calendar. The stated purpose of the amendment is to avoid the amendment of court rules in violation of Alaska Const. Art. IV, § 15. This section requires a two-thirds vote of the legislature to change court rules.

This section as contained in the draft bill does not change court rules. No court rule (with the possible exception of the "speedy trial" rule in criminal cases, Criminal Rule 45) establishes a preference for court cases. This has traditionally been done by legislation, and is a matter of substantive, rather than procedural law. Cf. lien foreclosure proceedings which are granted preference by statute. AS 34.35.005(c).

Aside from the non-amendment of court rules, the directory language "should have" has no defined legal meaning. It is technically inartful and legally meaningless.

10. Amendment #10 (Condon #6).

This proposed amendment would eliminate the time

limit on extensions by the requesting agency for commenting agencies to submit comments. We oppose this amendment.

This amendment would permit commenting agencies to submit comments on the day before a permitting decision is required, thus allowing the deciding agency, the applicant and others no time to respond to the comment. Some definite time limit must be set. It is submitted that 30 days, in addition to the 30 days initially given, is more than sufficient within which to generate a comment.

11. Amendment #11.

The proposed amendment would include the Alaska Coastal Policy Council as a "resource agency". This addition is unnecessary and duplicative. We oppose the amendment.

The Alaska Coastal Policy Council has no permitting responsibility and therefore should not be included in the permit reform bill.

Furthermore, the Council already has jurisdiction to review consistency determinations when petitioned to do so under AS 46.40.100. The Council should not have the function of being the lead agency on a consistency review, and then be called upon to review its own decision pursuant to AS 46.40.100.

August 25, 1981

TESTIMONY OF TIM BRADNER
SOHIO ALASKA PETROLEUM COMPANY
ON 2ND RULES COMMITTEE SUBSTITUTE
SENATE BILL 84

10/29
T152

Thank you for this opportunity to testify. My name is Tim Bradner. I am with Sohio's Government Affairs office in Anchorage. With me is Roger Herrera, Sohio's Alaska Exploration Operations Manager. I'm going to make a few opening remarks, Mr. Chairman, and then turn our presentation over to Mr. Herrera, who will discuss some of our permitting problems, using two North Slope exploration wells we drilled last winter as examples.

This is the second year in a row, Mr. Chairman, that a permit-reform bill -- essentially the same bill -- has been left on the House calendar the last day of the session. Senate Bill 524 died on the calendar in the closing hours of the session in 1980. This year Senate Bill 84 could not be acted on before adjournment and will appear automatically in third reading next January.

Sohio and other petroleum companies, as well as other resource groups have actively worked on permit-reform legislation development with the state administration and the legislature for several years now. Several important concepts from SB-524 in 1980, particularly the maximum time periods for issuing permits, have been carried over into 1981. But there are important new ideas, such as the lead agency concept, embodied in SB-84. Mr. Chairman, we would urge this committee to study those new ideas closely.

The permitting problem is very complicated, Mr. Chairman. It results from a complex and subtle interplay between two federal acts and state agency responses to those federal actions. There is no simple solution that will solve everything, but legislative enactment

of some form of SB-84 will be a good start in resolving at least the state's response to these federal acts.

Here's the basic problem: Until two or three years ago, our permit procedures with both state and federal agencies were fairly simple and straight forward. But then two things happened. First, the federal Corps of Engineers assumed permitting jurisdiction over wetlands; second, the federal Coastal Zone Management Act that required a state consistency determination before the federal permit could be issued. The problem comes in the manner in which state agencies have responded to the Corps solicitation for state comments. What was a fairly simple permit process has now become disorderly, confusing, and very time-consuming and costly.

In practical terms, we must get a Corps of Engineers permit for any road extension or gravel pad in the Prudhoe Bay field, which as many of you know, is in a coastal wetland. Almost all onshore North Slope development, as well as offshore, is subject to Corps permits, state consistency determinations and sometimes conflicting stipulations put forth by different state agencies in response to the Corps solicitation for comments. The Corps regulations does not permit that agency to arbitrate between conflicting state positions and stipulations, and the end result is usually that the Corps accepts all state agency comments as formal stipulations on the Corps permit.

The state administration has tried to smooth this process by requiring all state comments and stipulations to be put to the Corps through the governor's office, but this approach has had problems and the administration is now re-thinking this process.

The federal requirement for a consistency finding by the state is an added complication. Those of you familiar with Coastal Zone Management know that Alaska's CZM program is a general statement of values; environmental protection balanced with resource development, etc. But it becomes a matter of interpretation by a state entity, in

this case the Division of Policy Planning and Development, as to whether a particular Corp permit application, for a Prudhoe Bay road, pad, or an offshore gravel pad, is consistent or inconsistent with a general notion of environmental protection. If the finding is inconsistent, no Corps permit can be issued. What usually happens, however, is that a consistency finding is issued, but with several stipulations, such as seasonal drilling restrictions and other operational requirements. Some of these stipulations can be very difficult and costly to comply with.

In conducting this consistency interpretation, the governor's office receives comments in an unstructured manner from many state agencies. The lack of a clear set of regulations or a statute governing this interchange leads not only to great delay, but also to significant differences of opinion on the part of various agencies over specific projects.

In SB-84, Mr. Chairman, some needed order would be brought to this process by movement of this consistency finding to the primary state line agency dealing with the activity -- the "lead agency". In the case of petroleum, it would be the Department of Natural Resources.

My saying this implies no criticism of the way DPDP has handled these procedures, Mr. Chairman. It is a complex process thrust upon well-intentioned people who have had to arbitrate sharply different opinions among state agencies. Sohio has been pleased with responses of individuals in that division to our problems; our problem here is with basic organization of the process.

Sohio's primary concern, Mr. Chairman, has been the need to give structure and organization to the way state agencies respond to this federal consistency and Corps of Engineers stipulation process. The present system is disorderly, confusing and has led to problems in development activity in the Prudhoe Bay field and more serious problems in our exploration program.

To this extent, certain concepts in SB-84, like the lead agency, are more important to us as a North Slope operator than other concepts, such as maximum time-periods, although that is also important.

I would also like to say, Mr. Chairman, that the state administration has grown to recognize many of these problems, and has been working on ideas that are very similar to those developed by industry. We would urge the committee to review several proposed versions of SB-84 that have been worked on in draft form since the end of the session. These include an August 17 draft by the Alaska Oil and Gas Association as well as proposed amendments by the administration in meetings with several companies, including Sohio. We feel the administration amendments have some good ideas and should be looked at very carefully. The AOGA draft also deserves study. We look forward to working with you in future work-sessions of these committees.

With that, I will turn this over to Mr. Herrera.

Testimony by

Max D. Nalley

Exxon Company USA
February 19, 1982

before the

House Labor and Commerce Committee

regarding

2nd HCS CSSB 84 (L&C)

MR. CHAIRMAN, I AM MAX NALLEY, ALASKA PUBLIC AFFAIRS MANAGER FOR EXXON COMPANY, U.S.A. I AM PRESENTING THE COMMENTS OF MR. RICHARD H. WEAVER, EXXON'S ALASKA OPERATIONS MANAGER, WHO IS NOT ABLE TO BE HERE TODAY DUE TO A PRIOR COMMITMENT TO MEET WITH COMMISSIONER KATZ.

EXXON APPRECIATES THIS OPPORTUNITY TO COMMENT ON THIS DRAFT BILL WHICH WE VIEW TO BE OF GREAT IMPORTANCE TO THE STATE, ITS PEOPLE AND THE INDUSTRIES CONCERNED WITH RESOURCE DEVELOPMENT. EXXON SUPPORTS THE DRAFT COMMITTEE SUBSTITUTE FOR THE LATEST VERSION OF SB-84 (2nd HCS CSSB 84 (L&C)). IN THE INTEREST OF TIME, OUR COMMENTS TODAY WILL BE LIMITED TO THE SPECIFIC PORTIONS OF THE DRAFT BILL THAT RELATE TO THE TIME PERIODS REQUIRED FOR STATE RESOURCE AGENCIES TO RENDER FINAL DECISIONS ON PERMIT APPLICATIONS.

IT IS OUR BELIEF THAT THE TIME CONSTRAINTS ESTABLISHED IN THIS LEGISLATION ARE ADEQUATE AND WORKABLE. WE WOULD FURTHER OBSERVE THAT THIS LEGISLATION PROVIDES THE PROCEDURE FOR THE GOVERNMENT TO BALANCE THE LEGITIMATE INTERESTS OF THE PERMIT APPLICANT WITH THE INTERESTS OF THOSE WHO MAY BE IMPACTED BY THE ISSUANCE OF THE PERMIT. THIS LEGISLATION MAKES A REAL, CONCERTED, AND WELL DEFINED EFFORT TO INSURE THAT LEGITIMATE AND JUSTIFIABLE CONCERNS ARE CONSIDERED AND THAT THOSE CONCERNS INFLUENCE THE DECISION MAKING PROCESS.

LET ME JUST QUICKLY OUTLINE HOW THE TIME FRAMES CONTAINED IN THE BILL COULD WORK IN THE PERMITTING PROCESS:

THE DRAFT BILL REQUIRES THAT EACH STATE RESOURCE AGENCY MUST CLASSIFY THE PERMITS WITH WHICH IT DEALS INTO ONE OF TWO CLASSIFICATIONS AND ADOPT PROCEDURAL REGULATIONS RELATING TO THE PROCESSING OF EACH CLASS OF PERMITS.

CLASS I PERMITS ARE THOSE WHICH REQUIRE A FINAL DECISION WITHIN 30 DAYS, WHILE

CLASS II PERMITS - THOSE WHICH, BECAUSE OF REQUIREMENTS FOR PUBLIC NOTICE OR PUBLIC HEARING OR INTERAGENCY REVIEWS, DEMAND MORE TIME - REQUIRE A DECISION WITHIN 65 DAYS.

IT IS OUR BELIEF THAT THE GREAT MAJORITY OF PERMITS WHICH THE RESOURCE AGENCIES ISSUE ARE OF A RECURRING AND ROUTINE NATURE WITH WHICH THE AGENCIES HAVE CONSIDERABLE PRIOR EXPERIENCE. THESE PERMITS SHOULD EASILY BE PROCESSED WITHIN EITHER THE 30-DAY OR 65-DAY TIME FRAME.

ADDITIONALLY, A VERY KEY COMPONENT OF THE DRAFT BILL FOR THOSE CONCERNED THAT THE TIME FRAMES ARE TOO SHORT IS THE PROVISION THAT ALLOWS THE LEAD AGENCY TO EXTEND THE TIME PERIOD BY AS MUCH AS 120 DAYS IN THOSE INSTANCES WHERE THE PERMIT INVOLVES UNUSUALLY COMPLEX ISSUES. WE NOTE THAT THERE HAS BEEN NO ATTEMPT TO DEFINE "UNUSUALLY COMPLEX ISSUES" IN THE LEGISLATION AND THAT IS PROPER, BECAUSE THIS IS A DECISION THE AGENCY SHOULD HAVE THE AUTHORITY TO MAKE ON A CASE-BY-CASE BASIS.

THE TOTAL ELAPSED TIME FOR PERMIT DECISIONS ON COMPLEX, CLASS II APPLICATIONS CONCEIVABLY COULD THEN BECOME 185 DAYS--MORE THAN SIX MONTHS. THAT IS ENOUGH TIME, FOR EXAMPLE, FOR THE LEAD AGENCY TO SPEND ONE MONTH TO DETERMINE THAT THE PERMIT IS, IN FACT, COMPLEX; A MONTH TO GET THE INFORMATION OUT TO ANY AFFECTED COMMUNITIES AND OTHER RESOURCE AGENCIES; A MONTH TO GO OUT AND HOLD HEARINGS IN THE COMMUNITIES; ANOTHER MONTH TO COME BACK AND RECEIVE COMMENTS FROM ALL CONCERNED; AND TWO MORE MONTHS FOR THE LEAD AGENCY TO DIGEST ALL THE COMMENTS AND MAKE A DECISION ON ISSUANCE OF THE PERMIT.

WE FEEL THESE TIME FRAMES ARE ADEQUATE AND ALLOW AMPLE OPPORTUNITY FOR GATHERING INFORMATION FROM OTHER AGENCIES AND AFFECTED LOCAL AREAS, AS WELL AS TIME FOR SERIOUS CONSIDERATION BY THE PERMITTING AGENCY OF ALL THE FACTS PRESENTED, BEFORE MAKING A PERMIT DECISION.

THERE ARE TWO ADDITIONAL OBSERVATIONS WE WOULD MAKE CONCERNING THE TIME FRAME SPECIFIED IN THE DRAFT BILL:

FIRST, THE TIME CONSTRAINTS DICTATE THAT THE PERMITTEE PREPARE HIS APPLICATION IN A COMPLETE AND THOROUGH FASHION SO THAT HE HAS SOME DEGREE OF ASSURANCE THAT THE APPLICATION CAN BE REVIEWED AND APPROVED WITHIN THE TIME ALLOWED, SINCE THE ALTERNATIVE FOR THE APPLICANT IS DENIAL OF THE PERMIT

AS A MATTER OF PRACTICE, WITH CRITICAL PERMITS EXPERIENCE SHOWS THAT APPLICANTS AND AGENCIES WORK IN CONCERT LONG BEFORE THE PERMIT IS OFFICIALLY FILED TO DEFINE THE POINTS THAT NEED TO BE ADDRESSED AND TO PROPERLY COVER THEM IN THE INITIAL SUBMITTAL. THUS, THERE IS A DISCIPLINE IMPOSED UPON THE PERMITEE AS WELL AS THE AGENCY TO ASSURE THAT THE INFORMATION THAT IS PROVIDED IS ADEQUATE TO THE REQUIREMENTS FOR ISSUANCE OF THE PERMIT AND TO PRECEDE THE FORMAL PERMIT APPLICATION WITH DISCUSSIONS WITH THE APPROPRIATE RESOURCE AGENCIES IN ORDER TO STREAMLINE THE DECISION MAKING PROCESS BY THE LEAD AGENCY.

SECOND, IN RESPONSE TO WORRIES THAT HAVE BEEN RAISED THAT THIS DRAFT BILL WOULD ALLOW THE STATE TO RUN ROUGHSHOD OVER LOCAL CONCERNS, I EMPHASIZE THE DISTINCTION BETWEEN THIS BILL, WHICH RELATES TO PERMIT ISSUANCE, AND THE COMPLETELY SEPARATE PROCESS THAT ADDRESSES THE POLICY QUESTION OF WHETHER OR NOT A MAJOR PROJECT SHOULD BE UNDERTAKEN IN THE FIRST PLACE. FOR EXAMPLE, THE ISSUE OF EXPLORATION IN A PARTICULAR FRONTIER AREA WILL BE STUDIED LONG BEFORE THE FIRST PERMIT APPLICATIONIS MADE. THERE ARE REQUIREMENTS FOR STUDIES, HEARINGS AND OTHER SUCH ACTIVITIES WHICH PROVIDE INFORMATION TO AND IDENTIFY CONCERNS OF LOCAL COMMUNITIES THAT MAY BE IMPACTED BY THE PROPOSED DEVELOPMENT. FROM THE INFORMATION GAINED IN THIS LENGTHY AND DELIBERATE PROCESS

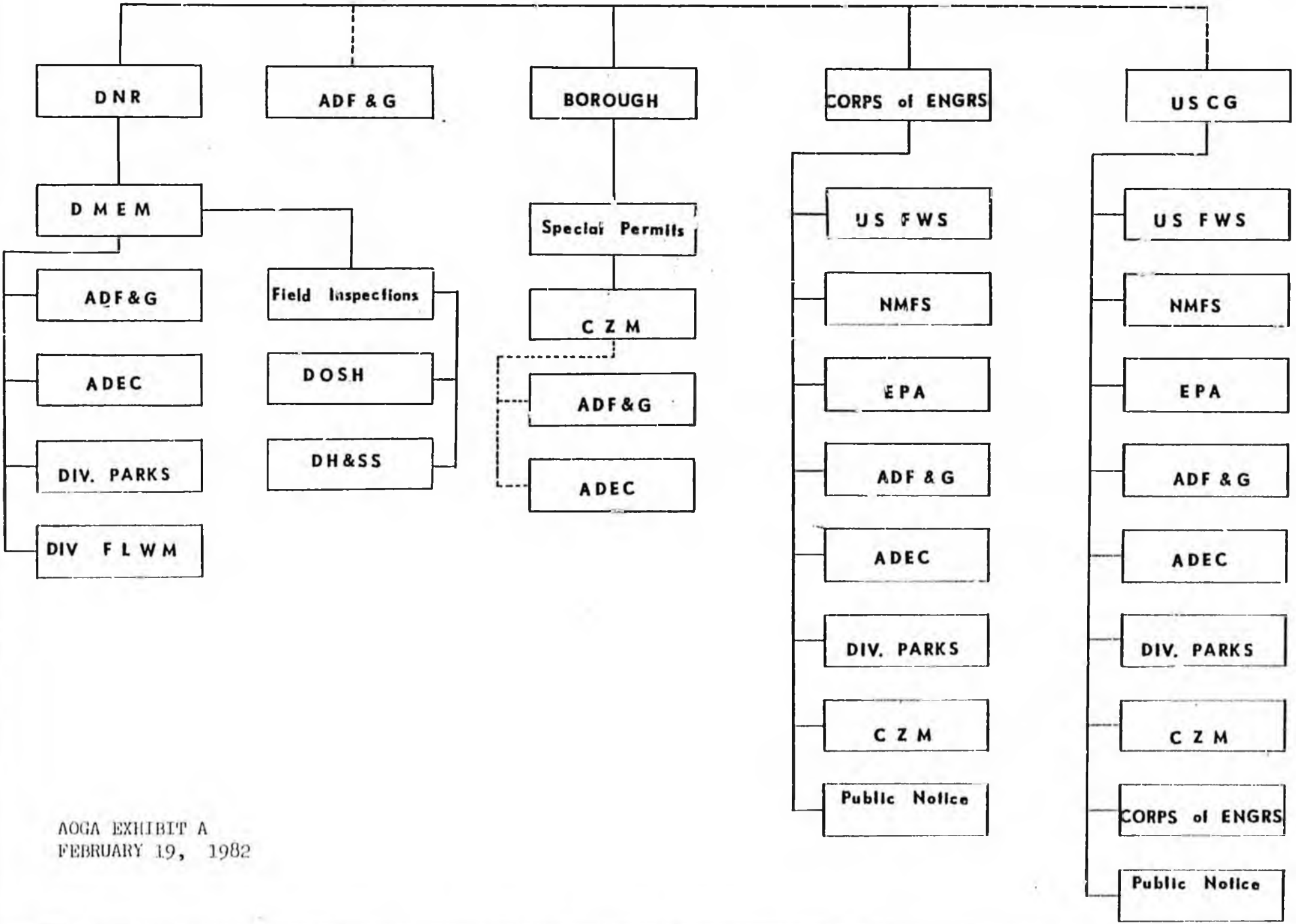
THE STATE WILL MAKE ITS POLICY DECISION REGARDING OIL AND GAS EXPLORATION AND DEVELOPMENT IN A GIVEN AREA. ONCE THAT OVERALL POLICY DECISION HAS BEEN MADE BY THE STATE, FROM THAT POINT ON THE ISSUE SHOULD BE HOW SPECIFIC PERMIT ACTIVITIES (BOTH INDIVIDUALLY AND COLLECTIVELY) AFFECT LOCAL AREAS, NOT WHETHER DEVELOPMENT IS GOING TO OCCUR. THE PERMIT PROCESS ESTABLISHED IN THIS DRAFT BILL IS NOT THE VEHICLE FOR THE STATE TO DECIDE ON BROAD POLICY QUESTIONS. RATHER IT ALLOWS FOR ORDERLY DEVELOPMENT TO PROCEED ONCE THE DEVELOPMENT QUESTION HAS BEEN RESOLVED.

IN SUMMARY, MR. CHAIRMAN, EXXON STRONGLY SUPPORTS THE DRAFT BILL BEFORE YOU TODAY. IN OUR VIEW, IT REPRESENTS A BALANCED APPROACH WHICH PROTECTS THE INTERESTS OF THE STATE OF ALASKA, ITS PEOPLE, AND THE RESOURCE INDUSTRIES. WE URGE ITS PROMPT ADOPTION.

THANK YOU VERY MUCH.

RHW/SPEECH/066/es

AGENCIES INVOLVED IN OPERATING PERMITS ON STATE LANDS



AOGA EXHIBIT A
FEBRUARY 19, 1982

Original sponsors: Bennett, Parr and Fahrenkamp

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

2d HOUSE CS FOR CS FOR SENATE BILL NO. 84 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to processing of permits by state agencies, and to administration of the Alaska Coastal Management program."

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

* Section 1. FINDINGS. The legislature finds that

(1) the orderly development of state resources is being unnecessarily delayed by the length of time required to obtain permits from state agencies, by the complexity of the permitting process, and by the number of agencies involved in the permitting process;

(2) the uncertainties created by the lack of specific time limits, the proliferation of agency reviews, the number of agencies involved in the permit process, and unjustified agency requirements upon the processing of permit applications have cost Alaskans millions of dollars in lost employment and higher prices;

(3) the public interest has not been advanced by protracted delay in the processing of permit applications by state agencies;

(4) by reducing the number of agencies and agency reviews involved in the permit process, and by requiring state agencies to process permit applications in an expeditious manner, the social, economic, and environmental health and well-being of Alaska citizens will be promoted; and

(5) there are many administrative orders and similar documents that have been promulgated by the executive branch relating to interagency review that conflict and overlap, retarding the permit issuing process.

* Sec. 2. AS 44.62 is amended by adding new sections to read:

ARTICLE 8A. PERMIT PROCESSING.

Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource agency shall by regulation classify each of the permits issued by that agency within one of the two following categories:

(1) class I permits, for which the state agency must issue a final decision within 30 days after the date of receipt of a completed permit application; and

(2) class II permits, for which, because of a necessary public notice or interagency review period, a final decision cannot be issued within 30 days. A final decision on a class II permit must be issued within 65 days after the date of receipt of a completed permit application.

(b) Final regulations classifying its permits, and uniform procedural regulations providing for the processing of these permits, shall be adopted by each state resource agency by October 1, 1982, following appropriate notice and hearing. Permits applied for after October 1, 1982 must be issued in accordance with the time periods specified in (a) of this section, and the provisions of the implementing regulations.

Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESSING. (a) Upon a finding by the head of a resource agency that a permit being considered involves unusually complex issues so that the agency cannot render a final decision within the time period specified in AS 44.62.632(a), the head of the agency may prescribe a time period within which the final decision will be made. The finding of the head of the agency may be appealed by the applicant to the superior court under the Appellate Rules of Procedure. The time period may not be extended more than 120 days beyond the time period specified in AS 44.62.632(a).

(b) The time period specified in AS 44.62.632(a) may be extended

if necessary to facilitate joint processing of a permit application by state and federal agencies, but only if adherence to the time periods established in AS 44.62.632(a) would cause an irreconcilable conflict with a federal statute or regulation.

(c) Subject to (a) and (b) of this section and AS 44.62.634, failure of a resource agency to make a final decision within 30 days after the receipt of a completed permit application for a class I permit, or within 65 days after the receipt of a completed permit application for a class II permit, is approval of the application. In an appeal of a permit issued by operation of this subsection, the record shall be considered in the light most favorable to the applicant, and the permit shall be accorded a presumption of regularity.

(d) A state agency may not condition the issuance of a permit upon the issuance of a permit from another governmental agency.

Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agency receives a completed permit application that does not contain sufficient information concerning the project's compliance with the agency's statutes and regulations, the agency shall notify the applicant within 15 days after receipt of a completed permit application for a class I permit, and within 30 days after receipt for a class II permit.

(b) The notification must specify those particular facts or issues concerning the proposal upon which the agency requires additional information in order to determine whether the project will conform to the agency's statutes and regulations.

(c) If a timely request under (a) and (b) of this section is made, the time period specified in AS 44.62.632 is suspended from the date of request to the date of full compliance with the request. Subsequent requests for additional information may be made, but must relate only to new issues raised by the response to the initial noti-

fication. Subsequent requests do not extend the time periods specified in AS 44.62.632.

(d) Nothing in this section grants a resource agency the authority to request information beyond the authority given to it by other statutes.

Sec. 44.62.635. LEAD AGENCY. (a) There is established a lead agency that is solely responsible for issuing coastal management consistency determinations under AS 46.40 and for preparing and submitting state comments on federal permit applications. The lead agency is that resource agency that has principal responsibility for authorizing the overall activity, including instances where an activity requires permits from more than one resource agency. For classes of activities for which no agency with principal responsibility exists the governor shall designate a resource agency to be a lead agency for each class by administrative order no later than October 1, 1982. In performing its functions under this section, the lead agency shall consult with other resource agencies and with coastal resource districts under AS 46.40.

(b) Substantive consideration shall be given to the documented factual statements or data submitted by resource agencies and to the office of coastal management within their primary areas of expertise, and to the documented factual statements or data submitted by coastal resource districts made under an approved district coastal management program. The lead agency shall consider opinions, conclusions or recommendations submitted by the commenting agency, but may, in its discretion, reach contrary opinions, conclusions or recommendations according to the evidence received. The lead agency shall then balance competing factors in reaching its final decision. No resource agency other than the lead agency has primary expertise in the balancing of competing factors.

(c) No state agency other than the lead agency may comment to a federal permitting agency.

(d) An agency's completion of a review under sec. 401 of the Clean Water Act (33 U.S.C. sec. 1341) does not constitute that agency as a lead agency under this section.

Sec. 44.62.636. COMMENT PERIOD. A coastal resource district or state agency that receives a request for comment in connection with a permit application or plan review being processed by a resource agency shall submit these comments in accordance with the following schedule:

(1) comments on class I permits shall be submitted within 15 days after the agency's receipt of the request;

(2) comments on class II permits and federal permits shall be submitted within 30 days after the agency's receipt of the request;

(3) when under AS 44.62.633, the requesting agency has extended the time periods specified in AS 44.62.632, that agency may extend the time period specified in this section for up to an additional 30 days.

Sec. 44.62.637. ADMINISTRATIVE APPEALS. (a) The uniform procedural regulations adopted under AS 44.62.632(b) must provide for an administrative appeal from a final decision on a permit application. The administrative appeal is to the head of the resource agency involved. Except as provided in this section the procedure is conducted under AS 44.62.330 - 44.62.630.

(b) The administrative appeal must be resolved within 45 days after the final decision on a permit application, or, if a hearing is held on the administrative appeal, within 65 days after the final decision on the permit application.

(c) An appeal taken from a decision granting a permit may, but need not, stay the issuance of the permit.

(d) The head of the agency may summarily dismiss an appeal before the time established in this section, and the dismissal is the final agency action on the matter.

(e) In an appeal from the denial or conditioning of a permit the head of the agency may, if he determines that the public interest would be served, grant the permit or remove conditions of the permit until the appeal is determined.

Sec. 44.62.638. REVIEW BY THE SUPERIOR COURT. (a) Judicial review by the superior court of a final decision issued under AS 44.62.632 - 44.62.637 may be had by filing a notice of appeal in the superior court in accordance with the applicable Rules of Appellate Procedure. The right to appeal is not affected by the failure to seek further review under AS 44.62.637. The review is governed by the provisions of AS 44.62.560(b) - (e) and AS 44.62.570.

(b) An appeal taken under this section has preference on the calendar of civil actions before the court and shall be decided without unnecessary delay.

* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

(c) As used in AS 44.62.632 - 44.62.638,

(1) "date of receipt" means the date on which a state agency actually receives a completed application filed in accordance with agency regulations and at a place identified as appropriate for filing in the agency's regulations;

(2) "permit" means a permit, license, certification, consistency determination, or other authorization or approval issued by a resource agency as a written document that is required to be obtained or is solicited from a state agency before the construction or operation of a project; "permit"

(A) does not include the approval of a unit agreement,

a unit development plan, or a unit exploration plan, or conveyances of interest in state land or water;

(5) does include all authorizations and approvals, whether proprietary or regulatory, necessary to undertake a project under a previously conveyed property interest;

(3) "project" means a new activity or expansion or addition to an existing activity for which permits are required before construction or operation; "project" does not include pursuing a trade or profession, providing public health service, or operating a financial institution;

(4) "resource agency" includes the Department of Natural Resources, the Department of Environmental Conservation, and the Department of Fish and Game with respect to permits issued for the protection of fish habitat or the regulation of state sanctuaries, refuges, and critical habitat areas.

AMENDMENTS PROPOSED DURING HL&C COMMITTEE MEETING 2/19/82

Re: SB 84

Amendment #1

Main motion (amendment)

Rep. Randolph moved to amend SB 84 by accepting the draft entitled 2d House CS for CS for Senate Bill No. 84 (L&C).

Amendment #2

amendments to amendment

Rep. Rogers moved to amend the amendment to accept the bill with all the governor's proposed amendments.
For: Rogers, Gardiner Against: Martin, Bylsma, Randolph
Amendment failed.

Amendment #3

Rep. Rogers moved to accept the governor's proposed amendment #4. (p.5, lines 1-2)
Motion passed unanimously.
Amendment adopted.

Amendment #4

Rep. Rogers moved to accept the governor's proposed amendment #11.
For: kogers, Gardiner Against: Martin, Bylsma, Randolph
Amendment failed.

Amendment #5

Rep. Rogers moved to accept the governor's proposed amendment #10; Rep. Bylsma objected. Discussion. (p. 6, lines 15-17)
Motion passed unanimously.
Amendment adopted.

Amendment #6

Rep. Rogers moved, p. 6, lines 12-13 of draft CS, delete sentence, "The right to appeal is not affected by the failure to seek further review under AS 44.62.637." There was objection. Discussion.
For: Rogers, Gardiner Against: Martin, Bylsma, Randolph
Amendment failed.

Amendment #7

Rep. Rogers moved, p. 5, lines 16 and 17, delete "for up to an additional 30 days." and insert, after word "section", ". However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the lead agency must issue a final decision." Asked unanimous consent.
No objection.
Amendment passed.

Amendment #8

Rep. Rogers moved, p. 2, line 12, after word "application.", delete period, and insert ", unless a public hearing is held on the application, in which case a final decision must b3e issued within 75 days after the date of receipt." Discussion.
For: Rogers, Gardiner, Bylsma Against: Randolph, Martin
Amendment passed.

Amendment #9

Rep. Rogers moved, p. 2, line 28, add, ", unless the applicant otherwise agrees."
No objection.
Motion passed unanimously. should be after line 28

Amendment #10

Rep. Rogers moved, p. 4, line 6, delete first sentence and insert, after (a), "There are established lead agencies which are solely responsible for issuing coastal management consistency determinations under AS 46.40 and for preparing and submitting state comments on federal permit applications for all projects which involve the disposal of an interest in state land or water or a least one class II permit."
For: Gardiner, Rogers Against: Randolph, Martin, Bylsma
Motion failed.

Amendment #11

Rep. Rogers moved the governor's proposed amendment #3.
For: Gardiner, Rogers Against: Bylsma, Randolph, Martin
Motion failed.

Amendment #12

Rep. Rogers moved, p. 5, lines 3-5, to delete subsection (d) and insert new subsection (d), using language from governor's proposed amendment #5. Rep. Randolph asked unanimous consent.
No objections.
Motion passed unanimously. ~~Should be Sec. 1, subsection (e)~~

Amendment #13

Rep. Rogers moved, p. 5, lines 22-23, to accept the governor's proposed amendment #7, as revised (see sheet entitled Changes to Proposed Administration Amendments to SB 84): Delete language "Except as provided in this section the procedure is", and insert "Administrative appeals" conducted under "this section are not subject to the procedures in" AS 44.62.330-44.62.630. Rep. Gardiner asked unanimous consent.
For: Rogers, Gardiner Against: Bylsma, Martin, Randolph
Motion failed.

Amendment #14

Rep. Rogers moved the committee rescind its action in failing to adopt previous amendment. Discussion.
Rep. Rogers withdrew his motion.

Amendment #15

Rep. Gardiner moved, p. 1, line 11, the delete word "being" and insert "many times". Discussion.
For: Gardiner, Rogers Against: Bylsma, Randolph, Martin
Motion failed.

Amendment #16

Rep. Gardiner moved, p. 1, line 15, delete all of line 15 and insert "the unjustified delay of permits by". Discussion.
Rep. Gardiner withdrew his amendment.

Amendment #17

Rep. Gardiner moved, p. 1, line 15, begin sentence with language, "...e unjustified delay of permits caused by".
For: Gardiner, Rogers Against: Martin, Bylsma, Randolph
Motion failed.

Amendment #18

Rep. Gardiner moved, p. 1, line 10, delete word "protracted", insert word "unnecessary" Discussion.
For: Gardiner Against: Randolph, Bylsma, Martin
Motion failed.

Amendment #19

Rep. Randolph moved to pass 2d HCS CSSB84 (L&C) out of committee; motion was withdrawn.

Amendment #20

main amendment

Question was called on main amendment to accept 2d HCS CSSB 84 (L&C) as amended by committee.
For: Martin, Bylsma, Randolph Against: Gardiner
Motion passed.

Amendment #21

motion

Rep. Randolph moved to pass 2d HCS CSSB 84 (L&C) out of committee. Rep. Gardiner asked unanimous consent.
There was no objection.
Motion passed unanimously.

Amended - see pages 2, 5, 6

Original sponsors: Bennett, Parr and Fahrenkamp

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

2d HOUSE CS FOR CS FOR SENATE BILL NO. 84 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

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

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(2) the uncertainties created by the lack of specific time limits, the proliferation of agency reviews, the number of agencies involved in the permit process, and unjustified agency requirements upon the processing of permit applications have cost Alaskans millions of dollars in lost employment and higher prices;

(3) the public interest has not been advanced by protracted delay in the processing of permit applications by state agencies;

(4) by reducing the number of agencies and agency reviews involved in the permit process, and by requiring state agencies to process permit applications in an expeditious manner, the social, economic, and environmental health and well-being of Alaska citizens will be promoted; and

(5) there are many administrative orders and similar documents that have been promulgated by the executive branch relating to interagency review that conflict and overlap, retarding the permit issuing process.

* Sec. 2. AS 44.62 is amended by adding new sections to read:

ARTICLE 8A. PERMIT PROCESSING.

Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource agency shall by regulation classify each of the permits issued by that agency within one of the two following categories:

(1) class I permits, for which the state agency must issue a final decision within 30 days after the date of receipt of a completed permit application; and

(2) class II permits, for which, because of a necessary public notice or interagency review period, a final decision cannot be issued within 30 days. A final decision on a class II permit must be issued within 65 days after the date of receipt of a completed permit application, , unless a public hearing is held on the application, in which case a final decision must be issued within 75 days after the date of receipt.

(b) Final regulations classifying its permits, and uniform procedural regulations providing for the processing of these permits, shall be adopted by each state resource agency by October 1, 1982, following appropriate notice and hearing. Permits applied for after October 1, 1982 must be issued in accordance with the time periods specified in (a) of this section, and the provisions of the implementing regulations.

Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESSING. (a) Upon a finding by the head of a resource agency that a permit being considered involves unusually complex issues so that the agency cannot render a final decision within the time period specified in AS 44.62.632(a), the head of the agency may prescribe a time period within which the final decision will be made. The finding of the head of the agency may be appealed by the applicant to the superior court under the Appellate Rules of Procedure. The time period may not be extended more than 120 days beyond the time period specified in AS 44.62.632(a), unless the applicant otherwise agrees.

(b) The time period specified in AS 44.62.632(a) may be extended

if necessary to facilitate joint processing of a permit application by state and federal agencies, but only if adherence to the time periods established in AS 44.62.632(a) would cause an irreconcilable conflict with a federal statute or regulation.

(c) Subject to (a) and (b) of this section and AS 44.62.634, failure of a resource agency to make a final decision within 30 days after the receipt of a completed permit application for a class I permit, or within 65 days after the receipt of a completed permit application for a class II permit, is approval of the application. In an appeal of a permit issued by operation of this subsection, the record shall be considered in the light most favorable to the applicant, and the permit shall be accorded a presumption of regularity.

(d) A state agency may not condition the issuance of a permit upon the issuance of a permit from another governmental agency.

Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agency receives a completed permit application that does not contain sufficient information concerning the project's compliance with the agency's statutes and regulations, the agency shall notify the applicant within 15 days after receipt of a completed permit application for a class I permit, and within 30 days after receipt for a class II permit.

(b) The notification must specify those particular facts or issues concerning the proposal upon which the agency requires additional information in order to determine whether the project will conform to the agency's statutes and regulations.

(c) If a timely request under (a) and (b) of this section is made, the time period specified in AS 44.62.632 is suspended from the date of request to the date of full compliance with the request. Subsequent requests for additional information may be made, but must relate only to new issues raised by the response to the initial noti-

fication. Subsequent requests do not extend the time periods specified in AS 44.62.632.

(d) Nothing in this section grants a resource agency the authority to request information beyond the authority given to it by other statutes.

Sec. 44.62.635. LEAD AGENCY. (a) There is established a lead agency that is solely responsible for issuing coastal management consistency determinations under AS 46.40 and for preparing and submitting state comments on federal permit applications. The lead agency is that resource agency that has principal responsibility for authorizing the overall activity, including instances where an activity requires permits from more than one resource agency. For classes of activities for which no agency with principal responsibility exists the governor shall designate a resource agency to be a lead agency for each class by administrative order no later than October 1, 1982. In performing its functions under this section, the lead agency shall consult with other resource agencies and with coastal resource districts under AS 46.40.

(b) Substantive consideration shall be given to the documented factual statements or data submitted by resource agencies and to the office of coastal management within their primary areas of expertise, and to the documented factual statements or data submitted by coastal resource districts made under an approved district coastal management program. The lead agency shall consider opinions, conclusions or recommendations submitted by the commenting agency, but may, in its discretion, reach contrary opinions, conclusions or recommendations according to the evidence received. The lead agency shall then balance competing factors in reaching its final decision. No resource agency other than the lead agency has primary expertise in the balancing of competing factors.

Except as otherwise required by federal law,

(c) No state agency other than the lead agency may comment to a federal permitting agency.

delete this subsection; replace with attached *(Eighth Amendment 5)

~~(d) An agency's completion of a review under sec. 401 of the Clean Water Act (33 U.S.C. sec. 1341) does not constitute that agency as a lead agency under this section.~~

Sec. 44.62.636. COMMENT PERIOD. A coastal resource district or state agency that receives a request for comment in connection with a permit application or plan review being processed by a resource agency shall submit these comments in accordance with the following schedule:

(1) comments on class I permits shall be submitted within 15 days after the agency's receipt of the request;

(2) comments on class II permits and federal permits shall be submitted within 30 days after the agency's receipt of the request;

(3) when under AS 44.62.633, the requesting agency has extended the time periods specified in AS 44.62.632, that agency may extend the time period specified in this section. However, comments submitted ~~for up to an additional 30 days~~ under this subsection shall be submitted no later than 30 days prior to the date on which the lead agency must issue a final decision.

Sec. 44.62.637. ADMINISTRATIVE APPEALS. (a) The uniform procedural regulations adopted under AS 44.62.632(b) must provide for an administrative appeal from a final decision on a permit application. The administrative appeal is to the head of the resource agency involved. Except as provided in this section the procedure is conducted under AS 44.62.330 - 44.62.630.

(b) The administrative appeal must be resolved within 45 days after the final decision on a permit application, or, if a hearing is held on the administrative appeal, within 65 days after the final decision on the permit application.

(c) An appeal taken from a decision granting a permit may, but need not, stay the issuance of the permit.

(d) The head of the agency may summarily dismiss an appeal before the time established in this section, and the dismissal is the final agency action on the matter.

(e) In an appeal from the denial or conditioning of a permit the head of the agency may, if he determines that the public interest would be served, grant the permit or remove conditions of the permit until the appeal is determined.

Sec. 44.62.638. REVIEW BY THE SUPERIOR COURT. (a) Judicial review by the superior court of a final decision issued under AS 44.62.632 - 44.62.637 may be had by filing a notice of appeal in the superior court in accordance with the applicable Rules of Appellate Procedure. The right to appeal is not affected by the failure to seek further review under AS 44.62.637. The review is governed by the provisions of AS 44.62.560(b) - (e) and AS 44.62.570.

(b) An appeal taken under this section ~~has~~ should have preference on the calendar of civil actions before the court and ~~shall~~ should be decided without unnecessary delay.

* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

(c) As used in AS 44.62.632 - 44.62.638,

(1) "date of receipt" means the date on which a state agency actually receives a completed application filed in accordance with agency regulations and at a place identified as appropriate for filing in the agency's regulations;

(2) "permit" means a permit, license, certification, consistency determination, or other authorization or approval issued by a resource agency as a written document that is required to be obtained or is solicited from a state agency before the construction or operation of a project; "permit"

(A) does not include the approval of a unit agreement,

a unit development plan, or a unit exploration plan, or conveyances of interest in state land or water;

(B) does include all authorizations and approvals, whether proprietary or regulatory, necessary to undertake a project under a previously conveyed property interest;

(3) "project" means a new activity or expansion or addition to an existing activity for which permits are required before construction or operation; "project" does not include pursuing a trade or profession, providing public health service, or operating a financial institution;

(4) "resource agency" includes the Department of Natural Resources, the Department of Environmental Conservation, and the Department of Fish and Game with respect to permits issued for the protection of fish habitat or the regulation of state sanctuaries, refuges, and critical habitat areas.

AMENDMENT 5

Page 5, ls. 3-5.

Delete existing subsection (d) and insert the following:

(d) For activities involving both a disposal of interest in land, or plan of operations approval under a previous disposal, and a certification under sec. 401 of the Clean Water Act (33 U.S.C. sec. 1341), the lead agency shall be the Department of Natural Resources.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K—STATE CAPITOL
JUNEAU, ALASKA 99811

March 2, 1982

Honorable Terry Martin
Chairman, House Labor & Commerce
Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Hearing on HCS CSSB 84 (L&C)

Dear Representative Martin:

At the last HCS CSSB 84 before your committee, you had expressed an interest in receiving copies of the Administrative Uniform Procedures Regulations which were adopted last year as a means of streamlining the permitting processes in the state in the absence of legislation on the subject. Even though the bill you were considering did pass out of your committee that same day, I thought you might still wish to review the end product of the Administration's regulatory effort. I am therefore enclosing 10 copies of the Uniform Regulations for your review and distribution to others who may also be interested in their content.

If you have any questions regarding the regulations, please don't hesitate to contact us.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: Lauri J. Adams
Lauri J. Adams
Assistant Attorney General

LJA:dlm

Encls.

03-C5LH

AMENDMENT 1 Bates

Expectation of number of public hearings — Rep Rogers

Page 2,1.12..

application [.] ,unless a public hearing is held on the application, in which case a final decision must be issued within 75 ~~35~~ days after the date of receipt.

AMENDMENT 2

Page 2, ls. 26-28. [redacted] already permitted Passed this only

under the Appellate Rules of Procedure. [Unless the applicant and the agency otherwise agree,] [T]the time period may not be extended more than 120 days beyond the time period specified in AS 44.62.632(a).

AMENDMENT 3

Page 4, lines 6 -- 29

Delete all of sec. 44.62.635(a) and (b) and insert the following in its place:

(a) There are established lead agencies which are solely responsible for issuing coastal management consistency determinations under AS 46.40 and for preparing and submitting state comments on federal permit applications for all projects which include the conveyance of an interest in state land or water or at least one class II permit decision. The lead agency may vary for classes of activities, but shall be that agency that has principal responsibility for authorizing the overall activity. For classes of activities for which no agency with principal responsibility exists the governor shall designate a lead agency by administrative order no later than October 1, 1982. In performing its functions under this section the lead agency shall consult with other resource agencies and with coastal resource districts under AS 46.40. The lead agency shall balance competing factors in reaching its decision. Substantive consideration shall be given to the comments of resource agencies within their primary areas of expertise.

(b) If a coastal resource district with an approved and applicable district coastal management program appeals the lead agency's consistency determination, AS 44.62.560--44.62.570 govern judicial review. However, notwithstanding

AS 44.62.570(c), abuse of discretion is established if the reviewing court determines that the consistency determination is not supported by a preponderance of the evidence in the administrative record.

AMENDMENT 4

OK

Page 5, ls. 1-2. Yes —

(c) Except as otherwise required by federal law, [N]no state agency other than the lead agency may comment to a federal permittingaagency.

AMENDMENT 5

Page 5, ls. 3-5. Passed

Delete existing subsection (d) and insert the following:

(d) For activities involving both a disposal of interest in land, or plan of operations approval under a previous disposal, and a certification under sec. 401 of the Clean Water Act (33 U.S.C. sec. 1341), the lead agency shall be the Department of Natural Resources.

AMENDMENT 6

No

Page 5, lines 22 - 23.

Administrative appeals [EXCEPT AS PROVIDED IN THIS SECTION THE PROCEDURE IS] conducted under this section need not comply with AS 44.62.330 - 44.62.630.

Need redrafting.

AMENDMENT 7 fails

Page 5, line 24. See ~~Sec~~. Sec 22 & 23

(b) Except when applicable due process rights may require more formal administrative proceedings, the [THE] adminstrative appeal must be resolved within 45 days

P. Dept. of Conservation.

Present wording may have to be balanced with Constitu. of State

We do have an exception —

Page 6, ls. 12-13. ~~AB~~ - Passed

Procedure. [THE RIGHT TO APPEAL IS NOT AFFECTED BY THE FAILURE TO SEEK FURTHER REVIEW UNDER AS 44.62.637.] The review is governed by the

AMENDMENT 9

Sounds fair

Page 6, ls. 15-17.

self destructive ⇐⇒ No.

(b) An appeal taken under this section [HAS] should have preference on the calendar of civil actions before the court and [SHALL] should be decided without unnecessary delay.

This allows judges to establish policies.?

OK 4/22 AMENDMENT 10 Passed

Page 5, 1s. 16-17. [there is a recommendation W.D.

extend the time period specified in this section. [FOR UP TO AN ADDITIONAL 30 DAYS.]

AMENDMENT 11

Page 7, line 12

Resources, the Department of Enviromental Conservation, the Alaska Coastal Policy Council, and the Depart-

Terry

Would appreciate having you hold the hearing date for SB84 open until after our meeting Tuesday. We can then have an idea of the amount of our work necessary to get agreement on the thing and will probably ask for you to schedule it the first week (or later) in february.

Thanks,

Mike

cancelled -

re-scheduled for Feb 11th or 15th

Brown HB 146
595

Mary please call Mike Hershberger on finalizing the date.

AK. Oil + Gas Assc

1-13-82 - Clerks' office received SB 84 - Sam awaiting return before calling Mike.

Mary

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

Sec. 44.62.637. ADMINISTRATIVE APPEALS. (a) The uniform procedural regulations promulgated pursuant to AS 44.62.632(b) shall provide for an administrative appeal from a final decision on a permit application. (b) The appeal must be resolved within 45 days of the final decision, or, if a hearing is held on the appeal, within 65 days of the final decision. Such appeal shall be to the head of the resource agency involved. An appeal taken from a decision granting a permit shall not necessarily stay the issuance of the permit in question. The head of the agency may summarily dismiss an appeal before the time established herein, and such dismissal shall be the final agency action on the matter. If the public interest is so served, in an appeal from the denial or conditioning of a permit the head of the agency may grant the permit or remove conditions thereon pending the outcome of the appeal.

last sentence of (a)
Except as provided in this section the procedures shall be conducted under AS 44.62.330 - 44.62.630

preferred

(b) Substantive consideration shall be given to the factual comments of resource agencies and to the Office of Coastal Management within their primary areas of expertise, and ~~also~~ to the factual comments of coastal resource districts made ~~pursuant to~~ under an approved district coastal management program.

"The lead agency shall consider opinions, conclusions or recommendations submitted by the commenting ~~agency~~ agencies, but may, in its discretion, reach contrary opinions, conclusions or recommendations according to the evidence received.

The lead agency shall then balance competing factors in reaching its final decision. No resource agency other than the lead agency has primary expertise in the balancing of competing factors.

alternative

(b) Substantive consideration shall be given to the factual comments of resource agencies and to the Office of Coastal Management within their primary areas of expertise, and ~~also~~ to the factual comments of coastal resource districts made ~~pursuant to~~ under an approved district coastal management program.

~~(5)~~ "~~Substantive consideration~~ ~~means that~~" where documented factual statements or data are submitted by a resource agency or a coastal resource district, those statements or data ~~shall be deemed~~ are considered true unless ~~the lead agency or permit applicant refutes such~~ the statements or data are refuted by a preponderance of the evidence. The lead agency shall consider opinions, conclusions or recommendations submitted by the commenting agency, but may, in its discretion, reach contrary opinions, conclusions or recommendations according to the evidence received.

The lead agency shall then balance competing factors in reaching its final decision. No resource agency other than the lead agency has primary expertise in the balancing of competing factors.

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

MSG 82-00007471 PRTY 1 02/10/82 17:28:37 ORIG: LK00 IN= 0007 OUT= 0127
FROM: SANDY, KETCHIKAN TO: JUNEAU INFO
TARGET: LJH2 SUBJ: POM

PAGE 0001

TO: REP. MARTIN

FROM: JEANNE SANDE, RT. 1, BOX 1096, KETCHIKAN, AK 99901 PHONE 225-5233

RE: SB 84

PLEASE HOLD TELECONFERENCE STATEWIDE ON SB 84. IT IS A BILL THE LEAGUE OF WOMEN VOTERS TOOK A POSITION AGAINST, ESPECIALLY CERTAIN SECTIONS, LAST YEAR AND HAS A CONTINUING INTEREST IN IT. IN MY OPINION THE GOVERNOR'S REGULATORY REFORMS MEASURES ARE A MUCH BETTER APPROACH TO REFORMING AND STREAMLINING THE PERMITING PROCESS. EOM/SLW

MSG 82-00006809 PRTY.1 02/08/82 18:34:58 ORIG: LA00 IN= 0021 OUT= 0148
FROM: JEAN, ANCH INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: POM

PAGE 0001

Save and
Let him know when meeting
is scheduled.

TO: REPRESENTATIVE MARTIN

FROM BILL SAUL
SRA 4007-A
ANCHORAGE 99502 (H) 345-6477 (W) 659-4356

RE: SB 84

I BELIEVE THAT THE PERMIT PROCEDURE IS ONE EFFICIENT SAFEGUARD AGAINST UNWANTED/UNNEEDED DEVELOPMENT IN ALASKA. I REQUEST THAT A PUBLIC HEARING BE HELD BEFORE THE BILL (SB84) IS BROUGHT UP FOR A VOTE.

2-10-82 Telephone sent @ 8 A.M.
We will be hearing a work draft on SB 84 on Friday the 12th
Letter to Conf Com. ok 1:15 p.m. ~~Date~~ Your comments will be entered
into each committee members file. Rep. Terry Martin

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

September 1, 1981

Ray Tyson
c/o Labor and Commerce Committee
921 W. 6th Ave.
Suite 250
Anchorage, Alaska 99501

Re: Enclosed Material on
Uniform Procedural Regulations
and SB 84

Dear Ray:

Enclosed are the materials which I promised you relating to SB 84 and the Uniform Procedural Regulations. These documents are, in order:

1. The Executive Summary of the draft regulations, for which public notice was given in January of this year. The Executive Summary highlights the major issues surrounding the draft regulations which emerged from working sessions held with industry and environmental groups late in 1980;

2. The complete public comment file on the draft regulations;

3. An April 6, 1981 memorandum from myself to Governor Hammond with respect to major issues surrounding the proposed final regulations. In particular, the memorandum addresses the criticism raised by public interest groups that the regulations "balkanize" the State's Coastal Management Program, and give excessive authority to the Department of Natural Resources as a coastal management "lead agency";

4 The final regulations as adopted by the departments of Natural Resources, Environmental Conservation and Fish & Game, and the Alaska Coastal Policy Council, in April of this year. As you are aware, these regulations have not been filed with the Lieutenant Governor's Office because of uncertainty regarding possible permit reform legislation;

5. The Department of Law's analysis of CSSB 84. The analysis addresses the Senate Resources Committee version of the bill;

6. Proposed changes in the Second Rules Committee version of SB 84 discussed at a recent meeting with various AOGA representatives. As the enclosed cover letter to the suggested changes indicates, the primary areas of remaining disagreement between the administration and the oil industry relate to the proper role of local governments in State decision making--at least when the local government has an approved coastal management program--and the length of the administrative appeals process; and

7. Our permit reform mailing list.

Once you have digested these documents, I would be happy to answer any questions you might have. The cabinet has yet to meet on the proposed AOGA changes, and we as well have yet to hear from AOGA as to whether they would be satisfied with a package of legislation and regulations which contain the proposed revisions. For reasons which are self-evident, the changes proposed in the enclosure would be opposed by local governments, as well as by public interest groups in the State. Moreover, many industry groups within the State will likewise object to the changes. As you are aware, the Southeast Alaska timber industry, and the Southeast native corporations, have supported the regulations actively. The primary reason for this support has been the strong role which the regulations envision for local governments with approved coastal management programs. Local/industry relations with respect to the timber industry are generally good. This is also true with respect to certain petrochemical interests in the Kenai Peninsula, which have also supported the regulations. The oil production industry, on the other hand, has been having rather notorious problems with the North Slope Borough, and therefore has taken the position that local governments should have a lesser influence on State decision making, even when that local government has an approved coastal management program. We have attempted, from the outset, to choose a middle ground between merely "considering" local comments on coastal management matters on the one hand, and affording local governments a "veto" on the other.

I hope these materials are of some help to you, and look forward to hearing from you.

Sincerely yours,

WILSON L. CONDON
ATTORNEY GENERAL

By: Jonathan K. Tillinghast
Assistant Attorney General

JKT/kh

Enclosures

TESTIMONY OF J. D. BERTINO

CHEVRON U.S.A. INC.

ON

PROPOSED UNIFORM PROCEDURES FOR PERMITS,
CONSISTENCY DETERMINATIONS AND APPEALS

FEBRUARY 6, 1981

ANCHORAGE, ALASKA

I am an atty.

My name is J. D. BERTINO. I represent Chevron U.S.A. Inc. I have been employed by Chevron in various positions dealing with governmental regulations for over 23 years. I am an Alaska resident and have been responsible for land and permitting matters for Chevron for almost six years in Alaska. I would like to express our appreciation to you for affording Chevron U.S.A. Inc. the opportunity to comment on the proposed uniform procedural regulations. We hope our comments will be constructive, both to the benefit of the State and our industry.

Chevron appreciates and welcomes any efforts taken by the State to facilitate the processing of permits. However, it is difficult to square an additional fourteen pages of regulations with Governor Hammond's regulatory reform project announced on December 5, 1980. In his opening remarks he stated that too little progress had been made in ensuring that State government is easier to deal with. I quote, "Regulatory Reform efforts run a great risk of becoming either too theoretical, or mired in fundamental political controversy". Governor Hammond indicated his program would be a sincere effort to get government off the backs of our average citizens and our industries.

It is our understanding that the Legislature is presently considering legislation which generally pertains to the permitting process. It appears there is a reasonable probability that some type of permitting legislation will be passed in this session. It is our recommendation that the administration defer action on the proposed regulations until the Legislature has acted. In the event the proposed regulations are adopted, it seems inevitable that these regulations will conflict with any legislation that is passed during the present session. This unnecessary conflict can be avoided by delaying the adoption of any procedural regulations until the Legislature has had an opportunity to act.

However, we submit the following specific comments in the event further consideration is given to the adoption of these regulations at this time.

Sec. 020 provides that the deadline for an agency's processing of a permit may be extended for an indefinite period of time where the agency finds that "substantial complex issues" are involved. We believe that any permit application can be processed within 65 days of the agency's receipt of the application. Accordingly, we recommend

that this portion of Section .020 be deleted. At a minimum, we would suggest that an outside limit as to the amount of time the Commissioner may extend the deadline be inserted; for example, 120 days. Moreover, the regulations should be amended to provide that such certification by a commissioner could only be made upon a finding that extraordinary circumstances warranted such an extension.

Articles 6, 7 and 8 provide for a lengthy and cumbersome administrative appeal process. It is Chevron's position that any satisfactory permitting process must provide for immediate access to the superior court following the agency's initial decision with regard to the permit application. We believe that the availability of this option will insure the agency's careful scrutiny of the application, as well as any suggested stipulations, throughout the permitting process. In view of the current problems with the permitting process, we believe it essential that any disputes between the applicant and the agency be presented to a neutral tribunal at an early date.

The need for a process which provides for an immediate appeal to the judicial system is clear when the effect of even a short delay in the permitting process is considered.

For example, many oil and gas operations are required to be conducted under very rigid seasonal restrictions. If a permit is delayed, the lessee may lose a full year of a lease term.

We have a situation where a lessee has paid a substantial sum for a lease and has an obligation to diligently explore and develop his lease or lose it. Often, a lessee finds himself unable to meet his obligations under the terms of the lease because of a delay in obtaining the required permits or because of conditions imposed under the permitting process which virtually preclude diligent exploration and development. On one hand, we have the lease administrator compelling diligent exploration and development; on the other hand, we have various agencies imposing conditions which make it almost impossible to meet the very obligations required under the terms of the lease. We therefore recommend that Articles 6, 7 and 8 be deleted. Should the applicant desire further agency review, a motion to reconsider the decision can always be filed with the department.

We are also concerned with those provisions of the regulations pertaining to inter-agency review. Sec. 130(c) provides that the deciding agency shall accord "great weight"

to comments of other resource agencies provided such comments are within the commenting agency's "primary area of expertise". On its face, that language would appear to require a deciding agency to defer to a commenting agency's recommendation. This is the basic cause of current problems with the permitting process. The Executive Summary with which we have been provided by the State has attempted to allay such fears by arguing that such recommendations are not within the agency's primary area of expertise. Similarly, Attorney General Condon stated to a Senate Resources Committee work session on January 27 of this year that it was his view the purpose of the language in question was to assure that comments of the other agencies would be considered. Consistent with that statement, and that of the Executive Summary, we would suggest that the definition of "great weight" be couched in terms of "careful consideration" rather than deference.

We also believe that comments of other agencies should be restricted to the manner in which the permitted activity shall occur, rather than whether the activity will be allowed. For example, where a state oil and gas lease has been issued the lessee has a contractual right to conduct operations on the state's land. Recommendations by commenting agencies

that certain activities should not be allowed, even though authorized by the lease, are therefore inappropriate. This is particularly true when it is considered that the concerns of the commenting agencies receive extensive analysis prior to the State's decision to lease.

As acknowledged by the Executive Summary, the proposed regulations do not constrain the degree to which a State agency may influence the approval of federal permit applications which are required to conduct the same or similar activities as also permitted by State agencies. Chevron believes that it is essential that State comments be channeled through the same State agency which has State permitting authority for the activity in question. We can fathom no policy consideration which would allow a State agency to permit a given activity, and simultaneously allow another State agency to block that activity through the federal permitting process. This is part cularly true where the commenting agency was previously given a full opportunity to submit detailed comments and supporting rationale to the deciding State agency for the State permit, and then proceeded to require that conflicting conditions be imposed on the same activity through the federal permitting process.

Contrary to the suggestion of the Executive Summary, it is submitted that such a procedure would not relegate the Department of Fish and Game or the Department of Environmental Conservation to a "second class" status. Rather it would assure that such departments are on equal terms with the other permitting departments. No department should be able to block another department's decision via a "back-door" process. The Departments of Fish and Game and Environmental Conservation would retain their ability to monitor performance through their own statutory authority.

We will submit further detailed written comments by February 27, 1981. Thank you for this opportunity to comment.

WRITTEN COMMENTS OF
CHEVRON U.S.A. INC.
ON UNIFORM PROCEDURES FOR PERMITS,
CONSISTENCY DETERMINATIONS AND APPEALS

22AAC 10.020. DEADLINES ON PERMIT ISSUANCE.

Subsection (a)(1) provides for open-ended extension of any permit deadline if the Commissioner certifies that the project involves "substantial complex issues". We believe that any permit application can be processed within 65 days of the agency's receipt of the application. This section undermines the purpose of establishing permit deadlines. Therefore, we recommend that (a)(1) be deleted.

Alternatively, an outside limit should be established so that a deadline cannot be extended for an indefinite period of time. We suggest a maximum extension of 60 days be established. Therefore, the maximum time for processing a class I permit cannot exceed 90 days. The maximum time for processing a class II permit cannot exceed 125 days.

Subsection (a)(4) provides that a deadline may be extended where the deciding agency is processing the application jointly with the federal agency pursuant to a memorandum of understanding. We suggest that this section be deleted. Existing memoranda of understanding should be revised to reflect deadlines established in these regulations.

22AAC 10.030. ADDITIONAL INFORMATION.

This section establishes two time periods during which an agency can request additional information. Upon receipt of an application for either a class I or class II permit the agency should immediately assess whether additional information is necessary in order to process the permit. Assessment should not require more time for class II permits than for class I permits. Therefore, we propose that a 15 day period be established for both classes of permits.

22AAC 10.040. SIGNING OF APPLICATIONS.

Subsection (1) provides that, in the case of corporations, a representative responsible for the "overall management of the project or operation" sign the application. This requirement does not reflect the realities of corporate business transactions in Alaska. Many times the person responsible for the overall management of the project or operation does not work in Alaska and has delegated permitting responsibilities to those who do. Any duly authorized employee of the corporation should be allowed to sign applications. This is consistent with Subsection (4) which allows for any duly authorized employee of a governmental agency to sign applications.

22AAC 10.050. ORAL PUBLIC HEARINGS.

This section creates new and complex requirements for public notice and hearings. These procedures complicate, rather than expedite the permitting process. They are inconsistent with the goal of regulatory reform and will provide a vehicle for attacking decisions made pursuant to these regulations. We propose that public hearings be limited to those required by statute.

22AAC 10.130. INTERAGENCY REVIEW.

This section provides that the deciding agency accord "great weight" to the comments of other resource agencies which meet certain qualifications. As defined in 22AAC 10.920 Subsection (7), "great weight" means deference, unless the assertion is contrary to the weight of fact or opinion in the administrative record. To the extent that certain matters have been statutorily defined as matters of national concern, this requirement may be unlawful. If a deciding agency must defer to the comments of a local agency pursuant to .130(c), the deciding agency may be unlawfully delegating its decision-making functions.

As applied to Coastal Management Consistency Determinations, this would clearly conflict with the mandate of the Coastal Zone Management Act (CZMA). Section 46.40.020(7) of CZMA states "the Alaska Coastal Management program shall be consistent with recognition of the need for a continuing supply of energy to meet the requirements of this State and the contribution of a share of the State's resources to meet national needs." To the extent that these regulations conflict with this mandate by requiring deciding agencies to accord "great weight" or deference to the comments of other resource agencies, they are invalid.

Section .570(b) states that "resource agency" includes coastal resource districts. Thus, the regulations establish a procedure for promoting the concerns of local districts over state or national concerns. We caution the State not to adopt regulations which may require the unlawful delegation of decision making functions to local coastal resources.

22AAC 10.500 ET SEQ. COASTAL MANAGEMENT CONSISTENCY DETERMINATIONS.

The procedures established in Article 5 do not expedite coastal management consistency determinations. The requirement that a deciding agency accord "great weight" to the comments of other resource agencies, and defer to the agency with "primary expertise" if no balancing or competing factors are involved, further complicates an already complex process.

Although the goal of this section appears to be limiting the Coastal Management Consistency Determinations to a one time occurrence, subsections (b) and (c) of .500 defeat this goal. .500(c) provides that an agency may reappraise its prior determination on the basis of new information not available at the prior stage if a more specific consequential activity is being permitted. Subsection (c) undermines the

purpose of subsection (b). The last sentence in subsection (b) states "the scope of any consistency determinations on a more specific activity is limited by the scope of the more specific permit proceeding". This is directly contradicted by subsection (c) which authorizes a reappraisal of prior determinations. Accordingly, we suggest that subsection (c) be deleted.

We oppose the requirement that two consistency determinations be made when certain other activities are undertaken. There is no basis for establishing a more complex procedure for consistency determinations arising from "other activities", therefore, we suggest that subsections (a) and (b) of .550 be deleted. The title should be changed to refer to those activities which do not require consistency determinations.

ARTICLES 6, 7 and 8. APPEALS. 22AAC 10.600, .700, .800 ET SEQ.

Articles 6, 7 and 8 provide for a lengthy and cumbersome administrative appeal process. In order to establish a satisfactory permitting process, immediate access to the Superior Court must follow an agency's initial decision with regard to the permit application. The availability of this option will insure not only the agency's careful scrutiny of the application as well as any suggested stipulations, but the applicant's careful preparation of the application and diligent followup work. In addition, immediate access to Superior Court will greatly shorten the delay that is inherent in the appeal procedure established in these regulations.

Delay is critical when considering the lessees obligation to diligently explore and develop his lease or possibly loose it. Often, a lessee may find himself unable to meet obligations under the terms of the lease because of a delay in obtaining a required permit or because of conditions imposed under the permitting process which precludes

diligent exploration and development, and therefore must be appealed. Immediate access to judicial review is the only method for resolving the conflict between the lease administrator, who compels diligent exploration and development and the various agencies who may compose conditions which impede the very obligations required by the terms of the lease.

In order to resolve this, we recommend that Articles 6, 7 and 8 be deleted. In their place we suggest the following sections be included in the regulations:

"REVIEW BY THE COMMISSIONER. An agency's final decision issued pursuant to AS 44.62.632 may be reviewed by the commissioner for the issuing agency at the request of the applicant. The request must be filed with the commissioner within thirty (30) days of the applicant's receipt of the decision. The commissioner shall issue a decision within ten (10) days of the department's receipt of the request, unless the applicant has requested a hearing de novo, in which case such hearing shall be held within thirty (30) days of the department's receipt of the request, and the commissioner's decision shall be rendered within thirty (30) days of the conclusion of the hearing. Unless the agency decision is confirmed in its entirety, the commissioner shall issue a written decision setting forth his findings and conclusions in full.

REVIEW BY THE SUPERIOR COURT. (a) Judicial review by the Superior Court of a final decision issued by a state agency pursuant to AS 44.62.632 or 44.62.634 or of a decision of the commissioner issued pursuant to AS 44.62.635, may be had by filing a notice of appeal in the Superior Court in accordance with the applicable rules of appellate procedure. The right to appeal is not affected by the failure to seek reconsideration or further review pursuant to AS 44.62.635. The review shall be governed by the provisions of AS 44.62.560(b)-(e) and AS 44.62.570.

(b) On an appeal by the applicant to the Superior Court, the agency which issued the final decision has the burden of proving that the decision is in accordance with AS 44.62.632 and 44.62.634.

(c) An appeal taken under this section has preference on the calendar of civil actions before the court and shall be decided without unnecessary delay."

Additional Comments:

1. Comments of Other Agencies:

Comments of other agencies should be restricted to the manner in which the permitted activity may occur rather than whether the activity will be allowed to occur at all. Once the State issues an oil and gas lease, the lessee obtains the contractual right to conduct operations on the State's land. Recommendations by commenting agencies that certain activities should not be allowed, even though they are specifically authorized by the lease, are therefore inappropriate and should not be considered. The concerns of commenting agencies receive extensive analysis prior to the State's decision to lease. Once the State decides to schedule an oil and gas lease sale, commenting agencies should not be allowed to undermine this decision by recommending that the activity not be allowed.

2. State Agency Comments on Federal Permit Applications.

Proposed regulations do not constrain the degree to which a state agency may influence the approval of federal permit applications which are required to conduct the same or similar activities permitted by State agencies. State comments must be channeled through the same State agency who has the State permitting authority for the activity in question. There is no valid policy consideration

which would allow a State agency to permit a given activity and simultaneously allow another State agency to block that activity through the Federal permitting process. This is particularly true when the commenting agency was given a full opportunity to submit detailed comments and supporting rationale to the deciding State agency and then proceeds to require that conflicting conditions be imposed on the same activity through the federal permitting process. In order to avoid this problem, the regulations should assure that no department is able to block another departments decision via a "back-door" process.

3. Automatic Approval of Permit Applications.

Conspicuously absent from the proposed regulations is a provision regarding enforcement of the time limits established. In spite of statements by the Department of Law in the Executive Summary, many states, including California, have provided for automatic approval of some permit applications if no action is taken within the applicable time period. We strongly urge the Department of Law to include a section calling for automatic approval of permit applications in this circumstance. Unless permitting agencies face some penalties these regulations will provide little impetus for compliance.

Alaska Oil and Gas Association

AOGA

505 W. Northern Lights Boulevard
Suite 219
Anchorage, Alaska 99503
(907) 272-1481

December 31, 1980

FINAL

Mr. Jonathan K. Tillinghast,
Special Assistant Attorney General
Department of Law
Pouch K
State Capitol
Juneau, Alaska 99811

Re: Draft Uniform Procedures

Dear Mr. Tillinghast:

The Alaska Oil and Gas Association (AOGA) has reviewed the draft Uniform Regulatory Procedures discussed at a meeting with you on December 12, 1980 and has the following comments.

AOGA supports measures which expedite and reform administrative and regulatory procedures. However, after review of the draft regulations, AOGA members have concluded that instead of streamlining and expediting permit procedures, these regulations provide a more complex and cumbersome system. The purpose of regulatory reform is not to enact long-standing, archaic procedures which are neither necessary to the permitting process nor beneficial to the sound development of Alaska's resources. Reform should not require the adoption of an additional 17 pages of regulations.

In addition, AOGA has the following general comments concerning proposals set forth in the proposed Uniform Regulatory Procedures. During late November and the month of December, the state has advised of the proposed adoption of nine different sets of regulations which affect the oil industry. Most of these are new and in addition to existing regulations, thus requiring considerable review time. Because of time constraints, holiday season, and the flood of new proposed regulations, several AOGA members have not had the opportunity to review and develop specific responses to these proposals. From the members who attended your meeting in Juneau on December 12, 1980, our committee was informed that these regulations will be publicly noticed on or about January 9, 1981. If that time schedule has changed, please advise me.

The central problem concerns the lack of administrative guidelines to establish the relationship between the statutory responsibilities of the resource agencies and the implementation of particular state programs such as oil and gas leasing. Until the Administration or the Legislature clearly defines the role of resource agencies in reacting to approved resource programs, no reform at the executive level can be effective.

AOGA makes the following general comments concerning several of the specific proposals set forth in the proposed draft.

1. These regulations do not provide for a direct appeal to the Superior Court for a permit applicant who has been either denied a permit, or a permit condition is attached to which the applicant does not agree. The appeal procedure may be addressed in later regulations; however, any regulations proposed should allow a direct appeal to the Superior Court following the agency's initial decision on the permit application.

2. Since various sections of the regulations allow the commissioner to request additional time, provide public notice, and set a public hearing, in essence every permit application for oil and gas related activities will be a Class II permit. Class II permits provide for a minimum of 65 days review by the agency and in many cases this is not necessary or required to expedite the permitting process.

3. The provisions set forth in AAC 10.020, allowing extension of times, are so broad that effectively there is no deadline set in the permit review process requiring an agency to act. In addition, there are no penalty provisions requiring issuance of a permit if the agencies take more time than set forth in the regulations.

4. There is no provision that precludes the commissioner from making a finding, that as a result of a public hearing, additional time will be necessary to review the permit application. Thus, the commissioner could certify that additional time is necessary after the permit has been the subject of a public hearing.

5. In section 10.030(a) the agency should specify within 10 days of receipt of an application whether the application is complete, and if the application is incomplete specify the data necessary to complete the application. No request for additional information should be made by the agency after the additional information has been supplied by the applicant.

6. In sections 10.030(b) and (c) there should be no extensions of time for reviewing an application which is otherwise complete where the agency is requesting more information than is generally required. If the agency requests additional information that is generally not required, the time constraints imposed on the agency for action should remain the same.

7. Any authorized employee should be allowed to sign a permit application on behalf of a corporation.

8. Public hearings should only be held if required by a statute. The present public notice provisions and opportunities to comment are sufficient to receive diverse comments regarding a project and permit proposal.

9. There should be a specific provision requiring the agency to act, or if the permit application is not approved or denied within the specified time period, the permit should be approved by operation of law. Existing regulations on surface use permits provide for such automatic approval. (See 11 AAC 96.030(b)).

10. Where permits are denied or approved with stipulation, there should be a section which requires the agency to set forth the reasoning and justification for either (a) the denial or (b) the reasons supporting the need for permit stipulations, and whether these permit stipulations are reasonable and necessary. Many permits now being issued contain boiler-plate language or have stipulations which have no application to the permitted activity.

11. All permits should be for the life of the project as proposed by the applicant, and not for a specified term unless such term is required by statute.

12. If a streamlined permitting process is developed, there is no reason for Memorandums of Understanding between various agencies for processing applications. It is not clear why Memorandums are necessary for internal operations of the agencies. Substantial changes have resulted from such internal Memorandums which defeat the intent of established procedures.

13. Regarding AAC 10.130 a commenting agency does not have the full record before it and therefore should not be allowed to recommend denial of a permit. Such a recommendation, when viewed in conjunction with the definition

of "great weight" and the considerable deference given to the commenting agency, will ensure that a permit application will be denied if the commenting agency so recommends. The applicant will not have the ability to provide additional information or data to the lead or deciding agency to refute these comments. This section expands agency jurisdiction without any statutory-enabling legislation. The commenting agency should only be able to set forth reasonable conditions under which the activity proposed by the applicant can be conducted.

14. Regarding Coastal Zone Management - one consistency determination should be made. Once a decision is made to commit state resources for a particular purpose one consistency determination should be made which discusses that determination and resulting projects. For instance, if the state determines that lands should be leased for potential oil and gas exploration and development, one consistency determination should be made at the time the lands are proposed for sale. Later, when leases are purchased, and exploration operations commenced, no additional consistency determination should be required. Also, any state agency reviewing consistency should not be able to impose additional comments or conditions on any federal permit or state permit. The agency should not submit comments which are different from those originally submitted regarding a state permit application before them or where they have been requested to comment on a permit application before another agency.

15. State permitting procedures are not likely to improve until the concept of "a lead agency" having sufficient authority to make permit decisions is adopted. Under present procedures, each decision is fragmented on an equal weight basis as each agency maneuvers to have its concerns assume a dominant role. Broad state and public interest is ignored in the process while the permit issuance is delayed until the last possible moment. These circumstances frequently compel the applicant to accept unwanted, unnecessary and inappropriate stipulations.

Finally, these regulations in some cases expand the authority of agencies in the state and decrease the authority of other agencies. An agency charged with approving a permit or plan of operation is charged and responsible for the disposition of state resources and is required by law to meet certain requirements. These regulations require that agency to delegate much of its authority, and defer to comments of other agencies, which effectively expands the authority of those other agencies.

In conclusion, even though considerable time, personnel and effort has been expended on the drafting of these regulations, regulatory reform can be more effectively accomplished in a simpler manner. Passing legislation which requires agencies to issue or deny permit applications within a specified time period is the initial step in regulatory reform. Agencies should be partners with permit applicants to insure that applications are not denied, that state resources are utilized in a reasonable manner and that applications and permits are granted in the shortest possible time frames by the agency. These regulations do not provide for regulatory reform, but merely attempt to set forth the present permitting procedure into formal regulations. The present permitting procedure is not acceptable and is the basis for the present regulatory reform efforts.

We thank you for the opportunity to review these regulations and if you require further information concerning our comments please advise me.

Very truly yours,

O. K. Gilbreth, Jr.

O. K. GILBRETH, JR.
Exploration and Production
Affairs Manager

OKG:km

FINAL

TESTIMONY

OF THE

ALASKA OIL AND GAS ASSOCIATION

ON

UNIFORM PROCEDURES FOR PERMITS, CONSISTENCY DETERMINATIONS AND APPEALS

FEBRUARY 6, 1981

ANCHORAGE, ALASKA

COMMENTS OF THE
ALASKA OIL AND GAS ASSOCIATION
ON
UNIFORM PROCEDURES FOR PERMITS,
CONTINGENCY DETERMINATIONS AND APPEALS
FEBRUARY 6, 1981

Good evening. My name is Don E. Glass and I am with Shell Oil Company in Anchorage. I am here tonight representing the Alaska Oil and Gas Association.

The Alaska Oil and Gas Association is a trade association whose 30 member companies account for the bulk of oil and gas exploration, production and transportation activities in Alaska. Our membership includes the largest and some of the smallest petroleum firms in the industry. AOGA is the Alaska division of the Western Oil and Gas Association.

AOGA is well into the second year of study on regulatory constraints faced by our industry. AOGA supports necessary measures which expedite and reform regulatory procedures. We are supportive of the four goals listed in the Executive Summary, namely:

1. Establishment of the shortest feasible deadline for the issuance of state permits for natural resource development;

2. Establish uniform permit procedures;

3. Explicitly define the rights of the applicant, and other persons in the permitting process; and

4. Streamlining the state's coastal management decision-making process.

We regretfully conclude that these regulations do not achieve these goals. While many existing problems have been alleviated, some have been made worse and others newly introduced. Therefore we are unable to support their adoption without further changes. We believe these regulations contain the following major problems:

1. Complex new requirements are created by these regulations that did not exist before. New public notice, hearing and administrative appeals procedures are established, which can only serve to complicate and delay the processing

of permits. To our knowledge, no complaint has ever been registered with the state concerning the present lack of public notice, hearings and administrative appeals on matters relating to the issuance of permits. Also, new procedures are added which further complicate procedures which are already too complex, and which invite lawsuits over the complexities that are created in these new regulations. For instance, Section 160(3) requires that the agency making a decision must state its reason for the rejection of "any significant and material recommendation made at a public hearing" held under the regulations. Presumably, if this is not done properly, the permit is void. Our belief is that this provision constitutes an easy target for hostile lawyers to attack, since in someone's opinion, virtually anything discussed at a hearing will be "signficant and material". On the other hand, it is physically impossible for an agency to respond to everything discussed at a public hearing. Providing complex procedures which are easy targets for lawsuits is <u>not</u> reforming the regulatory process.

2. There is presently a problem concerning the orderly process of making consistency findings under the Alaska Coastal Management Program because several agencies are involved in the matter. We believe that Sections 510 through 550 solve many of these problems, but create others which do not now exist. For example, sections 510 through 540 designate which state agency will make the conclusive Consistency determination under most forseeable circumstances. However, the deciding agency must accord "great weight" (Section 920-7) to the comments of other resource agencies (920-12) and must defer to the agency with "primary expertise" (920-9) if no balancing of competing factors is involved. In many important circumstances this will find the Department of Environmental Conservation or the Department of Natural Resources facing a consistency determination on an activity for which the Division of Policy Development and Planning is recommending consistency denial, and trying to sort out which agency has primary expertise, and whether the situation calls for balancing or automatic deference. To make matters worse, 570(b) by the same token offers a virtual veto power held by local governments over any activity to be permitted on state lands by the State of Alaska. This is not presently the case. We think this is unacceptable.

Without a substantial re-write and simplification, we

must remain opposed to adoption of these regulations. Our preliminary recommendations on specific sections of the regulations, as currently proposed, are as follows:

Section 10.020 provides for deadline extensions if provided for in a memorandum of understanding or if the Commissioner finds that complex issues require additional time.

Any memorandum of understanding entered into prior to or pursuant to these regulations should not contain conflicting approval schedules, but rather should provide for approvals within the time frame contained in these regulations.

The provision for extension deadlines due to substantial complex issues is open-ended, and should be granted only in extraordinary circumstances.

Section 10.030 calls for agencies to notify applicants of the need for additional information within 15 days for Class I permits and 30 days for Class II permits. Fifteen days is sufficient for both classes of permits.

Section 10.040 requires an individual responsible for the overall management of a project to sign an application. It is not always possible for that individual to sign an application due to locale, etc. Submittal of an application should not be delayed for this reason; any duly authorized employee should be allowed to sign applications. We note that subsection (4) of this section allows for any duly authorized government employee to sign applications.

Under Section 10.050 public hearings may be held under certain circumstances. We believe that hearings on Class I permits should be held only if required by statute.

Notwithstanding the comment in the Executive Summary, the section on Decision of Applications should include a provision for automatic approval of a permit application if no action is taken by the deciding officer within the applicable time period.

Further to our earlier comment on memorandums of understanding, the regulations need to be clarified under Section 10.085 to reflect that any MOU's in existence upon adoption of the regulations must be either revised to reflect the provision of the Chapter, or withdrawn.

Under Subsection (c) of the Public Notice section, notice must be sent to any unit of local government having jurisdiction

over a proposed activity. In some cases such jurisdiction may be difficult to determine and the inadvertent omission of such notice to one local government later claiming jurisdiction could prejudice the permit. To avoid confusion we would suggest that the section require notice be given to "appropriate units of local government".

In the section on Intra-agency Review it should be noted that agencies should not be allowed to recommend denial of a permit; but rather should make recommendations on what is needed to make the application approvable.

We have several concerns over the consistency article of this chapter.

We propose that the Department of Natural Resources be responsible for consistency determinations associated with a state oil and gas lease including any leasing EIS or Federal Permits requiring an EIS. This would support the intent of .520 which calls for DNR to make determinations on disposal of an interest in state land. We also recommend that the Department of Natural Resources, the agency with expertise in oil and gas matters, be responsible for the State's review and consistency determinations for petroleum exploration and development activities in the OCS as well as in State waters.

In most cases the regulations reflect that only one consistency determination will be made; however, as proposed, Section 10.550 would require two consistency determinations to be made for activities not covered in other sections. We would suggest that (a) and (b) of that section be deleted, thereby eliminating the double consistency problem. The title should then be changed to reflect that the section covers activities for which a consistency determination is not necessary.

Section 570(b) provides a description of resource agencies for the purposes of sections .510-.550. including in that description a coastal resource district with an approved CZM plan. The inclusion of a district as a resource agency is unnecessary because once a district plan is approved, it becomes part of the Alaska Coastal Management Program and therefore must be considered by any state agency making a consistency determination. Including a district in the consistency determination process adds yet another layer to the approval process. Given the definition of "great weight" this section apparently authorizes a local district to veto a project which is in the best interest of the state.

Section .580 can require an applicant to submit all applications simultaneously. This would be cumbersome, if not impossible, in some instances. We are recommending in our detailed comments language which would allow consistency determinations to be rendered limited to the scope of the activity and contingent upon an ultimate conclusive consistency determination.

AOGA recommends Articles 6, 7 and 8, and all references to appeals, be deleted from the regulations and instead one article be included stating that an applicant has the right to direct appeal to the Superior Court following the agency's decision on the permit application. The permitting process is vital to our industry and accordingly we believe it is essential that permit issues be resolved through judicial review at an early date.

In the definitions section we would recommend that the definition of "great weight" be changed from meaning "deference" to "serious consideration". Deference provides no latitude to the agency deciding the issue. Further, we would recommend a sentence be added to the definition of "primary area of expertise" calling attention to the fact that any consistency determination includes a"question of balancing factors". Finally, we question why the definition for "feasible and prudent" under the Alaska Coastal Management Act is proposed to be changed. As proposed in these regulations, the definition would not give consideration to economics, which we believe to be an important consideration in determining if an issue is "feasible and prudent".

Finally, we recommend the addition of two new sections, possibly under the deferred Article 4, which we believe would help alleviate the problem of multiple and conflicting state agency comments to federal agencies. The first section calls for the lead agency established under Sections .510-.540 to determine on behalf of the state its comments and recommendations on federal permits and to transmit such policy to the federal agency. The second calls for any state agency commenting upon an activity to address its comments solely to that lead agency.

In summary, we would like to reiterate our support for measures which expedite regulatory process. We are concerned that the regulations, as proposed, create new, complex requirements that do not presently exist. Additionally, while many of the problems over consistency determinations have been resolved, new problems present themselves in the regulations as proposed.

We believe a substantial rewrite of the regulations is necessary to accomplish the goals listed in the Executive Summary of short permit issuance deadlines, uniform procedures, applicants' rights and streamlining of the consistency determination process.

Thank you for the opportunity to comment. Attached to this testimony are our detailed written remarks laying out the changes we have suggested. I will be happy to answer any questions.

DETAILED WRITTEN COMMENTS
OF THE
ALASKA OIL AND GAS ASSOCIATION
ON
UNIFORM PROCEDURES FOR PERMITS,
CONSISTENCY DETERMINATIONS AND APPEALS
FEBRUARY 6, 1981

22 aac 10.020(a)(4)--Delete this subsection. This should not be justification for extending deadlines because any memorandum of understanding entered into prior to or pursuant to these regulations should not contain conflicting approval schedules, but rather should provide for approvals within the time frame contained in these regulations.

22 aac 10.020(b)--Change to read: "(b) A certification under (a)(1) of this section will only be made on a finding of extraordinary circumstances and will specify...". As proposed this provision is open-ended. We believe such certification should be made only under unusual or extraordinary circumstances.

22 AAC 10.030(a)--Change first sentence to read: "...the agency will notify the applicant within 15 days of receipt of a completed application for a Class I or Class II permit." Strike remainder of sentence. Fifteen days is sufficient for both classes of permits.

22 AAC 10.040(1)--Strike "responsible for the overall management of the project or operation". As is the case in (4) any duly authorized employee should be allowed to sign applications.

22 AAC 10.050(a)--Change to read "An oral public hearing on a Class I or Class II permit application will be held if:".

22 AAC 10.050(a)(1)--Change to read: "required by statute; or for Class II permits;".

22 AAC 10.050(b)(1)--Delete "or for Class I permits, likely".

Hearings on Class I permits should be held only if required by statute.

22 AAC 10.060(a)(2)--Delete this subsection. Include a new (2) which would read: "(2) If at the end of the applicable time period the deciding officer has taken no action, the application is deemed approved and the permit granted pursuant to this chapter."

Notwithstanding the comment in the Executive Summary, this section should include a provision for automatic approval if the deciding officer does not act within the specified time period. Existing regulations on surface use permits provide for such automatic approval.

22 AAC 10.085--In second sentence delete "which would" and insert "shall not"; end sentence after the word "chapter" and delete the remainder of the section. Add a new sentence to read: "All existing memoranda of understanding must be revised to reflect the provisions of this chapter." Any MOU's entered into by agencies should comply with the requirements of this chapter. All existing MOU's should either be revised to comply with the chapter, or withdrawn.

22 AAC 10.100(d)--Delete this subsection. See our comments on ARTICLES 6, 7 and 8.

22 AAC 10.120(c)--Change to read: "A copy of the notice will be sent to appropriate units of local government." Delete remainder of sentence. In some cases such jurisdiction may be difficult to determine and the inadvertent omission of such notice to one local government later claiming jurisdiction could prejudice the permit.

22 AAC 10.130(b)--In second sentence delete the words "denial of the permit, or". Agencies should not be allowed to recommend denial of permits; rather they should make recommendations on what is needed to make applications approvable.

22 AAC 10.160(3)--Change to read: "a statement of the factual or judgmental basis for the rejection of any significant and material resource agency recommendation under sec. 130(b) of this chapter, or, in the discretion of the Commissioner, any recommendation made at a public hearing held under sec. 50 of this chapter." This suggestion is made to provide flexibility to the Commissioner in responding to recommendations made at public hearings. Responding to each and every recommendation made at public hearings is an impossible task and should not be required.

ARTICLE 4.--Add two new sections:

"22 AAC 10.400. Where a federal permit is also issued on an activity for which a consistency determination will be made by a lead agency established under Sections .510-.540, the state agency conducting the consistency determination for the state pursuant to these regulations shall have sole authority to determine on behalf of the state its comments and recommendations on the matter (including but not limited to consistency with the ACMP) and to communicate such policy on behalf of the state to the federal agency issuing such a permit.

22 AAC 10.410. All state agencies commenting upon such an activity shall address their comments solely to the lead agency established under Sections .510-.540."

The addition of these two new sections would alleviate the problem of multiple and conflicting state agency comments to federal agencies.

22 AAC 10.510--Change first sentence to read: "When a direct federal activity or a federal permit or license requiring a State consistency determination necessitates preparation of an Environmental Impact Statement under 42 U.S.C. § 4332, except pertaining to state oil and gas leases, the Office of the Governor, Division...". At the end of the second sentence, add "excluding oil and gas activities".

22 AAC 10.520--Change first sentence to read: "Consistency determinations on disposals of an interest in state land will be performed by the Department of Natural Resources, including a joint state/federal oil and gas lease sale where an EIS is required." At the end of the second sentence, add "including associated federal permits requiring an EIS."

The changes suggested in .510 and .520 are intended to make clear that the Department of Natural Resources is responsible for consistency determinations associated with disposals of interest in state lands, including any EIS or Federal permits requiring an EIS.

Add new sentence to read: "The Department will conduct the consistency determination on oil and gas activities occuring in the Outer Continental Shelf adjacent to Alaska."

22 AAC 10.550--Delete (a) and (b); Change title to read: ACTIVITIES NOT REQUIRING A CONSISTENCY DETERMINATION. As proposed, this section would require that two consistency determinations be made for activities not covered by previous sections. This is not in keeping with the intent of these regulations.

22 AAC 10.570(b)--Delete this subsection. Including a coastal resource district with an approved CZM plan in the description of a resource agency adds another layer to the approval process and authorizes a local district to veto a project which is in the best interests of the State. See also our comments on .920(12).

22 AAC 10.580--Change this section to read: "When an activity requires more than one permit, the applicant, in order to obtain a conclusive determination under secs. 510-540 of this chapter, should apply for the appropriate permit under those sections prior to or contemporaneous with application for any other necessary federal permit or license. If an applicant applies for a federal license or permit prior to applying for a state permit which would provide the proper forum for a conclusive consistency determination under secs. 510-540 of this chapter, the designated lead agency may render a consistency determination which is limited to the scope of the activity contemplated by the federal license or permit and contingent upon the issuance of an ultimate conclusive consistency determination. Thereafter, an applicant may either submit application for additional federal licenses or permits and obtain further non-conclusive consistency determinations, or may apply for the appropriate state permit under secs. 510-540 and obtain a conclusive consistency determination."

As proposed, this section could require an applicant to submit all applications simultaneously, which would be cumbersome, if not impossible in some cases.

ARTICLES 6, 7 and 8. Delete these articles. An applicant must have the right to direct appeal to the Superior Court following an agency's decision on a permit application.

22 AAC 10.920(a)--Delete this subsection pursuant to deletion of ARTICLES 6, 7 and 8 pertaining to appeals.

22 AAC 10.920(7)--Change "deference" to "serious consideration". Deference provides no latitude to the agency deciding the issue.

22 AAC 10.920(9)--Add a new third sentence to read "Any consistency determination made by lead agencies hereby is defined to include "questions of balancing factors". The balancing process should be employed when agencies determine consistency.

22 AAC 10.920(12)--Add a new sentence at the end of this section to read "For the purposes of section .570 of these regulations, the term also includes all state agency members of the Alaska Coastal Policy Council." This sentence is moved from Sec. 570(b).

6 AAC 80.900(20)--We question why this definition is proposed for change. As proposed, the definition would not give consideration to economics, which we believe to be an important consideration in determining if an issue is "feasible and prudent". We suggest leaving the definition as it now appears in the ACMP.

Alaska Oil and Gas Association

505 W. Northern Lights Boulevard
Suite 219
Anchorage, Alaska 99503
(907) 272-1481

February 26, 1981

FINAL

Alaska Department of Law
Attn: Special Assistant Attorney
General Jon K. Tillinghast
Pouch K, State Capitol
Juneau, Alaska 99811

Gentlemen:

Attached are additional written comments of the Alaska Oil and Gas Association on the proposed Uniform Procedures for Permits, Consistency Determinations and Appeals.

We appreciate this opportunity to submit comments.

Very truly yours,

W. W. Hopkins

WILLIAM W. HOPKINS
Executive Director

Attachment

WRITTEN COMMENTS
OF THE
ALASKA OIL AND GAS ASSOCIATION
ON
UNIFORM PROCEDURES REGULATIONS

On February 6, 1981 the Alaska Oil and Gas Association presented comments on the Proposed Uniform Procedures Regulations at the public hearing held in Anchorage. A copy of that testimony is attached for your reference.

We would like to take this opportunity to submit additional written comments on the proposed procedures.

As stated in our previous testimony, the Alaska Oil and Gas Association feels a substantial re-write of the proposed regulations is necessary if the State is to achieve the four goals set out in the Executive Summary accompanying the regulations. As proposed, the regulations alleviate many existing problems; however new, more complex requirements are created that do not presently exist.

We note that the Legislature has under consideration legislation pertaining to the permitting process. If the proposed regulations are adopted, the possibility exists that the regulations will conflict with any legislation that is passed. To avoid the possibility of an unnecessary conflict, adoption of the proposed regulations should be deferred until the Legislature has acted.

We have the following additional comments on specific portions of the proposed regulations.

22. AAC 10.050 Oral Public Hearings

In our earlier detailed comments we suggested changes to this section to reflect our recommendation that public hearings on Class I permits should be held only if required by statute. Upon reflection, we believe a "cleaner" way to reflect this intent would be as follows:

Change (a) to read: (a) An oral public hearing on a Class I permit application will be held if required by statute.

Create a new (b) to read: (b) An oral public hearing on a Class II permit application will be held if:

(1) required by statute; or...."

The remainder of the section would require renumbering.

In the existing section (b)(1)--which would become (c)(1)--delete: "or, for Class I permit, likely".

In the existing section (c)--which would become (d)--change the reference to section (a)(2) to (b)(2).

11 AAC 10.500(c)

Delete this section. The regulation appears to allow an agency to reverse a prior consistency determination. To the extent that the original consistency determination had been relied upon by an operator, a subsequent reversal of that determination would be unlawful. Moreover, subsection (c) is in conflict with (b) which provides that "...a consistency determination on a more specific consequential activity is bound by those decisions, findings and conclusions actually made at prior, less specific decision-making stages." It is not at all clear how an agency is bound by its prior determination if that determination can be reversed.

Articles 6, 7 and 8 Appeals

In our comments made at the hearing we recommended the deletion of the lengthy appeals procedure provided for in the regulations. The permitting process is vital to our industry and it is imperative that permit issues be resolved at an early date. In place of ARTICLES 6, 7, and 8, we recommend the following:

ARTICLE 6. APPEALS

22 AAC 10.600 Review by the Commissioner

An agency's final decision issued pursuant to this chapter may be reviewed by the Commissioner of the issuing agency at the request of the applicant. The request must be filed with the Commissioner within thirty (30) days of the applicant's receipt of the decision. The Commissioner shall issue a decision within ten (10) days of the Department's receipt of the request, unless the applicant has requested a hearing de novo, in which case such hearing shall be held within thirty (30) days of the Department's receipt of the request, and the Commissioner's decision shall be rendered within thirty (30) days of the conclusion of the hearing. Unless the agency decision is confirmed in its entirety, the Commissioner shall issue a written decision setting forth his findings and conclusions in full.

22 AAC 10.610 Review by the Superior Court

(a) Judicial review by the Superior Court of a final decision issued by a state agency pursuant to this chapter or of a decision of the Commissioner issued pursuant to sec. 600 may

be had by filing a notice of appeal in the Superior Court in accordance with the applicable rules of appellate procedure. The right to appeal is not affected by the failure to seek reconsideration or further review pursuant to sec. 600.

Thank you for the opportunity to comment.

COMMENTS BY ARCO ALASKA, INC.
ON UNIFORM PROCEDURES FOR PERMITS,
CONSISTENCY DETERMINATIONS AND APPEALS

INTROLUCTION

ARCO Alaska, Inc., (ARCO) is a wholly owned subsidiary of Atlantic Richfield Company. We appreciate the opportunity to present these written comments to the Departments of Natural Resources, Environmental Conservation, and Rish and Game; the Alaska Coastal Policy Council, and Boards of Fisheries and Game. ARCO supports any efforts to modify and streamline the regulatory process to respond to the needs of the regulated community. Streamlining the regulatory proces hould mean the elimination of duplicative and unnecessary equirements and procedures which provide no benefits either to the regulated community or to the general public.

The agencies and drafters should be complimented on the attempt to draft uniform procedures and implement a system which defines the rights of an applicant and the general public in the permitting process; however, upon review of the proposed regulations, it is apparent that in many cases the proposed regulatory procedures do not accomplish these goals. Regulatory reform, by its nature, should not create an additional bureaucratic structure which is not responsive to the applicant, and does not provide a more simplified process of permitting.

The following is a list of specific comments on the various sections of the Uniform Regulatory Procedures and the Appeals Provisions. These suggested modifications will provide a more streamlined system if these procedures are adopted.

1. 22 AAC 10.020(3). This section which allows the commissioner to extend the permit deadline where the agency and the applicant mutually agree should be deleted. The commissioner would already be empowered, under 22 AAC 10.020(2), to extend the permit deadline when substantially complex issues are involved. This additional opportunity to extend permit deadlines invites abuse; an applicant would feel compelled to agree to any extension requested by an agency rather than risk an unfavorable decision on the permit.

2. 22 AAC 10.030(a). For a Class II permit application, if an agency requests additional information, this request should be made within fifteen (15) days of receipt of the application, rather than the thirty days set forth in the proposed regulations. A thirty-day period to return the permit application is almost half the permitting period. If additional information is required, it should be transmitted to the permit applicant as quickly as possible. This will enable a permit applicant to supply the information which is necessary to the permitting process and still allow the agency sufficient time to review the permit application.

3. 22 AAC 10.030(a). A deciding agency should not be able to toll the permitting period where the information requested of the permit applicant is atypical from that normally requested. If the permit applicant fails to supply information normally submitted for a permit of that nature, then the time period should be tolled until the information is received.

4. 22 AAC 10.040. Any duly authorized representative of a corporation should be authorized to sign the permit application on behalf of the corporation. Often the party responsible for the overall management of the project or its operation is in another location or not available to sign the application form.

5. 22 AAC 10.050. Since Class I permits will require the least amount of time for both the applicant and the agency, an oral public hearing should be held on a Class I permit only when required by statute.

6. 22 AAC 10.085. Memoranda of Understanding with federal agencies may be necessary to implement procedures for interaction between the state agency and the federal agency; however, no Memorandum of Understanding should extend the time provisions or obligations set forth in these regulations. One of the purposes of uniform regulatory procedures is to design a uniform system which will not be deviated from by a Memorandum with another agency.

7. 22 AAC 10.130(b). A commenting agency should never recommend denial of a permit application to a deciding

agency. The commenting agency is requested to respond by the deciding agency to a permit application. The commenting agency has neither the whole record before it, nor all the evidence on whether to grant or to deny a permit application. The commenting agency may recommend inclusion of terms and conditions on the permit. The deciding agency's obligations are to review all of the factors and determine whether the project, as proposed by the applicant, should be approved.

8. 22 AAC 10.150. When the employee prepares a summary of an ex parte oral communication with an applicant, a copy of this summary should be transmitted to the applicant.

9. 22 AAC 10.160(3). The deciding agency's final decision should address the factual and judgmental basis for rejecting a commenting agency's recommendations. However, the deciding agency should only be required to summarize the comments submitted at a public hearing and the agency's action or determination concerning the comments. To require the deciding agency to individually state and respond to the factual and judgmental basis for rejecting a "significant and material recommendation" is overly burdensome. Adequate reasoning for the deciding agency's decision will provide sufficient response to questions presented at a public hearing.

10. 22 AAC 10.920(7) - Great Weight]. This definition should be changed so that "great weight" does not mean deference to the commenting agency. This definition, when used

in conjunction with the commenting agency's right to recommend denial of a permit application, would eliminate the authority of the deciding agency to grant an application which may be in the best interests of the state, but which has been recommended for denial by another agency. The addition of serious consideration or similar language would provide the assurance that necessary attention is given to comments of resource agencies.

11. The General Appeals provisions should allow the applicant the opportunity to directly appeal to the Superior Court if a permit application is denied, or if unreasonable and unsupportable conditions are attached to the permit. Since time can be extremely critical, the applicant should be able to seek judicial relief at the earliest possible date from a final agency decision.

12. The proposed regulations do not establish a lead agency concept, or resolve the permitting problem where agency comments are made to both a state and federal agency. As noted in the Executive Summary, (p. 14) the problem is not easily solved. One method to alleviate part of the problem is to require the commenting agency to limit the conditions it requests be imposed on a federal permit to those imposed on a state permit required for the same or substantially similar activity. This would eliminate two sets of differing conditions on similar state/federal permits.

CONCLUSION

The resource agencies and the Department of Law should be complimented on their effort to set forth a uniform permitting procedure in the State. Much of the success of the uniform regulatory program will be in its acceptance and implementation both by the regulatory community and the resource agencies. These regulations should be reviewed in a year to determine whether regulatory reform has been successful. The effort expended in regulatory reform is by no means complete. The next year will indicate whether more changes are needed to allow the resource agency to provide timely responses to the permit applicants. Every day's additional delay in permit approval can mean a substantial increase in the cost of the project. These costs can be alleviated through cooperation between the regulated community and the resource agencies.

RESPECTFULLY SUBMITTED this 25th day of February, 1981.

G. T. Wilkinson
Vice President

TESTIMONY OF J. D. BERTINO

CHEVRON U.S.A. INC.

ON

PROPOSED UNIFORM PROCEDURAL REGULATIONS

FEBRUARY 6, 1981

ANCHORAGE, ALASKA

My name is J. D. BERTINO. I represent Chevron U.S.A. Inc. I would like to express our appreciation to you for affording Chevron U.S.A. Inc. the opportunity to comment on the proposed Uniform Procedural Regulations. We hope our comments will be constructive, both to the benefit of the State and our industry.

Chevron is appreciative of any efforts taken by any agency which tend to facilitate the processing of permits. Chevron thus welcomes the efforts of the state which are reflected in the proposed uniform procedures for permits.

It is our understanding that the legislature is presently considering legislation which generally pertains to the permitting process. It appears there is a reasonable probability that some type of permitting legislation will be passed in this session. It is our recommendation that the administration defer action on the proposed regulations until the legislature has acted. In the event the proposed regulations are adopted, it seems inevitable that these regulations will conflict with any legislation that is passed during the present session. This unnecessary conflict can be avoided by delaying the adoption of any procedural regulations until the legislature has had an opportunity to act.

However, we submit the following specific comments in the event further consideration is given to the adoption of these regulations at this time.

Sec. 020 provides that the deadline for an agency's processing of a permit may be extended for an indefinite period of time where the agency finds that "substantial complex issues" are involved. We believe that any permit application can be processed within 65 days of the agency's receipt of the application. Accordingly, we recommend that this portion of Section .020 be deleted. At a minimum, we would suggest that an outside limit as to the amount of time the Commissioner may extend the deadline to be inserted; for example, 120 days. Moreover, the regulations should be amended to provide that such certification by a commissioner could only be made upon a finding that extraordinary circumstances warranted such an extension.

Articles 6, 7 and 8 provide for a lengthy and cumbersome administrative appeal process. It is Chevron's position that any satisfactory permitting process must provide for immediate access to the superior court following the agency's initial decision with regard to the permit application. We believe that the availability of that option will insure the agency's careful scrutiny of the application, as well as any suggested stipulations, throughout the permitting process. In view of the current problems with the permitting process, we believe it essential that any disputes between the applicant and the agency be presented to a neutral tribunal at an early date.

The need for a process which provides for an immediate appeal to the court system is apparent when the effect of even a short delay in permitting process is considered. For example, many oil and gas operations are required to be conducted under very rigid season restrictions. If a permit is delayed, the lessee may lose a full year of a lease term.

Often, a lessee finds himself unable to meet his obligations under the terms of the lease because of a delay in obtaining the actual permit or because of conditions imposed under the permitting process which virtually preclude diligent exploration. On one hand, we have the lease administrator telling us to perform or move on; on the other hand we have agencies imposing conditions which make it almost impossible to meet the very obligations required under the terms of the lease. We would therefore recommend that Articles 6, 7 and 8 be deleted. Should the applicant desire further agency review, a motion to reconsider the decision can always be filed with the department.

We are also concerned with those provisions of the regulations pertaining to inter-agency review. Sec. 130(c) provides that the deciding agency shall accord "great weight" to comments of other resource agencies provided such comments are within the commenting agency's "primary area of expertise". On its face, that language would appear to require a

deciding agency to defer to a commenting agency's recommendation. This is the basic cause of current problems with the permitting process. The Executive Summary with which we have been provided by the state has attempted to allay such fears by arguing that such recommendations are not within the agency's primary area of expertise. Similarly, Attorney General Condon stated to a Senate Resources Committee work session on January 27 of this year that it was his view that the purpose of the language in question was to assure that comments of the other agencies would be considered. Consistent with that statement, and that of the Executive Summary, we would suggest that the definition of "great weight" be couched in terms of "careful consideration" rather than deference.

We also believe that comments of other agencies should be restricted to the manner in which the permitted activity shall occur, rather than whether the activity will be permitted. For example, where a state oil and gas lease has issued, the lessee has a contractual right to conduct operations on the state's land. Recommendations by commenting agencies that certain activities should not be allowed, even though required by the lease, are therefore inappropriate.

As acknowledged by the Executive Summary, the proposed regulations do not constrain the degree to which a state agency may comment upon federal permit applications. Chevron believes that it is essential that state comments be channeled through the same state agency which has state permitting authority for the activity in question. We can fathom no policy consideration which would allow a state agency to permit a given activity, and simultaneously allow another state agency to block that activity through the federal permitting process. This is particularly true where the commenting agency was given a full opportunity to submit detailed comments and supporting rationale to the deciding state agency.

Contrary to the suggestion of the Executive Summary, it is submitted that such a procedure would not relegate the Department of Fish and Game or the Department of Environmental Conservation to a "second class" status. Rather it would assure that such departments are on equal terms with the other permitting departments. No department should be able to block another department's intent via a "back-door" process. The Departments of Fish and Game and Environmental Conservation would retain their ability to monitor performance through their own statutory authority.

We will submit further detailed written comments by February 27. Thank you for this opportunity to comment.

WRITTEN COMMENTS OF
CHEVRON U.S.A. INC.
ON UNIFORM PROCEDURES FOR PERMITS,
CONSISTENCY DETERMINATIONS AND APPEALS

22AAC 10.020. DEADLINES ON PERMIT ISSUANCE.

Subsection (a)(1) provides for open-ended extension of any permit deadline if the Commissioner certifies that the project involves "substantial complex issues". We believe that any permit application can be processed within 65 days of the agency's receipt of the application. This section undermines the purpose of establishing permit deadlines. Therefore, we recommend that (a)(1) be deleted.

Alternatively, an outside limit should be established so that a deadline cannot be extended for an indefinite period of time. We suggest a maximum extension of 60 days be established. Therefore, the maximum time for processing a class I permit cannot exceed 90 days. The maximum time for processing a class II permit cannot exceed 125 days.

Subsection (a)(4) provides that a deadline may be extended where the deciding agency is processing the application jointly with the federal agency pursuant to a memorandum of understanding. We suggest that this section be deleted. Existing memoranda of understanding should be revised to reflect deadlines established in these regulations.

22AAC 10.030. ADDITIONAL INFORMATION.

This section establishes two time periods during which an agency can request additional information. Upon receipt of an application for either a class I or class II permit the agency should immediately assess whether additional information is necessary in order to process the permit. Assessment should not require more time for class II permits than for class I permits. Therefore, we propose that a 15 day period be established for both classes of permits.

22AAC 10.040. SIGNING OF APPLICATIONS.

Subsection (1) provides that, in the case of corporations, a representative responsible for the "overall management of the project or operation" sign the application. This requirement does not reflect the realities of corporate business transactions in Alaska. Many times the person responsible for the overall management of the project or operation does not work in Alaska and has delegated permitting responsibilities to those who do. Any duly authorized employee of the corporation should be allowed to sign applications. This is consistent with Subsection (4) which allows for any duly authorized employee of a governmental agency to sign applications.

22AAC 10.050. ORAL PUBLIC HEARINGS.

This section creates new and complex requirements for public notice and hearings. These procedures complicate, rather than expedite the permitting process. They are inconsistent with the goal of regulatory reform and will provide a vehicle for attacking decisions made pursuant to these regulations. We propose that public hearings be limited to those required by statute.

22AAC 10.130. INTERAGENCY REVIEW.

This section provides that the deciding agency accord "great weight" to the comments of other resource agencies which meet certain qualifications. As defined in 22AAC 10.920 Subsection (7), "great weight" means deference, unless the assertion is contrary to the weight of fact or opinion in the administrative record. To the extent that certain matters have been statutorily defined as matters of national concern, this requirement may be unlawful. If a deciding agency must defer to the comments of a local agency pursuant to .130(c), the deciding agency may be unlawfully delegating its decision-making functions.

As applied to Coastal Management Consistency Determinations, this would clearly conflict with the mandate of the Coastal Zone Management Act (CZMA). Section 46.40.020(7) of CZMA states "the Alaska Coastal Management program shall be consistent with recognition of the need for a continuing supply of energy to meet the requirements of this State and the contribution of a share of the State's resources to meet national needs." To the extent that these regulations conflict with this mandate by requiring deciding agencies to accord "great weight" or deference to the comments of other resource agencies, they are invalid.

Section .570(b) states that "resource agency" includes coastal resource districts. Thus, the regulations establish a procedure for promoting the concerns of local districts over state or national concerns. We caution the State not to adopt regulations which may require the unlawful delegation of decision making functions to local coastal resources.

22AAC 10.500 ET SEQ. COASTAL MANAGEMENT CONSISTENCY DETERMINATIONS.

The procedures established in Article 5 do not expedite coastal management consistency determinations. The requirement that a deciding agency accord "great weight" to the comments of other resource agencies, and defer to the agency with "primary expertise" if no balancing or competing factors are involved, further complicates an already complex process.

Although the goal of this section appears to be limiting the Coastal Management Consistency Determinations to a one time occurrence, subsections (b) and (c) of .500 defeat this goal. .500(c) provides that an agency may reappraise its prior determination on the basis of new information not available at the prior stage if a more specific consequential activity is being permitted. Subsection (c) undermines the

purpose of subsection (b). The last sentence in subsection (b) states "the scope of any consistency determinations on a more specific activity is limited by the scope of the more specific permit proceeding". This is directly contradicted by subsection (c) which authorizes a reappraisal of prior determinations. Accordingly, we suggest that subsection (c) be deleted.

We oppose the requirement that two consistency determinations be made when certain other activities are undertaken. There is no basis for establishing a more complex procedure for consistency determinations arising from "other activities", therefore, we suggest that subsections (a) and (b) of .550 be deleted. The title should be changed to refer to those activities which do not require consistency determinations.

ARTICLES 6, 7 and 8. APPEALS. 22AAC 10.600, .700, .800 ET SEQ.

Articles 6, 7 and 8 provide for a lengthy and cumbersome administrative appeal process. In order to establish a satisfactory permitting process, immediate access to the Superior Court must follow an agency's initial decision with regard to the permit application. The availability of this option will insure not only the agency's careful scrutiny of the application as well as any suggested stipulations, but the applicant's careful preparation of the application and diligent followup work. In addition, immediate access to Superior Court will greatly shorten the delay that is inherent in the appeal procedure established in these regulations.

Delay is critical when considering the lessees obligation to diligently explore and develop his lease or possibly loose it. Often, a lessee may find himself unable to meet obligations under the terms of the lease because of a delay in obtaining a required permit or because of conditions imposed under the permitting process which precludes

diligent exploration and development, and therefore must be appealed. Immediate access to judicial review is the only method for resolving the conflict between the lease administrator, who compels diligent exploration and development and the various agencies who may compose conditions which impede the very obligations required by the terms of the lease.

In order to resolve this, we recommend that Articles 6, and 8 be deleted. In their place we suggest the following sections be included in the regulations:

"REVIEW BY THE COMMISSIONER. An agency's final decision issued pursuant to AS 44.62.632 may be reviewed by the commissioner for the issuing agency at the request of the applicant. The request must be filed with the commissioner within thirty (30) days of the applicant's receipt of the decision. The commissioner shall issue a decision within ten (10) days of the department's receipt of the request, unless the applicant has requested a hearing de novo, in which case such hearing shall be held within thirty (30) days of the department's receipt of the request, and the commissioner's decision shall be rendered within thirty (30) days of the conclusion of the hearing. Unless the agency decision is confirmed in its entirety, the commissioner shall issue a written decision setting forth his findings and conclusions in full.

REVIEW BY THE SUPERIOR COURT. (a) Judicial review by the Superior Court of a final decision issued by a state agency pursuant to AS 44.62.632 or 44.62.634 or of a decision of the commissioner issued pursuant to AS 44.62.635, may be had by filing a notice of appeal in the Superior Court in accordance with the applicable rules of appellate procedure. The right to appeal is not affected by the failure to seek reconsideration or further review pursuant to AS 44.62.635. The review shall be governed by the provisions of AS 44.62.560(b)-(e) and AS 44.62.570.

(b) On an appeal by the applicant to the Superior Court, the agency which issued the final decision has the burden of proving that the decision is in accordance with AS 44.62.632 and 44.62.634.

(c) An appeal taken under this section has preference on the calendar of civil actions before the court and shall be decided without unnecessary delay."

Additional Comments:

1. Comments of Other Agencies:

Comments of other agencies should be restricted to the manner in which the permitted activity may occur rather than whether the activity will be allowed to occur at all. Once the State issues an oil and gas lease, the lessee obtains the contractual right to conduct operations on the State's land. Recommendations by commenting agencies that certain activities should not be allowed, even though they are specifically authorized by the lease, are therefore inappropriate and should not be considered. The concerns of commenting agencies receive extensive analysis prior to the State's decision to lease. Once the State decides to schedule an oil and gas lease sale, commenting agencies should not be allowed to undermine this decision by recommending that the activity not be allowed.

2. State Agency Comments on Federal Permit Applications.

Proposed regulations do not constrain the degree to which a state agency may influence the approval of federal permit applications which are required to conduct the same or similar activities permitted by State agencies. State comments must be channeled through the same State agency who has the State permitting authority for the activity in question. There is no valid policy consideration

which would allow a State agency to permit a given activity and simultaneously allow another State agency to block that activity through the Federal permitting process. This is particularly true when the commenting agency was given a full opportunity to submit detailed comments and supporting rationale to the deciding State agency and then proceeds to require that conflicting conditions be imposed on the same activity through the federal permitting process. In order to avoid this problem, the regulations should assure that no department is able to block another departments decision via a "back-door" process.

3. Automatic Approval of Permit Applications.

Conspicuously absent from the proposed regulations is a provision regarding enforcement of the time limits established. In spite of statements by the Department of Law in the Executive Summary, many states, including California, have provided for automatic approval of some permit applications if no action is taken within the applicable time period. We strongly urge the Department of Law to include a section calling for automatic approval of permit applications in this circumstance. Unless permitting agencies face some penalties these regulations will provide little impetus for compliance.

EXXON COMPANY, U.S.A.
1800 AVENUE OF THE STARS • LOS ANGELES, CALIFORNIA 90067

LAW DEPARTMENT

February 25, 1981

Re: Uniform Procedures for
Permits, Consistency
Determinations and Appeals

Mr. Jonathan K. Tillinghast
Special Assistant Attorney General
Alaska Department of Law
Pouch "
Juneau, Alaska 99811

Dear Mr. Tillinghast:

We are pleased to have this opportunity to address some areas of concern which may not have been fully discussed in AOGA's comments on the captioned regulation proposals We will limit these comments to those sections of the proposed regulations which affect coastal management consistency determinations.

First, we join many others in expressing our belief that the proposed regulations reflect Governor Hammond's stated desire to expedite and streamline this State's coastal management decision-making process as it pertains to consistency determinations. However, for some of the reasons expressed herein, these regulations offer the potential for abuses which may result in uncertainty, delays, and the possibility for challenge of consistency determinations once they are issued. Some of our more serious concerns are as follows:

I. 22 AAC 10.020(a)(1): This section allows an extension of the deadline for making an agency decision if the commissioner of the agency certifies that the project for which the permit is sought involves substantial complex issues requiring additional time for review. This open-ended grant of discretion would allow all OCS applications to be deemed complex and the deadline for decision to be extended. We do not believe that such a possibility for delay was intended by the drafters of these regulations, nor is it supported by the intent of the Federal Coastal Zone Management Act of 1972 and its implementing regulations which encourage early issuance of consistency determinations [See, e.g, 15 CFR 930.63(a)].

II. 22 AAC 10.030(c): This section provides that the deadline for making a final decision on a permit shall be tolled for a period equal to that time from an agency's date of request for additional information affecting the application until the date of full compliance with that request. 15 CFR 930.60 provides that only a state agency request for information specifically enumerated in 15 CFR 930.58 shall toll the applicable review period. The proposed 22 AAC 10.030 does not address this important distinction and opens up the possibility of further delay. At a minimum, the proposed section should be narrowly limited as to the type of additional information requests which will toll the time period for issuing a final permit decision in compliance with 15 CFR 930.60. Further, any tolling should occur only with respect to requests of information required to be supplied by 15 CFR 930.58.

III. 22 AAC 10.040. This section provides that a corporate permit application must be signed by a duly authorized representative responsible for the overall management of the project or operation. This section is unnecessarily restrictive and should be amended to allow any duly authorized employee of the corporation to sign a corporate permit application. A duly-authorized representative will bind the corporation and thus serve the legitimate purpose of this regulation.

IV. 22 AAC 10.070. This section authorizes a deciding officer to attach conditions to a permit where empowered by statute to do so. It should be clarified in this section that a deciding officer may not unilaterally attach conditions to a consistency determination. 15 CFR 930.63 & 930.64 allow a state agency either to concur or object to a consistency certification. 15 CFR 930.64 also provides a means by which the applicant may accept conditions in order to permit state agency concurrence with the consistency certification. At a minimum, Section 10.070 should be clarified to either provide that it does not apply to consistency determinations or to provide that any conditions must be agreed upon in accordance with 15 CFR 930.64.

V. 22 AAC 10.080(c): This section treats an amendment to an existing permit as a separate Class I permit which is subject to public notice, comment and, possibly, a public hearing. We support AOGA's position that hearings on Class I permits should be held only if required by statute. Further, this section should be modified to recognize that changes to a permit which do not constitute a significant revision are not considered separate permits. This flexibility is essential to permittees whose activities undoubtedly require minor permit revisions over the life of a project.

VI. 22 AAC 10.130: This section as it applies to 22 AAC 10.570(b), provides the means by which a local district may veto a project of overriding State or National interest. Again, we support AOGA's position on this section.

VII. 22 AFC 10.130(d): This section gives an agency the discretion to consider comments not received within the applicable time periods. This section should be amended to provide that an agency shall not consider untimely comments. Such amendment would encourage timely comments and prevent further delays. This amendment would also assure that an applicant does not face imposition of additional conditions in a permit or denial of a permit based on comments to which the applicant has not had the opportunity to respond.

VIII. 22 AAC 10.160: This section does not address the specific findings that are required to be made if a State agency objects to an applicant's consistency certification. (See 15 CFR 930.64) Further, the regulations implementing the federal Coastal Zone Management Act of 1972 allow a State agency to either concur with a consistency certification or object to such certification. The federal regulations do not permit a finding of consistency which is conditioned on the applicant's acceptance of unilateral conditions imposed by the State agency. Section 10.160 should be modified to reflect this intent.

IX. General Comments: To determine the procedures required of an applicant under these regulations requires extensive and confusing references to many different sections of the regulations. Once the applicant has completed this tedious task, the applicant is still unsure at to what procedures are required.

The Federal Coastal Zone Management Act of 1972 and its implementing regulations specifically provide that a State's Coastal Management Program must provide for adequate consideration and protection of the national interest. This protection is found through a balancing of the national interest with other factors. These proposed regulations do not include the national interest as one of the necessary elements which must be included in the balancing process.

Further, these regulations do not acknowledge that when an applicant submits an OCS exploration or development plan, all activities described in detail in those plans are subject to a single consistency determination. (See 15 CFR 930.80) Once a state agency issues a concurrence with an applicant's consistency certification for an OCS plan the individual permits required to effect such a plan are then not subject to further consistency review. These proposed regulations should expressly recognize this important distinction.

Again, we thank you for consideration of our comments.

Very truly yours,

Theresa R. Hebert

Theresa R. Hebert
Pouch 6601
Anchorage, AK 99501
907-263-3772

TRH/acm

February 9, 1981

Jonathan K. Tillinghast, Esq.
Special Assistant Attorney General
Alaska Department of Law
Pouch K
Juneau, AK 99811

Re: Uniform Procedural Regulations

Dear Mr. Tillinghast:

The purpose of this letter is to comment, on behalf of Sohio Alaska Petroleum Company, on the above referenced regulations. Sohio is pleased that efforts toward regulatory reform are being made by the Hammond Administration. We believe this is one of the more substantial problems facing the oil and gas industry in Alaska, affecting both day to day operations and our long term planning processes.

We have set out at the beginning of this letter several general comments. Thereafter follow specific comments relating to specific sections.

A. GENERAL COMMENTS

1. Lack of lead agency concept. Sohio, as an operator of the Prudhoe Bay Field, and as a company conducting substantial exploration in the Arctic, obtains dozens of permits each year from the State of Alaska governing its operations. Primarily, these permits are received from DMEM, although other permits are obtained from other agencies of DNR. We must also obtain permits from the Army Corps of Engineers. We have had substantial problems in obtaining these permits in an orderly and predictable fashion. We believe that the main problem is that the State has no mechanism for determining once, and with finality, the policy or position of the State with respect to any single development. By making comments contrary to the terms of the State's permit issued by DNR on a project through DPDP to the Army Corps of Engineers, many times State agencies have been successful in either obtaining stipulations deviating from the terms of the DNR permits, or at least in substantially delaying the adjudication of the permit by the Corps of Engineers. We believe that the following section should be added to the

regulations to resolve this problem. It is, incidentally, carefully crafted to merge state and federal regulatory procedures in the most orderly fashion possible:

"ADD A NEW ARTICLE 6 AS FOLLOWS:

LEAD AGENCY PROVISIONS

22 AAC 10.600. ESTABLISHMENT OF A LEAD AGENCY. Lead agencies shall be established as follows:

(a) Subject to the terms of these regulations, an agency:

(1) issuing a permit to conduct an activity; or

(2) directly conducting the activity itself;

shall be the lead agency on the matter, with sole authority to issue or withhold its permits and to determine questions of state policy arising out of such activities relating to the desirability of such an activity, to any condition or limitation sought to be imposed thereon, and/or the balancing of competing interests within the State.

Where two state agencies are issuing permits on such an activity, that agency primarily responsible for authorizing the overall activity shall be considered the lead agency for purposes of this section. For instance, if an agency is authorizing a primary activity, except for which authorization the activity would not take place, and another agency is authorizing a phase of such primary activity, then the lead agency is that which is authorizing the primary activity.

22 AAC 10.610. COMMENTS OF OTHER STATE AGENCIES.

(a) All state agencies commenting upon an activity shall address their comments solely to the lead agency.

(b) Comments and recommendations of resource agencies not received by the lead agency within 21 days of notice of the proposed action shall not be considered by the lead agency in taking its action.

22 AAC 10.620. STATE AGENCY COMMENTS AND RECOMMENDATIONS RESPECTING FEDERAL PERMITS.

(a) Where a federal permit is also issued on an activity for which there has been established a lead agency for the State hereunder, the lead agency shall have sole authority to determine on behalf of the State its comments and

recommendations on the matter (including but not limited to its consistency with the ACMP, and stipulations and conditions recommended to be imposed thereon) and to communicate such policy on behalf of the state to the federal agency issuing such a permit.

(b) Where the application of these regulations and federal law will result in two state agencies commenting to a federal agency on a federal permit, the commenting agency which is not the lead agency shall make its comments in a narrow manner, consistent with the requirements of law, so as to give maximum effectuation to the purposes of this article. For instance, where the Department of Natural Resources is authorizing the development on state lands of a drillpad or island which is also subject to a U.S. Department of the Army, Corps of Engineers Section 404 Permit, and the activities to be conducted thereon do not involve discharges not otherwise regulated by state and/or federal law and regulation, DEC's Section 401 Water Quality Certification shall be limited in its scope, consistent with federal law, to the question of the effect of the construction and maintenance of the permitted work upon water quality, and questions of operations conducted thereon shall be reserved to DNR, the lead State agency on the matter.

RENUMBER ARTICLES 6, 7, 8, and 9 AS APPROPRIATE."

2. Resolution of "consistency findings" problems. The present problem of the State of Alaska relating to orderly consistency findings is that, pursuant to Administrative Order 54, DNR completes its own consistency review on matters involving DNR permits. However, confusion arises when the same project (for instance a drillpad) also requires a federal permit, for instance from the Corps of Engineers. The Corps of Engineers will not issue a permit without a consistency review being completed by the State. However, in spite of the DNR consistency review for purposes of the State permit on the same project, the federal consistency review is conducted by DPDP. This gives rise to confusion and disorder. The only possible result of this is delay and the imposition by agencies not primarily involved in the regulation of state activities of inconsistent permit stipulations. The regulations attempt to resolve the problem by allowing DPDP to complete all required DNR consistency findings under certain circumstances. This, in our view, only perpetuates the problems. We believe this problem can be rectified only by making clear that DNR, on behalf of the State of Alaska, conducts all consistency reviews on matters affecting DNR permits. This includes conducting a consistency review on state

permitted matters also permitted by the federal government for purposes of the federal permit, and on federal OCS matters not otherwise permitted by the State. We believe the following changes should be made:

22 AAC 10.510 should be changed to read as follows:

"22 AAC 10.510 CONCLUSIVE CONSISTENCY DETERMINATIONS ON [ACTIVITIES INVOLVING ENVIRONMENTAL IMPACT STATEMENTS AND] ACTIVITIES OCCURRING ON THE OCS. [When a direct federal activity or a federal permit or license necessitates preparation of an Environmental Impact Statement under 42 USC § 4332, the Office of the Governor, Division of Policy Development and Planning, will perform the consistency review for the activity, permit or license under 16 USC § 1456 (c).] The [Office of the Governor, Division of Policy Development and Planning] [division] will [also] conduct the [consistency] determination for activities [not otherwise covered by these regulations.] occurring on the Outer Continental Shelf adjacent to Alaska.] Subject to SECS. 500 and 580 of this chapter, no other consistency determination will be made for state or federal law purposes on the activity by a state agency.

22 AAC 10.520 shall be changed as follows:

22 AAC 10.520. CONCLUSIVE CONSISTENCY DETERMINATIONS INVOLVING DISPOSALS OF INTSRESTS IN STATE LANDS AND PLANS OF OPERATIONS. [Except as provided in Section 510 of this chapter] [c] [C]onsistency determinations on disposals of an interest in state land [or on operations conducted on the Federal OCS] will be performed by the Department of Natural Resources... (the remainder of the section remains the same).

22 AAC 10.540 shall be changed as follows:

(a) (4) State plans [, programs] and studies developed by or affecting more than one state agency if no lead agency has been designated [hereunder or] by statute or executive action;

(a) [5) Federal activities for which there are no state permits or other approvals required [at the current level of detail]; and... (b) except as provided in SECS. 510-530 of this chapter, consistency determinations for other direct state and federal activities will be made by the [appropraite] [acting] state agency.

22 AAC 10.550 shall be changed as follows:

22 AAC 10.550. CONSISTENCY DETERMINATIONS ON OTHER ACTIVITIES. (a) For activities not covered by SECS. 510-540 of this chapter, consistency determinations will be made by state agencies in the course of otherwise required permit review, and [, if there is no such otherwise required permit review,] by the division for the purposes of 15 CFR §930.

3. Local veto over state consistency determinations. The operation of Section 570(b) when viewed in the context of Section 130 and the definitional sections, relating to the terms "great weight" and "primary agency of expertise", give rise to a virtual veto power over the issuance of state permits held by local governments. While we have communicated separately on this matter, the problem is as follows: Under Section 570(b), for purposes of consistency determinations, Coastal Resource Districts (usually local government bodies) are considered to be "resource agencies". "Resource agencies", under Section 130, are to comment on state issued permits. Their comments are to be given "great weight" under Section 130. The term "great weight" is defined in the definitional section as "deference" unless the weight of the administrative record is against the opinion. The "great weight" that the local governmental body is given is, of course, limited to "primary area of agency expertise". However, with reference to Coastal Resource District which has drawn up Coastal Zone Management Plan under the State of Alaska statutes and regulations, the only conceivable area of "primary agency expertise" is in that plan. On this matter, the local government is to be given "deference". If, therefore, a local government feels that an activity to be conducted on state lands pursuant to state permits is inconsistent with the local plan, the views of that government will be given "deference" and the state thereby loses control of the management of state lands. We believe this problem can be rectified as follows:

"22 AAC 10.570 shall be changed as follows:

DELETE SUBSECTION (b).

22 AAC 10.920 shall be amended as follows:

22 AAC 10.920. DEFINITIONS. AS USED IN THIS CHAPTER:

(12) "Resource agency" includes the departments of Environmental Conservation, Natural Resources, and Fish and Game, and the Office of the Governor, Division of Policy Development and Planning. [For purposes of Section 570 of these regulations, the term also includes all state agency

members of the Coastal Policy Council.]"

4. Establishment of new and complex procedures. We do not believe that there has been demonstrated any need to deviate so substantially from the existing simple procedures relating to DNR permits. As you may know, the requirement of a state permit for the conduct of surface operations on state oil and gas leases, where there is involved state owned surface lands, is found completely, at the present time, on the early 1960's lease forms which provided that there would be placed "wildlife stipulations" on such activities as were appropriate. Other than that, there has never been in the past a regulatory mechanism set up to govern surface operations. Moreover, in view of the fact that this involves primarily a relationship between the lessor, the State of Alaska, on the one hand, and the lessee (Sohio or any other relevant company), on the other hand, and because a public interest review of the lease has been conducted prior to the sale pursuant to AS 38.05.035(a)(14), substantial public involvement has never been pursued in the past. Moreover, we are not familiar with any complaint from the general public that they have been excluded. The state has been careful, in the conduct of its informal procedures governing this conduct of surface operations, to protect the public interest by including the concerns of the relevant resource conservation agencies of the State of Alaska, and of local governments.

This, however, has changed under the new regulations. Substantial, new, and complex procedures are created by these regulations. Complicated public notice provisions are created. Public hearing rights are created, where previously there were none. As well, complex and lengthy appellate procedure mechanisms are created as well. None of this has existed in the past. To impose upon us, at this point, with the intent of "reforming" the regulatory mechanism, such new and complex procedures seems incongruous at best. We believe that the entire matter of public notice, public participation and hearing, and public appeal rights should be made applicable to any particular permit program at the express option of the relevant resource agency, and only to the degree necessary to achieve the purposes of that agency as are appropriate under the circumstances. We believe that this should be done with an eye to maximizing final decision making at the outset by these departments (by making most decisions be made by the commissioners so that little if any opportunity for administrative exhaustion remains) in order to simplify the bureaucratic morass which can be created by the existence of many administrative appeals.

5. Complexity of administration and susceptibility to challenge by lawsuit. Apart from the matters discussed above, the new regulations create other procedures which will be difficult to

administer and which invite litigation. For instance: (a) the interagency review section, 22 AAC 10.130, and the relevant definitions, found at 22 AAC 10.920(4), (7) and (9) are unduly complicated. We understand that these regulations were created under a requirement of consensus among the various agencies on the matter. However, we believe that what has been created here will serve as an albatross around the neck of orderly administration by the State of Alaska because the complicated structure of the new interagency relationships established in these sections is a new and very obvious target for litigation. The question of what part of any decision involves balancing, what part of a decision is to be based upon the opinions of agencies which are accorded "great weight", and when is a commissioner's balancing decisions made contrary to the recommendations of a "resource agency", whose decisions are accorded "great weight", improper and/or arbitrary and capricious, are matters only capable of resolution in Court. This section will likely give rise to the same sort of endless, dilatory procedural litigation as that created by NEPA. We believe that this section as drafted is unreasonable in its effect and should be amended to read in its entirety as follows:

> "An agency issuing a permit is the lead agency on that permit and may, in its discretion, consider the recommendations on the matter of other agencies, giving due weight to their opinions based on their relevant expertise."

The proposed amendment has much the same effect as the present Section 130 and the relevant definitions, but does not create a broad spectrum of complex interrelationships and carefully defined terms. It rather relies upon the general concept of agency discretion, the limits of which and the definition of which are already understood by the judiciary.

Another example of the unnecessary complexity and susceptibility to litigation created in the regulations is 22 AAC 10.160. This section requires there to be three different sorts of findings appended to <u>every</u> permit issued by <u>any</u> of the four agencies subject to the regulations. Subsection 1 requires findings on the activities compliance with the agencies applicable standards; subsection 2 requires findings supporting the decisions; subsection 3 requires a reply to any resource agency recommendation under Section 130 and to any "significant and material recommendation" made at a public hearing. There are three affects of this section. First, it is highly repetitive. All three subsections can easily be addressed in one statement respecting findings. Second, it is not necessary in all cases. The State issues hundreds of permits each year, and only a few require findings. Third, the effect of subsection (3) is to

invite litigation. "Any" resource agency recommendation or "any significant and material" recommendation of a member of the general public made at a hearing must be replied to; if there is the slightest omission (even in the mind of some potential and unreasonable litigant litigation will result and the decision is in doubt. In order to avoid this, we believe that the entire subsection should be deleted and Section 160 should be rewritten as follows:

> "22 AAC 10.160 AGENCY DECISION. The agency decision will meet the requirements of Section 60 of this chapter and will contain, in the discretion of the deciding officer, findings which support his decision. These findings may include a statement of the basis for the acceptance or rejection of any recommendation or comment received by the deciding agency on the matter."

Again, this section, as we propose to rewrite it, relies upon well understood notions of discretion.

B. SPECIFIC COMMENTS.

1. Article I--General provisions. This article relates generally to establishing the parameters of the chapter.

(a) Section .020. We believe the concept of "extraordinary circumstances" should be introduced before any deadline for the issuance of permits can be extended. Otherwise, the opportunity for manipulation of the process (even, under subsection (3), with the apparent consent of the applicant) is obvious.

(b) Section .030. If the notion is to be introduced into these regulations that time limitations do not begin to run until a "completed permit application" is received, and the deciding officer is vested with the discretion to find that otherwise regular permit applications do not contain sufficient information to allow him to make a decision, then very clear parameters of what is required must be established in the relevant agency regulations to avoid abuse or misunderstanding under this section.

(c) Section .040. This section establishes in subsection 1 as follows:

> "... all permit applications must be signed ... in the case of corporations, by a duly authorized representative responsible for the overall management of the project or operation...."

This is an unduly restrictive requirement. Traditionally, Sohio's applications for permits from the State have been signed

by our local land manager. There has never been a problem with this in the past, and we see no reason to deviate from this practice now. Obtaining the signature of a person "responsible for the overall management of the project or operation" can, given the spectrum of activities administered by Sohio, cause significant problems, particularly with reference to major projects and operations. The "overall manager" should be able to delegate his authority.

(d) Section .050 and .060. Our comments on this section, relating to public hearings, and appeals, as they relate to DNR permits has been made above in (A)(4).

(e) Section .085. This section provides for the creation of a memoranda of understanding with federal agencies, which can, by their terms, modify the time limits established by the article. We strongly believe that a memorandum of understanding should be drafted consistent with the time limits of this article, and that all existing memoranda of understanding should be revised to reflect the time provisions of article 1. While, of course, the State cannot control the timing of federal agencies, the State should provide in its regulations that it will complete all activities required under such memoranda of understanding within the time limitations imposed under this article.

2. Article 5. Consistency determinations. Comments on Article 5 have been made above in Section (A)(2) of these comments. However, a matter not addressed there is the application of Section 10.580, which provides that an activity which requires, for instance, a DNR permit and also a federal permit, and the federal permit is applied for before the state permit, that DPDP will do the consistency certification. We believe this is entirely inappropriate. If the matter is clearly one regulated by DNR, then DNR should do the consistency determination for purposes of the federal application, whether a DNR permit has been timely applied for or not. It is clear that a DNR consistency certification will be completed for purposes of the state permit in any case, and therefore this suggested change avoids duplication.

3. Article 6 and Article 8. Appeals provisions. As stated above, in Section (A)(4) of these comments, we believe these provisions are inappropriate for application by all agencies, in all instances, and should be deleted or made optional.

4. Article 9. Definitional section. Parts of the definitions have been discussed above, in Section (A)(2), (3), and (5) of these comments. However, apparently appended to this article 9 on page 14, are found two other provisions. These purport to amend sections of regulations not otherwise the subject of these

uniform procedural regulations. One is objectionable. It is an amendment to 6 AAC 80.900(20), the Coastal Policy Council adopted definition of the term "feasible and prudent". This attempt to change this term is totally inappropriate, because it does not relate in the least to uniform procedural regulations.

Moreover, this change, each time it has been attempted made before the Coastal Policy Council, has generated substantial controversy. The present definition of "feasible and prudent" has been revised carefully to embrace and balance the concerns of the Coastal Policy Council (which is made up of both state agencies and local governments), and of the general public, which includes the oil industry and environmental groups. Changing the definition of the term "feasible and prudent" in the manner attempted here would substantially deviate from the definition of that term adopted by the Coastal Policy Council, which appropriately includes the concept of economic practicability as well as the feasibility of alternative sites. The Friends of Overton Park v. Volpe definition of "feasible and prudent" found in the proposed amendment was adopted with an eye to government programs, carried out and paid for by government agenices, and to whom profit and loss is not important. Thus, the absence of a cost factor involved in the definition of the term is appropriate. However, because the Coastal Policy Council definition, in quite a different situation, involves government regulation of private enterprise (and even homeowners), the introduction of the notion of financial practicability is of the utmost importance. For all these reasons, we believe that this change should be deleted from the regulations. Failure to do so will result in the involvement of these regulations in substantial controversy well beyond their stated purpose, which could jeopardize the Uniform Procedural Regulations.

We thank you in advance for your consideration of these comments. If I can be of further assistance, please do not hesitate to call or write. Kindest personal regards.

Sincerely,

James D. Linxwiler

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COMMENTS OF TEXACO INC.
ON
PROPOSED REGULATIONS
OF THE
DEPARTMENTS OF NATURAL RESOURCES,
ENVIRONMENTAL CONSERVATION
FISH AND GAME, AND THE OFFICE OF THE
GOVERNOR, DIVISION OF POLICY
DEVELOPMENT AND PLANNING

MY NAME IS ETHEL H. NELSON AND MY POSITION IS ADVANCED EXPLORATION LAND REPRESENTATIVE FOR TEXACO INC. WE APPRECIATE THE OPPORTUNITY TO APPEAR AT THIS HEARING AND EXPRESS OUR VIEWS CONCERNING THE PROPOSED UNIFORM PROCEDURES FOR PERMITS, CONSISTENCY DETERMINATIONS AND APPEALS. WE COMMEND THE DEPRATMENTS FOR THEIR EFFORTS TO STREAMLINE THE APPROVAL OF VARIOUS STATE PERMITS AS WELL AS THE COASTAL MANAGEMENT DECISION-MAKING PROCESS. WE CAN APPRECIATE THE LONG HOURS SPENT BY THE STAFFS OF THESE DEPARTMENTS AND THE DEPARTMENT OF LAW OVER THE PAST YEAR AND A HALF OR SO.

WE WOULD LIKE TO PREFACE OUR REMARKS T NIGHT WITH THE STATEMENT THAT MOST OF OUR CONCERNS WITH THE REGULATIONS ARE THAT PROCEDURES FOR THE PROCESSING OF PERMITS ARE BEING APPLIED TO PLANS OF OPERATIONS INVOLVING OIL, GAS, COAL AND OFFSHORE MINING ACTIVITIES. THESE ACTIVITIES ARE APPROVED PURSUANT TO LEASES AND PERMITS ALREADY ISSUED BY THE STATE, AND ARE SUBJECT TO THE INTERAGENCY REVIEW PROCESS SET UP BY MOU'S BETWEEN THE DECIDING AGENCY AND THE COMMENTING AGENCIES. WE STRONGLY OBJECT TO THE INCLUSION OF PLANS OF OPERATIONS IN PROCEDURES THAT MAY BE APPROPRIATE (WITH MODIFICATIONS) FOR ISSUING PERMITS BUT WHICH ARE NOT APPROPRIATE FOR APPROVAL OF PLANS OF OPERATIONS. WE BELIEVE THAT THESE TYPES OF ACTIVITIES SHOULD BE EXCLUDED FROM THESE REGULATIONS AND CONTINUE TO BE ADMINISTERED UNDER EXISTING MOU'S AND PROCEDURES OR UNDER SEPARATE

REGULATIONS WRITTEN TO IMPLEMENT THE EXISTING PROCEDURES. WITH THIS IN MIND, I WILL READ OUR GENERAL COMMENTS REGARDING THE PROPOSED REGULATION.

ON DECEMBER 5, 1980, GOVERNOR HAMMOND HELD A PRESS CONFERENCE IN WHICH HE STATED THAT HIS ADMINISTRATION WAS WORKING ON UNIFORM PROCEDURES FOR PERMITS WHICH WOULD ESTABLISH THE SHORTEST FEASIBLE DEADLINE FOR THE ISSUANCE OF STATE PERMITS FOR NATURAL RESOURCE DEVELOPMENT; ESTABLISH UNIFORM PERMIT PROCEDURES; DEFINE THE RIGHTS OF THE APPLICANT AND OTHER PERSONS IN THE PERMITTING PROCESS; AND STREAMLINE THE STATE'S COASTAL MANAGEMENT [illegible]SION-MAKING PROCESS.

THESE GOALS WERE STATED AGAIN IN THE EXECUTIVE SUMMARY WHICH ACCOMPANIED THE FINAL DRAFT OF THE UNIFORM PROCEDURAL REGULATIONS WHICH ARE THE SUBJECT OF THIS HEARING TONIGHT.

WHILE THE PROPOSED REGULATIONS ACCOMPLISH A GREAT DEAL IN SOME AREAS, UNFORTUNATELY THEY DO NOT TOTALLY ACCOMPLISH THE GOVERNOR'S STATED GOALS.

IN AN ATTEMPT TO SIMPLIFY THE CURRENT PERMITTING PROCESS, THE STATE HAS PROPOSED VOLUMINOUS REGULATIONS WHICH WILL, IF ADOPTED, CREATE COMPLICATED NEW REQUIREMENTS THAT DO NOT PRESENTLY EXIST, SUCH AS PUBLIC NOTICE, HEARINGS AND ADMINISTRATIVE APPEAL PROCEDURES FOR APPROVAL OF PLANS OF OPERATIONS.

IN SECTION 22 AAC 10.020, FOR EXAMPLE, A DEADLINE FOR APPROVAL IS SET AT 30 AND 65 DAYS RESPECTIVELY FOR CLASS I AND CLASS II PERMITS, WHICH SOUNDS ENCOURAGING UNTIL YOU READ ON. THE SAME SECTION, (1) THROUGH (4), LISTS THE MANY ARBITRARY WAYS IN WHICH THESE DEADLINES CAN BE EXTENDED WITHOUT PLACING A TIME LIMIT ON THE EXTENSIONS.

22 AAC 10.40 SPECIFIES THAT A PARTICULAR CORPORATION EMPLOYEE MUST SIGN THE PERMIT APPLICATION FOR A CORPORATION, BUT ALLOWS FOR ANY EMPLOYEE OF OTHER APPLICANTS TO SIGN, INCLUDING GOVERNMENT AGENCIES. "ANY DULY

AUTHORZED EMPLOYEE" SHOULD BE ALLOWED TO SIGN FOR CORPORATIONS ALSO.

SECTION 22 AAC 10.50 ESTABLISHES THE NEW TIME-CONSUMING PROCEDURE FOR ORAL PUBLIC HEARINGS ON, AMONG OTHER THINGS, PLANS OF OPERATIONS FOR OIL AND GAS LEASES THAT HAVE ALREADY BEEN SUBJECT TO EXTENSIVE NOTICE AND REVIEW (INCLUDING PUBLIC HEARINGS) AT THE TIME OF THE LEASE SALE.

SECTION 22 AAC 10.130 INDICATES THAT A "COMMENTING AGENCY" COULD RECOMMEND DENIAL OF APPROVAL OF A PLAN OF OPERATIONS, FOR EXAMPLE, TO BE CONDUCTED ON AN OIL AND GAS LEASE, A COAL LEASE OR A MINING LEASE. IN THESE INSTANCES THE STATE HAS ALREADY ENTERED INTO A CONTRACT WITH THE APPLICANT IN THE FORM OF A LEASE, IN WHICH THEY WERE GRANTED THE RIGHT TO EXPLORE FOR AND EXTRACT THE OIL, GAS AND COAL FROM THE LANDS COVERED THEREBY. THIS WOULD CLEARLY BE A BREACH OF CONTRACT ON THE PART OF THE STATE. REVIEW AGENCIES SHOULD BE INSTRUCTED BY THE DECIDING AGENCY TO REVIEW THE PLAN OF OPERATIONS FOR CONSTRUCTIVE RECOMMENDATIONS WHICH WILL ACCOMODATE PROBLEMS OR POTENTIAL PROBLEMS RELATIVE TO THAT AGENCIES' RESPONSIBILITIES. IT SHOULD BE MADE CLEAR THAT DENIAL IS NOT AN OPTION.

22 AAC 10.500 CONTAINS SEVERAL DISTURBING FEATURES. SECTION 500 (a) TELLS US THAT ONE CONSISTENCY DETERMINATION WILL BE MADE FOR ANY COASTAL ACTIVITY REQUIRED TO BE CONSISTENT WITH COASTAL MANAGEMENT GUIDELINES, AND WE AGREE THAT THIS IS A COMMENDABLE IDEA. HOWEVER, SECTION 500 (b), DESPITE BEING UNINTELLIGIBLE, SEEMS TO QUALIFY THE IDEA EXPRESSED IN 500 (a), WHILE 500 (c) RATHER CLEARLY TELLS US THAT ANY SUCH COASTAL ACTIVITY MAY BE SPLIT INTO ADDITIONAL CONSEQUENTIAL ACTIVITIES WHICH MAY OR MAY NOT BE COVERED BY THE INITIAL CONSISTENCY DETERMINATION. IN OTHER WORDS, THE DECIDING AGENCY APPARENTLY HAS THE OPTION TO HALT CONSEQUENT ACTIVITIES THROUGH REAPPRAISAL OF IT'S PRIOR DETERMINATION ON THE BASIS OF NEW INFORMATION WHICH WAS NOT AVAILABLE AT THE PRIOR STAGE.

SECTION 570 (b) RAISES A SERIOUS QUESTION REGARDING THE AUTHORITY OF THE DECIDING AGENCY TO GRANT A CONSISTENCY DETERMINATION. THIS SECTION STATES THAT A COMMENTING "RESOURCE AGENCY" INCLUDES "ANY COASTAL RESOURCE DISTRICT WITH AN APPLICABLE AND APPROVED COASTAL MANAGEMENT PLAN UNDER AS 46.40." SECTION 130 (c) STATES THAT "GREAT WEIGHT" WILL BE ACCORDED TO COMMENTS OF THE OTHER RESOURCE AGENCIES SOLICITED BY THE DECIDING AGENCY IF THE MATTER IS IN THEIR PRIMARY AREA OF EXPERTISE. SECTION 920 (7) DEFINES "GREAT WEIGHT" AS DEFFERENCE, UNLESS THE ASSERTION IS CONTRARY TO THE WEIGHT OF FACT OR OPINION IN THE ADMINISTRATIVE RECORD. WE EXPECT THAT THE LOCAL GOVERNMENT OF A COASTAL RESOURCE DISTRICT WILL CLAIM TO HAVE PRIMARY EXPERTISE IN ANY ACTIVITY AFFECTING THEIR LANDS, AND WE BELIEVE THAT THIS SECTION CAN BE USED TO VETO PROJECTS OF STATE CONCERN WHICH ARE OPPOSED BY THE COASTAL DISTRICTS.

IN SUMMARY, WE WOULD LIKE TO REITERATE OUR FEELING THAT SEVERAL EXISTING PROBLEMS, ESPECIALLY IN THE AREA OF CONSISTENCY DETERMINATIONS, CAN BE RESOLVED BY THESE PROPOSED REGULATIONS AND WE SINCERELY APPRECIATE THE EFFORTS OF ALL WHO HAD A PART IN WRITING THEM.

THERE ARE OTHER SECTIONS OF THE PROPOSED REGULATIONS WITH WHICH WE HAVE SOME CONCERNS. A DETAILED WRITTEN ALALYSIS OF THE FOREGOING GENERAL COMMENTS AS WELL AS OTHER AREAS OF CONCERN WILL BE SUBMITTED FOR YOUR CONSIDERATION BY FEBRUARY 27, 1981.

AGAIN, WE APPRECIATE THE OPPORTUNITY TO EXPRESS OUR VIEWS AND HOPE THAT OUR COMMENTS ARE HELPFUL.

TEXACO

PETROLEUM PRODUCTS

TEXACO INC.
P. O. BOX 4-1670
ANCHORAGE, ALASKA 99509

February 24, 1981

UNIFORM PROCEDURAL REGULATIONS

Department of Law
Pouch K, State Capitol
Juneau, AK 99811

Attention: Mr. Jon K. Tillinghast
Special Assistant Attorney General

Gentlemen:

Texaco Inc. appreciates the opportunity to comment on the referenced permit regulations of the Departments of Natural Resources, Environmental Conservation and Fish and Game; the Boards Fisheries and Game and the Alaska Coastal Policy Council.

As we stated at the hearing on February 6, 1981, we are opposed to the inclusion of plans of operations in these proposed permit regulations in their present form, primarily because they do not fit well. We would like to reiterate our feeling that plans of operations involving oil, gas, coal and offshore mining activities as well as hardrock mining should be excluded from these proposed regulations and continued to be administered under existing MOU's and procedures or under separate regulations written to implement the existing procedures. We note that hardrock mining operations have not been considered in the proposed regulations and suggest that plans for those activities be covered by the same procedural regulations.

In view of discussion at the February 6 hearing regarding our opposition to the inclusion of plans of operations in these regulations, our comments are a constructive attempt to reword some of the sections to more logically include operations in these regulations.

We also believe that the adoption of the proposed regulations is premature, as the Legislature is considering at least one permitting bill which may require amendment to these regulations. We suggest that work be continued on the regulations in an effort to iron out any problems and to prepare them for adoption, but wait until the Legislature acts on a permitting bill before actual adoption.

We continue to support the department's efforts to establish uniform permit procedures including the streamlining of the coastal zone consistency determination process, and feel that a great deal can be accomplished under these proposed regulations. However, we have concerns regarding some of the proposed sections and offer the following analysis for your consideration:

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22 AAC 10.010. This section says that the agency's regulations will identify permits as Class I or Class II. The Notice of Proposed Changes in the Regulations which accompanied the proposed regulations and the Executive Summary stated that the adoption of this section would designate the permits as either Class I or Class II. We are concerned that neither these regulations nor the agency's regulations designate permit classes. We feel that class designations should be made by amendments to the agency's regulations adopted simultaneously with these regulations or by the adoption of these regulations.

22 AAC 10.020. A maximum time limit for extensions should be stated for (1) through (4) of this section. We suggest that 10 days may be a logical amount of time for both Class I and Class II permits.

22 AAC 10.030. Fifteen (15) days should be sufficient time to notify the applicant of an incomplete application for both classes of permits.

22 AAC 10.040(1). This section should provide for the signature of "any duly authorized employee" of a corporation as in (4).

22 AAC 10.050(a)(1). Hearings should be held only if the statutes require it, or federal law requires it to accomplish a binding consistency determination.

22 AAC 10.050(b)(1). Delete "or, for Class I permits, likely." Hearings should be held on Class I permits only if required by statute. "Likely concern" is not good enough cause for holding a public hearing.

22 AAC 10.060(a)(2). A statement that a person aggrieved by the officer's decision may apply for reconsideration under the provisions of 22 AAC 10.620 through 22 AAC 10.670 of this chapter.

This change is necessary because of recommended changes in the appeal sections of the proposed regulations.

22 AAC 10.060(a). Add a new subsection (3) which would read "(3) If, at the end of the applicable time period the deciding officer has taken no action and the applicant has a proper bond on file, if required, the application is deemed approved and the permit granted pursuant to this chapter.

22 AAC 10.085. In the second sentence, delete the words "which would" and replace them with the words "shall not," end the sentence after the word "chapter" and delete the remainder of the section.

All existing MOU's should be amended to comply with these regulations and any new ones should be written to comply with them.

22 AAC 10.100(d). Replace the words "class A or Class B appeal of the agency's decision is taken," in the first sentence with "application for reconsideration is made."

This change is necessary because of recommended changes in the appeal sections of the proposed regulations.

22 AAC 10.120(c). This section should provide for a copy of the notice to be sent to appropriate local governments. We could never be sure that we know all the units of local governments claiming jurisdiction.

22 AAC 10.130(b). Add "except in the case of plans of operations" between "permit" and "or" in the middle of the second sentence.

The commenting agencies should be instructed by the deciding agency to review the plan of operations and make constructive recommendations which will accommodate problems or potential problems in their respective areas of responsibility. It should be made clear that denial is not an option where plans of operations are concerned. The right to explore for and to develop discoveries has already been granted by the state.

22 AAC 10.130(c). Delete the words "accord great weight to" in the first sentence and replace them with "consider the."

22 AAC 10.160(3). The issuing decision is not the place for explaining why resource agency recommendations were rejected. A separate document between the deciding agency and the commenting agencies could accomplish this without cluttering up the decision.

22 AAC 10.500(c). Delete this subsection. Section 500(a) provides that one consistency determination for each activity will be made; (b) explains that subsequent activities still need a consistency determination, even where a prior related activity had been given a determination, which is okay. However, (c) allows the deciding agency to go back and reappraise a prior determination based on new information which was not available at the prior stage. This could be dangerous. We are concerned that an activity that has been granted consistency with the ACMP may be cancelled through a non-consistent determination made for a necessary consequent activity. This could stop a project already well along toward completion by a retroactive non-consistency determination. A project should be found either consistent or non-consistent with ACMP at the outset.

22 AAC 10.510. Add the words "except pertaining to state oil and gas leases" between "42 U.S.C. § 4332" and "the office of the . . . ."

This change is to clarify that the Department of Natural Resources is responsible for consistency determinations on disposals of interest in state lands, including environmental impact statements or federal permits requiring an environmental impact statement.

22 AAC 10.520. Add the words "including a joint state/federal oil and gas lease sale where an environmental impact statement is required" at the end of the first sentence. Add the words "including associated federal permits requiring an environmental impact statement" at the end of the second sentence.

This change is for the same reason as 510.

22 AAC 10.550. Delete (a) and (b).

These subsections provide for two consistency determinations on "other activities" which is not in keeping with the stated intent of these regulations.

22 AAC 10.550(c). We suggest that the term "de minimus" be replaced by the word "minor," minimum," "trifling" or some other easily understood term. Not everyone reading these regulations are attorneys nor do they all have access to Black's Law Dictionary.

22 AAC 10 570(b). Delete this subsection and add "all state agency members of the Coastal Policy Council" to the definitoin of "resource agency" in .920(12).

22 AAC 10.580. Change this section to read: "When an activity requires more than one permit, the applicant, in order to obtain a conclusive determination under Secs. 510-540 of this chapter, should apply for the appropriate permit under those sections prior to or at the time of application for any other necessary federal permit or license. If an applicant applies for a federal license or permit prior to applying for a state permit which would provide the proper forum for a conclusive consistency determination under Secs. 510-540 of this chapter, the designated lead agency may render a consistency determination which is limited to the scope of the activity contemplated by the federal license or permit and contingent upon the issuance of an ultimate conclusive consistency determination. Thereafter, an applicant may either submit application for additional federal licenses or permits and obtain further non-conclusive consistency determinations, or may apply for the appropriate state permit under Secs. 510-540 and obtain a conclusive consistency determination."

As proposed, this section could require an applicant to submit all applications simultaneously, which would be cumbersome, if not impossible in some cases.

22 AAC 10.600 through 22 AAC 10.860. In general, the appeal procedures are too complicated and time consuming. We suggest that Sections 22 AAC 10.600 through 22 AAC 10.860 be deleted and replaced by the procedures set out in Chapter 83 of the Oil and Gas Leasing Regulations be used with some modifications, as follows:

22 AAC 10.620. Reconsideration. (a) Within fifteen (15) days after the receipt of the agency decision, the applicant may file a request for reconsideration to the director if the action was taken without the advance approval, consent or concurrence of the commissioner, or to the commissioner, if he had approved, consented to or concurred with the decision in advance of its issuance.

22 AAC 10.630. Judicial Appeals. A decision or other action of the division, the director or the commissioner becomes final for purposes of an appeal to the superior court 30 days after delivery in person or by certified mail or registered mail, or as provided By applicable provisions of the Administrative Procedures Act.

22 AAC 10.640. Applications for Reconsideration. An application for reconsideration or an appeal must be filed with the deciding agency and must contain the following information:

(1) A clear and concise statement of the material factual issues proposed for reconsideration;
(2) A statement on how the decision will injure the applicant; and
(3) A statement of intent to file a brief, if applicable.

22 AAC 10.650. Briefs. Written briefs in support of an application for reconsideration or appeal may be filed with the division within 20 days after the filing of the application. The intention to file a brief must be specified in the application for reconsideration or appeal.

22 AAC 10.660. Oral Argument. Oral argument may be allowed at the discretion of the officer who is to reconsider the action if written request for it is filed with the division within the time allowed for filing written briefs.

22 AAC 10.670. Notice of Decision. Following reconsideration of any action or final decision on appeal, the applicant will be given notice of the decision reached, specifying whether the action is affirmed, reversed, or modified, and if the last, the details of the action as modified.

22 AAC 10.820(a). In the event that section 22 AAC 10.820(a) is not deleted, we are concerned that it says that the appellate officer will be designated by the regulations of the agency hearing the appeal. We are not aware of proposed amendments to the agency's regulations to accomplish this. We feel that designations of appellate officers should be made by amendments to the agency's regulations adopted simultaneous with these regulations or by the adoption of these regulations.

22 AAC 10.900(a). Delete the reference to "sec. 620" and replace it with "sections .620 through .670."

This is to accommodate the recommen changes in the appeal sections of the proposed regulations.

22 AAC 10.900(b). Delete the first part of the first sentence to the first comma. Start a new sentence beginning with "A copy of all matters and proof of service . . . ."

22 AAC 10.920(3). Add "except where otherwise required by the agency's regulations," between the words "means" and "an" in the first sentence.

This suggestion is made to accommodate the fact that applications for approval of plans of operations are not made on a form, but are prepared in accordance with the requirements of the proposed leasing and unitization regulations currently being considered for adoption.

22 AAC 10.920(7). Change "deference" to "serious consideration." Yielding to the opinion of other resource agencies would in effect make them the "deciding agency" rather than the agency responsible for the issuance of the permit.

22 AAC 10.920(12). Add a sentence at the end of this section to read "For the purposes of .570 of these regulations, the term also includes all state agency members of the Alaska Coastal Policy Council." This sentence is lifted from .570(b).

6 AAC 80.900(20). We recommend deletion of this section as well as section 6 AAC 80.010(b) because they are not subject to these uniform procedural regulations. Further, the attempt to amend .900(20), in the past has created considerable controversy, and most likely will again, with the possibility of jeopardizing the uniform procedural regulations. As proposed, the definition would not give consideration to economics which is important in determining if an issue is "feasible and prudent."

Finally, we would like to express our concern regarding the proposed Land Use Regulations, Chapter 65 and the proposed Miscellaneous Land Use Regulations, Chapter 96; how they relate to each other and to these uniform permit regulations. We would appreciate any information available as to the status of these chapters.

Again, we appreciate the opportunity to comment on these proposed regulations and hope that our comments will be helpful. If you have any questions, please do not hesitate to call or write.

Very truly yours,

TEXACO Inc.

Ethel H. Nelson

Ethel H. Nelson
Advanced Exploration Land Representative

EHN:bjs

cc: Mr. Glenn Harrison, Director, DNEM

TO: The Honorable Jay S. Hammond
Governor
State of Alaska

DATE: April 22, 1921

FILE NO:

TELEPHONE NO:

FROM: Robert E. LeResche
Commissioner
Department of Natural Resources

SUBJECT: Uniform Procedures for Permits, Consistency Determinations, and Appe

For purposes of the meeting scheduled Friday, April 24, to finalize regulations on uniform procedures, I am setting out my comments on the draft distributed March 26 together with the memorandum by Jon Tillinghast dated April 13. This program has generated much interest among the legislature, industry, and public interest groups. As has been true throughout, my comments are for the purpose of assisting you in obtaining a permit reform program which (1) achieves genuine deregulation, (2) maximizes certainty as to the respective authorities of state agencies, and (3) provides a practical and workable product to increase efficiency in State government.

I continue to have objection to four provisions of the draft regulations, which are as follows:

1. Proposed Sec. 22 AAC 10.050(b) lists the factors to be considered in determining whether to hold a hearing on a permit application. With respect to paragraph (5), earlier drafts spoke only to the possible delay in the starting date of a project. The most recent draft places the delay factor in the context of "the likely impacts of the project". Since any major project will undoubtedly have significant impacts, the addition of this phrase effectively eliminates delay as a consideration in deciding not to hold a public hearing on major projects.

2. Proposed Sec. 22 AAC 10.570(g) provides for monitoring of consistency determinations by DPOR. I have no objection to the concept of monitoring, nor to formal amendment of the regul setting forth the coastal management standards if it is the opinion of the cabinet that the standards are not accomplishing desired results. However, formal recommendations for, and the issuance of, "interpretations" of coastal management standa by one agency based on the case history of consistency determin made by another agency troubles me greatly. Regardless of the provision in paragraph (g) that such binding interpretations are prospective only, the analysis leading to said recommendati and interpretations will amount to a formal post mortem of decisions already made by State government. While paragraph(g) states that such interpretations may not serve as the basis for an appeal of a consistency determination, consideration of facts affecting the coastal zone is inherently part of the "best inter decision DNR makes prior to the disposition of any interest in land (which is not protected from appeals by these regulations)

As a result, I expect that recommendations and interpretations generated under this paragraph will, as admissions against interest by State government, serve as the basis for litigation challenging oil and gas lease sales, timber sales, land disposa and other dispositions by this Department.

It seems to me that the alleged need for paragraph (g) carries with it the implication that administrative orders on major project review and oil and gas leasing, the state clearinghous procedure, and the interagency review provisions of these regulations are inadequate. Moreover, I see no reason why DPDP cannot perform an informal monitoring function without memorializing it in a regulation.

3. Proposed Sec. 22 AAC 10.570(h) speaks to the preceden value of consistency determinations made by DPDP prior to the effective date of these regulations. It goes without saying that the State should not change its interpretation of any laws or regulations without good reasons. Why, however, is it necessary to state this objective in regulatory form only for the Coastal Management program? Moreover, I can virtually guarantee that private organizations of any philosophy may use this provision to challenge any consistency determination on the grounds that it is not consonant with a consistency determination made on a similar subject previously.

4. The memorandum of April 13 authored by Jon Tillinghas suggests changing the language regarding rebutting of comments submitted by other agencies from "burden of moving forward" to "burden of proof". In order to protect the legality of an oil and gas lease sale, land disposal, or other disposition of land interests, this change will require DNR to (1) assume in nearly all cases that an agency comment is within their primar area of expertise, and (2) disprove every comment submitted wh we do not agree with individually and with a preponderance of the evidence. Moreover, every attempt by DNR to do this will be subject to judicial examination in the context of any litig filed, and I expect this will become a common occurrence. I would strongly urge that the phrase "burden of moving forward" be used, which requires us to respond to comments but does not establish formal standards of proof.

Overall, I continue to have reservations about the overall complexity of these regulations, considering that they must be followed to the letter by literally hundreds of state emplo in order to avoid committing a procedural error rendering a pr legally vulnerable. As you know, a number of groups have made a profession out of instituting litigation against a project o procedural grounds when their real objection is to the project itself; such litigation may delay or cancel a project without the advisability of the project ever being actually considered

by the judge. Since the complexity of these regulations is largely attributable to the provisions implementing the Coastal Management Act, I continue to have doubts about the desirability of this legislation as I expressed in an earlier memorandum.

Nevertheless, there are many laudable portions of these regulations which will have a beneficial effect on the efficiency of State government. Moreover, this is the first permit reform project which has reached the point of having a conclusion. I ask that the serious deficiencies in the draft regulations outlined above be reviewed, but I will abide by the consensus of the cabinet on the final result.

MEMORANDUM State of Alaska

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINERALS & ENERGY MANAGEMENT

TO: Robert E. LeResche,
Commissioner

DATE: January 2, 1981

FILE NO:

Geoffrey Haynes
Deputy Commissioner

TELEPHONE NO: 276-5113

FROM: Glenn Harrison
Director

SUBJECT: Personnel Requirement, Uniform Permit Procedure December 9, 1980 Draft

Personnel requirements necessary to administer the Uniform Permit Procedures are estimated below. The method used in the calculation is clearly presented. The results of the estimation are in addition to the two people request associated with the proposed unit and plan of operation regulations.

The estimate is organized into four topics: analysis of 1980 data; projection of 1980 data to 1981; identification of procedures not presently used which will become necessary with this formal method and percent of applications affected; calculation of personnel requirements.

I. ANALYSIS OF APPLICATIONS RECEIVED AT DMEM IN 1980:

Total Processed: 340

TYPE	OIL AND GAS	MINING
Class I	119	81*
Class II	134	6

* There was an increase in 1980 of 13,500 mining claims, bringing total claims to 35,000. If only 10% of those 1980 claims file MLUP Class I applications this spring - and the proposed regs would require 100% to file - 1350 applications at a minimum could be expected. Average processing time per application was estimated by the LMT that has sole responsibility for processing this type of application at 8 hrs each. Using 4 hrs * 1350 applications = 5,400 hours. An estimate of 1750 hours per man per year yields 3+ positions. These positions were already requested in the 1982 budget.

Determination of Mean time for processing applications in 1980:

Petroleum Engineer	1750 hours
Coastal Zone Management	1750
Land Management Technician	1750
Petroleum Geophysicist	1000
Total processing time for 1980:	6250 hours

$\frac{6250 \text{ hr}}{340 \text{ applications}}$ = 18.4 hours per application
mean processing time

II. PROJECTION ESTIMATE FOR APPLICATIONS IN 1981.

Estimate: 390-460 applications

* * See attached graph * *

Note: This ignores the increase in mining MLUP activity noted earlier.

III. IDENTIFICATION OF PROCEDURES NOT PRESENTLY REQUIRED AND ASSOCIATED ESTIMATES.

- Give written notice to applicant within 15 days or 30 days if additional information is necessary.
  Percent applications affected: 50%
  Time: * 1 hour Net Effect: 1 hr x 0.50 = 0.5

* Time includes researching, writing, typing, proofing and final copy preparation.

- Establish and keep track of deadlines, starting and stopping the deadline clock (sec. 30 & throughout)
  Percent applications affected: 100%
  Time: 1 hour Net Effect: 1 x 1.00 = 1 hr

- Determine whether to hold a hearing & carry out decision, notify applicant (sec 50).
  Percent applications affected: 10% (see attached list of 1980 applications where some 30 applications out of the 340 considered controversial have been highlighted)
  Time: 4 hours Net Effect: 4 x 0.1 = 0.4 hr

- Serve a copy of permit decision on applicant, resource agencies or anyone who has submitted request for it (sec. 60)
  Percent applications affected: 100%
  Time: 1 hour Net Effect: 1 x 1.0 = 1 hr

- Prepare justification of decision if testimony opposed to decision presented at hearing (sec 100).
  Percent applications affected: 10%
  Time: 4 hours Net Effect: 4 x 0.1 = 0.4 hr

- Serve justification of decision on everyone within 5 days if decision appealed (sec 100)
  Percent applications affected: 5%
  Time: 1 hour Net Effect: 1 x 0.05 = NIL

- Give public notice at least twice for Class II, with summary of proposed activity (sec. 120)
  Percent applications affected: (140/340) 40%
  Time: 3 hr Net Effect: 3 x 0.40 = 1.2 hr

- Prepare a separate staff recommendation (sec. 140)
  Percent applications affected: (140/340) 40%
  Time: 8 hrs Net Effect: 8 x 0.40 = 3.2

- Hold preissuance conference at applicant's request (sec. 150) prepare memorandum of meeting.
  Percent applications affected: 50%
  Time: 4 hrs Net Effect: 4 x 0.5 = 2.0 hr

- Prepare formal agency decision with findings, conclusions in support of decision; a detailed justification of decision process (sec. 160)
  Percent applications affected: (140/340) 0.40%
  Time: 15 hrs Net Effect: 15 x 0.4 = 6.0 hr

- Consider requests for stay of agency decision pending appeal, serve request on everyone, rule or request within 10 days after other parties have served responsive memorandum (sec. 630).
  Percent applications affected: (140/340 x 0.50) = 20%
  Time: 4 hrs. Net Effect: 4 x 0.20 = 0.8 hr.

- Within 10 days after appeal filed, decide whether to hear appeal (sec. 640).
  Percent applications affected: 20%
  Time: 2 hr Net Effect: 2 x 0.2 = 0.4 hr.

- If Class B hearing request granted, publish notice within permit area, serve notice on everyone who received 1st, agency decision, receive petitions for intervention and objections to intervention petitions, decide whether to grant intervention petition w/in 10 days (sec. 640).
  Percent applications affected: 5%
  Time: 8 hrs Net Effect: 8 x 0.05 = 0.4 hr

- Make summary decision in some cases on Class A brief, may serve notice further brief required (sec. 710)
  Percent applications affected: 5%
  Time: 1 hr Net Effect: 1 x 0.05 = NIL

- Oral hearing after second Class A brief, serve decision on parties
  Percent applications affected: 5%
  Time 2 hrs Net Effect: 2 x 0.05 = 0.1 hr

TOTAL WEIGHTED - AVERAGE PROCESSING TIME INCREASE PER APPLICATION 16.5 hours

IV. CALCULATION OF PERSONNEL REQUIREMENTS

Expected application load in 1981: 390-460

Increased permit time per application: 16.5 hours

1981 increased workload: 6435 - 7590 hours
3.7 - 4.34 people

Net Requirement: 4 people

1 Clerk-Typist
1 CZM (MA II)
1 DPC III
1 LMT I

The above request for four people is in addition to those currently assigned to the permit process at DMEM (see attached organization chart). Tasks which the Uniform Permit Procedures require similar to those already being performed at DMEM are listed below.

- o Carry out interagency review
- o Review applicant's written response to other agencies' written comments.
- o Keep record file on application.
- o For disposal within coastal zone, ask for comments on consistency issue in both .305 and .345 notice.
- o Prepare informal brief for Commissioner in event of appeal of decision.

Given the number of deadlines in the proposed regulations, it is obvious we would receive benefit from developing a computer monitoring process of the applications. I have not included a request here for these funds since I am not sure to what extent ALARS could help with this, or indeed, what the final regulations will require. I would not expect the amount to be extraordinarily large, however.

Please let me know if you need further information.

Attachments

cc: David Rogers - two copies
Mary Halloran
Kay Brown
Bill Van Dyke
Laurel Murphy
Mary Kaye Hession

CH/mab

47 3853

APPLICATIONS RECEIVED AT DMEM

PROJECTION OF APPLICATIONS UNDER PRESENT RULE

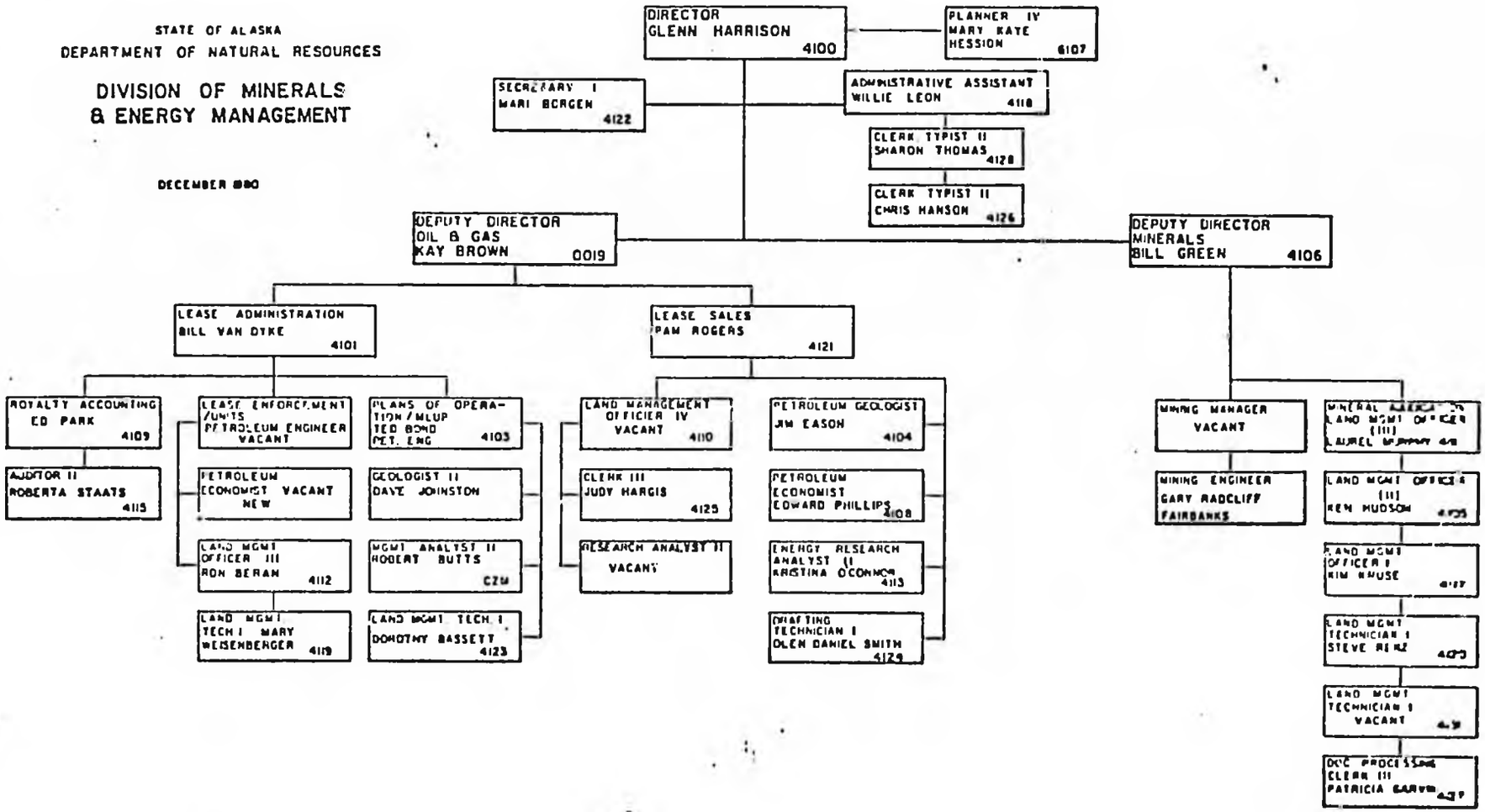
0 100 200 300 400 50 60 70 80

1969 Mar. June Sept. Dec.
1970 Mar. June Sept. Dec.
1971 Mar. June Sept. Dec.
1972 Mar. June Sept. Dec.
1973 Mar. June Sept. Dec.
1974 Mar. June Sept. Dec.
1975 Mar. June Sept. Dec.
1976 Mar. June Sept. Dec.
1977 Mar. June Sept. Dec.
1978 Mar. June Sept.

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINERALS & ENERGY MANAGEMENT

DECEMBER 1990



S.B 84

REGULATORY REFORM

The Alaska State Chamber supports regulatory reform legislation which will generate consistent, non-duplicative regulations and processes for issuance of state permits which will create a clearly defined method of permit procedure and which will encourage and help the business climate within the state of Alaska.

The Alaska State Chamber believes that unless the state government assumes the role of cooperation and support rather than simply regulation and policing, we will not have a climate that will encourage establishment of new industry or economic viability for industries already operating in the state.

1) McConky reports - 1977
2) Le Resche letter dated April 2, '80
3) Fran Ulmer letter
4) Hammond letter Aug 10, '80
5) AOGA - report Dec. 31, 1990
6) Hammond letter Jan 27, 1981
7) Mar 15, 1981 - Gilbreth letter
8) Fuller letter - Rec. & review 5/1/81
9) AOGA - letter 5/29/81 to Fuller
10) AOGA - letter 6/4, 81 to Fuller
11) J. Reinwand - 6/22) 1981 - to London.
12) Bill that pass - Senate SB-84 -
13) Bill 6/22/81 -
14) Bill of 6/23/81
15) Analysis of Jan 26, 82 CS for SB84

JANUARY 26, 1982 COMPROMISE PROPOSAL FOR HCS CSSB-84 (LABOR AND COMMERCE)

Need fiscal note from DNR - Marty Halleron see A.S. - no fiscal note.

Section 1. FINDINGS. The legislature finds that (1) the orderly development of state resources is being unnecessarily delayed by the length of time required to obtain permits from state agencies, by the complexity of the permitting process, and by the number of agencies involved in the permitting process;

Schedule for Fri. - Feb 5

(2) the uncertainties created by the lack of specific time limits, the proliferation of agency reviews, the number of agencies involved in the permit process, and unjustified agency requirements upon the processing of permit applications have cost Alaskans millions of dollars in lost employment and higher prices;

(3) the public interest has not been advanced by protracted delay in the processing of permit applications by state agencies;

(4) by reducing the number of agencies and agency reviews involved in the permit process, and by requiring state agencies to process permit applications in an expeditious manner, the social, economic, and environmental health and well-being of Alaska citizens will be promoted;

(5) there are many administrative orders and similar documents that have been promulgated by the executive branch relating to interagency review that conflict and overlap, retarding the permit issuing process.

Leave Sec. 2 out as separate adm.

* Section 2. AS 44.62.330(a) is hereby amended as follows:

(a) Except as provided in Article 8A of this Chapter, the [The] procedure of the State Boards, Commissions, and Officers listed in this Subsection or their successors by reorganization under the constitution shall be conducted under AS 44.62.330 - 44.62.630. This procedure, including, but not limited to, accusations and statements of issues, service, notice and time and place of hearing, subpoenas, depositions, matters concerning evidence and decisions, conduct of hearing, judicial review and scope of judicial review, continuances, reconsideration, reinstatement or reduction of penalty, contempt, mail vote, oaths, impartiality, and similar matters shall be governed by AS 44.62.010 - 44.62.650, notwithstanding similar provisions in the statutes dealing with the state boards, commissions, and officers listed. Where indicated, the procedure that shall be conducted under AS 44.62.330 - 44.62.630 is limited to named functions of the agency.

(1) Repealed by § 5 ch 159 SLA 1980.

(2) Board of Chiropractic Examiners

(3) Board of Dental Examiners

(4) State Board of Registration for Architects, Engineers and Land Surveyors

(5) Repealed by § 13 ch 218 SLA 1976.

(6) Board of Examiners in Optometry.

(7) Repealed by § 5 ch 159 SLA 1980.

(8) State Medical Board

(9) Divison of Lands under Alaska Land Act where applicable

(10) Board of Nursing

(11) Board of Pharmacy

(12) Board of Public Accountancy

(13) Department of Labor as to functions relating to employment security only as provided in (c) of this section

(14) Real Estate Commission

(15) Alaska Workers' Compensation Board, where procedures are not otherwise expressly provided by the Alaska Workers' Compensation Act

(16) Department of Transportation and Public Facilities, as to functions relating to aeronautics and communications

(17) Repealed by § 12 ch 131 SLA 1980.

(18) Repealed by § 49 ch 94 SLA 1980.

(19) Repealed by § 54 ch 169 SLA 1978.

(20) Department of Revenue, under Cigarette Tax Act

(21) Repealed by § 54 ch 169 SLA 1978.

(22) Repealed by § 11 ch 181 SLA 1976.

(23) Department of Public Safety, as to suspension or revocation of a security guard's license under AS 18.65.400 - 18.65.490

(24) Department of Health and Social Services, under AS 47.35.010 - 47.35.080, relating to boarding and foster homes for children

(26) Repealed by § 4 ch 120 SLA 1971.

(27) Department of Health and Social Services and Department of Environmental Conservation under Alaska Food, Drug, and Cosmetic Act (AS 17.20.010 - 17.20.380) and Department of Health and Social Services in connection with the licensing of embalmers under AS 08.44.010

(28) Department of Health and Social Services and the Hospital Advisory Council, under AS 18.20.010 - 18.20.130

(29) Repealed by § 4 ch 120 SLA 1971.

(30) Department of Environmental Conservation, under AS 18.30.010 - 18.35.090, concerning the regulation of tourist and trailer camps. motor courts, and motels

(31) Repealed by § 40 ch 206 SLA 1975.

(32) Repealed by § 4 ch 106 SLA 1970.

(33) Board of Marine Pilots

(34) Alaska Police Standards Council

(35) Guide Licensing and Control Board

(36) Board of Dispensing Opticians

(3 Repealed by § 20 ch 110 SLA 1981.

(38) Expired.

(39) Alaska Public Offices Commission

(40) Board of Fisheries

(41) Board of Game

(42) the Department of Education and the Professional

Teaching Practices Commission with regard to proceedings to revoke or suspend a teacher's certificate under AS 14.20.030 - 14.20.040 and AS 14.20.470(a)(4)

(43) Alaska Commission on Postsecondary Education under AS 14.48.010 - 14.48.210 as to denial of applications and revocation of authorizations and permits.

(44) Department of Environmental Conservation except to the extent that AS 44.62.360 - 44.62.400 are inconsistent with the manner in which proceedings are initiated under the provisons of AS 46.03.010 - 46.03.900

(45) University of Alaska, except to the extent that its inclusion is inconsistent with the provisions of AS 14.40.010 - 14.40.960

(46) Department of Commerce and Economic Development concerning the fisheries enhancement loan program (AS 16.10.500 - 16.10.620)

(47) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010)

(48) the Department of Fish and Game as to functions relating to the protection of fish and game under AS 16.05.870

(49) Board of Veterinary Examiners (AS 08.98.010)

(50) Board of Nursing Home Administrators (AS 08.70.010)

(51) Board of Barbers and Hairdressers (AS 08.13.010).

* Sec. 3. AS 44.62 is amended by adding new sections to read:

ARTICLE 8A. PERMIT PROCESSING.

[Sec. 44.62.632.] PERMIT CLASSIFICATION. (a) Each state resource agency shall by regulation classify each of the permits issued by that agency within one of the two following categories:

(1) class I permits, for which the state agency must issue a final decision within 30 days after the date of receipt of a completed permit application; and

(2) class II permits, for which, because of a necessary public notice or interagency review period, a final decision cannot be issued within 30 days. A final decision on a class II permit must be issued within 90 days after the date of receipt of a completed permit application.

(b) Final regulations classifying its permits, and uniform procedural regulations providing for the processing of these permits, shall be adopted by each state resource agency by October 1, 1982, following appropriate notice and hearing. Permits applied for after October 1, 1982 must be issued in accordance with the time periods specified in (a) of this section, and the provisions of the implementing regulations.

Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESSING.

(a) Upon a finding by the head of a resource agency that a permit being considered involves unusually complex issues so that the agency cannot render a final decision within the time period specified in AS 44.62.632(a), the head of the agency may prescribe a time period within which the final decision will be made. The finding of the head of the agency may be appealed by the applicant to the superior court under the Appellate Rules of Procedure. In no event may the time period be extended more than 120 days beyond the time period specified in AS 44.62.632(a).

(b) The time period specified in AS 44.62.632(a) may be extended if necessary to facilitate joint processing of a permit application through memoranda of understanding between state and federal agencies, but only if strict adherence to the time periods established in AS 44.62.632(a) would pose an irreconcilable conflict with a federal statute or regulation.

(c) Subject to (a) and (b) of this section and AS 44.62.634, failure of a resource agency to make a final decision within 30 days after the receipt of a completed permit application for a class I permit, or within 65 days after the receipt of a completed permit application for a class II permit, constitutes approval of the application. In an

appeal of a permit issued by operation of this subsection, the record shall be construed in a light most favorable to the applicant, and the permit shall be accorded a presumption of regularity.

(d) A state agency may not condition the issuance of a permit upon the issuance of a permit from another governmental agency.

Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agency receives a completed permit application which does not contain sufficient information concerning the project's compliance with the agency's statutes and regulations, the agency shall notify the applicant within 15 days after receipt of a completed permit application for a class I permit, and within 30 days after receipt for a class II permit.

(b) The notification must specify those particular facts or issues concerning the proposal upon which the agency requires additional information in order to determine whether the project will conform with the agency's statutes and regulations;

(c) If a timely request under subsections (a) and (b) of this section is made, the time period specified in AS 44.62.632 is suspended from the date of request to the date of full compliance with the request. Subsequent requests for additional information may be made, but must relate only to new issues raised by the response to the initial notification. Subsequent requests shall not extend the time periods specified in AS 44.62.632.

(d) Nothing in this section shall be construed as granting any resource agency the authority to request information beyond the authority given to it by other statutory provisions.

Section 44.62.635. LEAD AGENCY. (a) [For each class of activity permitted in the state] there is established a lead agency which is solely responsible for ~~issuing~~ MAKING coastal management consistency determinations under AS 46.40 and for preparing and submitting state comments on federal permit applications. The lead agency shall be that resource agency having principal responsibility for authorizing the overall activity, including instances where an activity requires permits from more than one resource agency. For classes of activities for which no agency with principal responsibility exists the governor shall designate a resource agency to be a

Preferred

(b) Substantive consideration shall be given to the factual comments of resource agencies and to the Office of Coastal Management within their primary areas of expertise, and also to the factual comments of coastal resource districts made ~~pursuant~~ under to an approved district coastal management program.

"The lead agency shall consider opinions, conclusions or recommendations submitted by the commenting agency, but may, in its discretion, reach contrary opinions, conclusions or recommendations according to the evidence received.

The lead agency shall then

balance competing factors in reaching its final decision. No resource agency other than the lead agency has primary expertise in the balancing of competing factors.

balance competing factors in reaching its final decision. No resource agency other than the lead agency has primary expertise in the balancing of competing factors.

(c) No state agency other than the lead agency may comment to a federal permitting agency.

(d) An agency's completion of a review under § 401 of Corp of Engineers the Clean Water Act (33 USC § 1341) does not constitute that agency as a lead agency hereunder.

Section 44.62.636. COMMENT PERIOD. A coastal resource district or state agency which receives a request for comment in connection with a permit application or plan review being processed by a resource agency shall submit such comments in accordance with the following schedule:

(1) Comments on class I permits shall be submitted within 15 days of the agency's receipt of the request;

(2) Comments on class II permits and federal permits shall be submitted within 30 days of the agency's receipt of the request;

(3) Where, pursuant to AS 44.62.633, the requesting agency has extended the time periods specified in AS 44.62.632, that agency may extend the time period specified in this section for up to an additional 30 days.

(a)

Sec. 44.62.637. ADMINISTRATIVE APPEALS. The uniform procedural regulations promulgated pursuant to AS 44.62.632(b) shall provide for an administrative appeal from a final decision on a permit application. (b) The appeal must be resolved within 45 days of the final decision, or, if a hearing is held on the appeal, within 65 days of the final decision. Such appeal shall be to the head of the ~~resource~~ agency involved. An appeal taken from a decision granting a permit shall not necessarily stay the issuance of the permit in question. The head of the agency may summarily dismiss an appeal before the time established herein, and such dismissal shall be the final agency action on the matter. If the public interest is so served, in an appeal from the denial or conditioning of a permit the head of the agency may grant the permit or remove conditions thereon pending the outcome of the appeal.

Sec. 44.62.638. REVIEW BY THE SUPERIOR COURT. (a) Judicial review by the superior court of a final decision issued pursuant to Article 8A of this chapter may be had by filing a notice of appeal in the superior court in accordance with the applicable rules of appellate procedure. The right to appeal is not affected by the failure to seek further review pursuant to AS 44.62.637. The review shall be governed by the provisions of AS 44.62.560(b) - (e) and AS 44.62.570.

(b) An appeal taken under this section has preference on the calendar of civil actions before the court and shall be decided without unnecessary delay.

* Sec. 4. AS 44.62.640 is amended by adding a new subsection to read:

(c) As used in AS 44.62.632 - 44.62.635,

(1) "date of receipt" means the date on which a state agency actually receives a completed application filed in accordance with agency regulations and at a place identified as appropriate for filing in the agency's regulations;

(2) "permit" means a permit, license, certification, consistency determination, or other authorization or approval issued by a resource agency as a written document that is required to be obtained or is solicited from a state agency before the construction or operation of a project; "permit" does not include the approval of a unit agreement, a unit development plan, or a unit exploration plan, or conveyances of interest in state land or water, but does include all authorizations and approvals, whether proprietary or regulatory, necessary to undertake a project under a previously conveyed property interest;

(3) "project" means a new activity or expansion or addition to an existing activity for which permits are required before construction or operation; "project" does not include pursuing a trade or profession, providing public health service or operating a financial institution;

(4) "resource agency" means the Department of Natural Resources, the Department of Environmental Conservation, and the Department of Fish and Game with respect to permits issued for the protection of fish habitat or the regulation of state sanctuaries, refuges, and critical habitat areas;

delete 5

(5) "substantive consideration" means that, where documented factual statements or data are submitted by a resource agency or a coastal resource district, those statements or data shall be deemed true unless the lead agency or permit applicant refutes such statements or data by a preponderance of the evidence. The lead agency shall consider opinions, conclusions or recommendations submitted by the commenting agency, but may, in its discretion, reach contrary opinions, conclusions or recommendations according to the evidence received.

May no Nat'l prevention testimony ?

Problems
1) Gary Galbraith —
2) Too Duplication
3) Interlocking mtls.
4) Employees attitudes make policies
5) Many small problems make big problem

---

* Mr. Jay Nelson
Opposed to Bill —
Have you been in the area previously? *
Have not seen the proposal.
Adm. bill

Dave Allison — NB. Environmental ==========
Threat to stop everything.
Were in negotiations of the draft —
Reluctantly accept.

Mollie Dent —
need copy —

Joyce Munson
Personal Comment —
Strongly against uniform local permit procedures
Teleconference

Gary Calvarado
Sitka.
favors administrative procedures —
Jim Clark. —

SB

135

~~Introduced~~ 5-8-82
Date Rec'd 5-12-82
Referred - ~~Transportation~~ ~~Finance~~
Comm. Hearing 5-14-82 - 5-15-82 CS Rec'd. ~~5-14-82~~ 10:50 A.M.
Action 5-15-82 - Sent to Terry. Given to Chief Clerk.

F/N Herein

Prime Sponsor Bennett
Notified -.
Bob Ward - Comm. Transp.
Said Miller called to inform him of hearing he pd. owned Lore. Larry Mitchum County possible. Mr Mitchum will call as to when he can get here. He will be in ~~attendance~~ Friday and if necessary will stay over.

CHARLIE PARR

ALASKA LEGISLATURE

S.R. Box 50599
Fairbanks, Alaska 99701
(907) 456-5029

Pouch V
Juneau, Alaska 99811
(907) 465-4907

May 7, 1982

To: Members of the House

From: Senator Charles Parr

Regarding: CS SB 135 (Rules)

All members of the House and the Senate recently received a form letter distributed by a transportation common carrier regarding SB 135 (legislation which deals with transportation subcontractors commonly known as "Owner-Operators"). Due to the importance of this bill I would like to clear up some misconceptions which may have been created by the information provided by the carrier.

The gravest inaccuracy is the obvious attempt to paint this issue as a union dispute. It has been clearly demonstrated in two Senate committee hearings that this is not the case. The owner operator is stuck between the union and the carrier. On the one hand, the owner operator under law must only work for a common or contract carrier and under a contract which has terms that are generally set by the carrier, on the other hand, in order to work for some carriers the operator must join the union.

Under Alaska Transportation Commission regulations, the carrier is allowed to deduct the employee wages and benefits as well as any truck expenses from the revenues paid to the owner operator for the leased vehicle. This means that the owner operator pays his own wage and benefit and union contributions as well as the employers contributions through deductions in the lease revenues. Any economic benefits that the union, if it is a union shop, negotiates for the employee are just further expenses to the owner operator which are backed off the revenues which are received for the lease of the vehicle.

It makes no sense for a owner operator to strike for the type of benefits which the union could provide, i.e., related to wages and benefits, because that money comes out of the truck revenues, revenues which are under a contract which the union plays no part in securing, a contract which is specifically and only between the carrier and the operator, and which provides the finances which allow the operator to pay vehicle expenses and living expenses.

The concern of the owner operators is that while carriers such as the one which distributed the letter in question are

posting record profits as the result of a highly protected industry, that numerous Alaskan owner operators who do not enjoy the same protection under the law are going out of business because they can no longer afford to operate their rigs at the level of revenues being offered by the carriers.

The carriers are cutting their tariffs (or not adjusting them to reflect the effects of inflation) but still maintaining the same or higher profits, while it is the owner operator, whom is unrecognized by ATC, that is receiving less and less revenue for the vehicle lease and is required to pick up more of the costs and risks related to the transportation of goods over Alaska's highways.

The result is that today, unlike the era prior to the pipeline, common carriers own few if any of their own vehicles, thus eliminating all risk related to maintaining or operating trucks, and that responsibility has been transferred to the owner operator. The carrier has an opportunity to work essentially as a broker, a broker who is in a monopolistic industry where the owner operators have to work for the carrier and where the carrier need not fear the entrance of other carriers into the market due to ATC protection.

The operators, under CS SB 135(rules) are provided a measure of protection, not the protection afforded the carriers, but the minimum protection which will allow competition to flourish within the Alaskan Economy.

CHARLIE PARR
ALASKA LEGISLATURE

S.R. Box 50599
Fairbanks, Alaska 99701
(907) 456-5029

Pouch V
Juneau, Alaska 99811
(907) 465-4907

CS SB 135 (Rules)

CS SB 135 (Rules) provides a measure of equal protection to a class of transportation operators not envisioned when the Alaska Motor Freight Carrier Act was developed. It is less protection than afforded the current class of carriers, but the minimum which will allow competition and fair trade to grow in this sector of the Alaskan Economy.

The primary reason for this legislation is the economic survival of the group providing more than 90% of Alaska's transportation services - the transportation subcontractor (commonly known the "owner operator").

At issue here is the question of minimum standards which will insure that transportation subcontractors receive reasonable consideration for the service and the equipment provided which is necessary to properly serve public needs in the Alaskan environment and economy.

If these people who provide necessary transportation services can not be assured of a certain minimum rate of return on their efforts, there is a danger that no one will provide the type of "adequate, complete, dependable and stable transportation in all its phases", as is assured the public under AS 42.10, the Alaska Motor Freight Carrier Act.

The bill provides the Alaska Transportation Commission with authority to:

-regulate at one level lower than it now does.

-provide licenses to those who are currently transportation subcontractors or who have operated in Alaska since 1976.

-apply standards of public convenience and necessity to the issuance of further licenses.

-provide for minimum and maximum rates

The licensing, grandfather, and rate provisions are modeled after the Alaskan system for common carriers and is a standard approach for a category of public utilities (the grouping in which transportation falls).

RULES CS for SB 135

Changes from Finance CS:

-Section 3 deleted. This section would have changed the definition of a "private carrier" by deleting language refering to lessee and bailee (which is how it presently reads in the statutes.) Therefore, the statutes remain the same regarding "private carriers." This change was agreed in the Rules Committee hearing.

-p. 1 line 19 "...construction contractor operator..." is deleted. This change was agreed in the Rules Committee hearing.

-grandfather clause added. This clause would be the basis for issuing owner/operator (transportation subcontractor) permits. (Section 1 (f)) This change was discussed in the Rules Committee hearing.

-owner/operator language deleted. "transportation subcontractor" added. As SB 135 (Finance) reads, an owner/operator is a trucker that owns one truck. In fact, many truckers own more than one truck, but they are not by definition "carriers." What the term "transportation subcontractor" does is more accurately describe truckers that own more than one truck than the term currently used in SB 135 (Finance). This change in terminology is very important because of the permit system that SB 135 would create.

The language in the Rules CS read: TRANSPORTATION SUBCONTRACTOR. a person who rents, leases, or otherwise provides a motor vehicle for the use of common or contract carriers in transporting property and who provides or arranges for, directly or indirectly, a driver or operator for the vehicle but does not include taxicabs. This is new language. Need for it arose out of problems with owner/operator terminology in the application of SB 135.

-immediate effective date (Sec. 4) plus time frame ATC shall adopt regulations (Sec. 3) will mean as swift an implementation of the permit system as is possible by law and the ATC regs.

-Permit system, permit each vehicle, not each driver (SB 135 will institute a system similar to issuing license plates as opposed to driver's license.) Nontransferable permits will be issued to each truck so that the number of trucks in use will be constant. This creates a limited entry type situation for the trucking industry. The scenario would be something like this: Under the grandfather clause, a person operating a truck in Alaska between 1976 and the effective date of SB 135 would receive, upon application, a transportation subcontractor permit. This permit would be issued to each truck of the person that is eligible under the grandfather clause. If a trucker wrecks his truck and buys a new one,

the permit will be transferred to the new truck. If the trucker suffers economic or physical hardship or death, the permit can be transferred to a spouse, or a person designated by the owner. Cases of transferability will be specifically spelled out in the ATC regulations. This is necessary to prevent locking up the market, where permits might possibly be sold and also have the affect of inflating the cost of a truck. Nontransferable permits allow fair access to future groups.

An annual permit system would be instituted. This would mean a yearly review of already existing permits to assure that permits issued are not for dormant trucks.

Regularly, the ATC will review the transportation needs of the state, and based on their review will decide if "public convience and necessity" dictates that more permits be issued. When ATC does decide that more permits will be issued, anyone who is a transportation subcontractor will be eligible. At this point the grandfather clause will no longer be applicable.

Historically, grandfather clauses have proved to be constitutionally unsound. SB 135's grandfather clause makes no reference to Alaska residency so that it is constitutionally sound and will stand if challenged in a court of law. Also, the provision that it can be used only upon the inception of the ATC transportation contractor permit system and is then open to all, affords every citizen due process and prevents people like the Zobels from having a picnic with SB 135.

ALASKA TRUCK OWNER/OPERATOR COOPERATIVE ASSOCIATION
We Serve Alaskans

ATOOCA

601 Hughes, Fairbanks, Alaska 99701
Phone (907) 452-5814 or (907) 452-5841

April 12, 1982

Senator Charles Parr
Chairman Senate Health, Education & Social Services Committee
State Capitol
Pouch 5
Juneau, AK 99811

Dear Senator Parr:

I am writing in regards to the Transportation Subcontractor Proposal presented to you by the Women for Alaskan Owner/Operators Committee. I have examined the entire proposal as well as the supporting documents and agree with nearly every detail. The Owner-Operator portion of the Alaskan transportation industry is in a crisis situation the results of which will have far reaching effects into the Alaskan economy. To understand the situation you need to know how this developed.

Prior to the pipeline days there were very few Owner-Operators in Alaska. Quite to the contrary 90 percent of the freight moving then was moved by carriers utilizing company owned equipment driven by employees of that carrier. As the pipeline project began to unfold these carriers increased the size of their fleets dramatically to accommodate the tremendous tonnages of freight to be moved. The rates were good and new or dormant carriers developed to fill the demand. Soon equipment became harder and harder to come by and the carriers began utilizing Owner-Operators to fill this need.

All went well during this period as the rates were adequate and the equipment leases and payments were liveable.

In the period following the peak of the pipeline project more and more competition developed over the decreasing demand (a natural thing) for transportation. The carriers began filing lower and lower tariff rates in order to get the work. As the rates declined companies with large numbers of company owned trucks found it not profitable to operate and began turning more and more to Owner-Operators. Many companies sold their trucks directly to the employees driving for them. There were many advantages in leasing from Owner-Operators, not the least of which, was that the company no longer had the overhead of shops, mechanics, or any of the repair responsibilities. The legal responsibility to insure equipment remained up to state and federal agency standards was and is still the carriers

responsibility. The cost of that standard however, is borne by the Owner-Operator including any fines related to this. In some cases, even the public liability and cargo insurances required by law of the carrier are prorated and subtracted from the amounts paid on the leases.

Still during the demobilization period of the pipeline amounts received by Owner-Operators were adequate to maintain and operate the equipment. Then in 1979, under pressure by the carriers and over the objections of the Owner-Operators, the ATC revised the leasing regulations under 3AAC 64.070. This allowed the costs of the driver to be legally deducted from the lease revenues earned by the Owner-Operator. By so doing the carrier was further relieved from the expense of employees including, but not limited to wages, fringe benefits, the employers contributions for; social security, unemployment, and workmens compensation payments. Even then in 1979 the received amounts for the Owner-Operator were tolerable though very close to intolerable. Now came the inevitable.

Too many carriers, too little work. The carriers, protected by favorable laws and protected by leases that gave them impenetrable protection for their profits entered into cutthroat competition totally insulated from any losses. Certainly not all carriers were or are of this mind but faced with loss of business the alternatives were to get out of business or follow suit. Most followed suit. The Owner-Operator having no voice over the tariff rates and no voice in the price paid for his services reached the point of not enough money to maintain his equipment, his home and family.

Facing the inevitable loss of their equipment and or bankruptcy many Alaskan Owner-Operators withdrew their equipment asking for better leasing arrangements. Some reached agreements and were able to continue operating. Others were told either take what your getting or we will replace you.

Some companies based outside Alaska recognized the desperate economic conditions there and began an active recruiting effort in the lower 48, advertising a need for Owner-Operators in Alaska. The rates stated looked unbelievable to Owner-Operators there who have little or no understanding of the cost of operating in Alaska. Over the last six months literally hundreds of these Owner-Operators have come to Alaska as direct replacements for Alaskan Owner-Operators. Alaskans' equipment is sitting idle, unable to compete against outsiders who have no families here, no homes and no investment in Alaska. Their equipment is ill-equipped for Alaskan operating conditions yet carriers lease their equipment send them on the road overloaded and inexperienced. Much of the type of equipment now in use was previously refused for use by the carrier because it failed to meet their standards.

The Alaskan Owner-Operator is not asking for subsidies or hand outs. What Alaskan Owner-Operators are asking for is to be allowed to function and compete in Alaska's own economy. It would be hard to argue that Alaska doesn't have it's own distinct economy. Alaska has always been plagued by the flow of dollars out of our economy. Many Alaska businesses will be hurt if the present trend continues.

Alaskan Owner-Operators are a clearly identifiable industry of small businessmen who have proved their efficiency by the fact that approximately 90 percent of all freight moved by truck in Alaska is moved by an Owner-Operator. There are many similarities to the Alaska fisherman. Limited entry has helped Alaskan fishermen and Alaskan Owner-Operators need similar laws to allow this industry to function for Alaskans.

The Transportation Subcontractor Proposal is an excellent beginning for allowing this industry to function and to reach stability in these very unstable times. It is essential that this be brought before the legislature before this session ends. By next January the damage to these Alaskan small businessmen will be irrepairable. Many have already filed bankruptcy or are facing the loss of their equipment and personal possessions.

I urge you to bring the Transportation Subcontractor Proposal forward, to examine it closely, and pass it before this session ends.

The Alaskan Owner-Operator has earned and deserves your immediate attention to this industry of small businessmen. Please do not delay!

Sincerely,

Tim Gunderson

Tim Gunderson
President

gs/TG

I will help in anyway I can.

Sen Parr + Rep Bob Bettisworth.

SIGN-IN SHEET

SB 135

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
T.O. Thrasher	3443 Minnesota.	Alaska Trucking Assn.	CSSB135	yes
A Inglderson	800 Warehouse Ave	Big State Motor Freight	+ CSSB135	278-3531
Frank W Chapados	3060 Commercial Dr.	Lynden Transport	"	456-4125
* ~~Stan~~ Henderson	704 Salcha Fairbanks, AK.	ATOOCA	CSSB 135	479-5210
BEN RULE	1737 BARTLETT ANCH, AK 99507	MYSELF	CSSB135 YES	344-5909
A Shirley A. Williford	3411 W 3rd Ave Anch, Alaska	Nurses Assn.	135B 135 ?	279-2468
Joseph Goodrich	7509 Old Harbor Rd. Anchorage	myself	yes	333 5656
LARRY MICHOU ??	Suite 1000 Mackay Bldg.	AK TRANS COM.	if requested	276 1177

HOUSE LABOR & COMMERCE COMMITTEE

HEARING DATE: 5/14/82

Haul Road

(CS: Motor Carriers)

Senate on April 28 by Finance with the committee recommending it be replaced with Finance CS and as follows: Bennett (Co-Chmn.), Sackett and Stimson signed do pass; Sturgulewski, Eliason, Ferguson and Dankworth signed no recommendation. To Rules.

April 28 Finance

The Finance CS is a completely new bill. Amends several statutes governing the Alaska Transportation Commission and the regulation of common and private carriers in Alaska. Sec. 1 amends AS 42.07 (AK Transportation Commission) by adding a new section calling for the regulation of "Owner Operators" by ATC. Defines an "owner operator" as one who "rents, leases, or otherwise provides a motor vehicle for the use of others in transporting passengers or property upon the condition that the person be employed to operate the vehicle and includes common and contract carriers and construction contractor operators but does not include taxicabs."

page 792

Sec. 2 amends AS 42.10.280(b)(filing of common carrier tariff schedules with ATC) to require common carriers to file with ATC "schedules showing the maximum and minimum rates, charges, and classifications for the transportation of property within the state . . . "

Sec. 3 amends the definition of "private carrier" in AS 42.10.420(7) to eliminate paid private carriers. Would only mean a person "who transports without compensation, property which is owned or is being bought or sold by him, or property of which he is the seller or [,] purchaser [, LESSEE OR BAILEE,] and the transportation is incidental to and in furtherance of some other primary business conducted by the person in good faith."

Motor Carriers

SENATE BILL NO. 135, (see pages 190;792). Reported back to the Senate May 8 by Rules with a majority recommending it be replaced with a Rules substitute and that it be placed on the May 11 calendar. The report was signed by Senator Kelly, Chairman and concurred in by Senators Ziegler and Ferguson.

May 8 Rules

The Rules version of the bill relates to transportation subcontractors (Senate Finance referred to "owner operators"). Provides permits issued shall authorize the specific number and the types of vehicles to be operated by the transportation subcontractor. The permit does not transfer with a sale, lease, or other transfer of a vehicle, and can only be transferred with the approval of the Commission on the death or injury or economic hardship to the transportation subcontractor who holds it. Vehicles under a permit may be replaced, but the numbers of vehicles under a permit may not be increased.

States that a "transportation subcontractor" means ". . .a person who rents, leases, or otherwise provides a motor vehicle for the use of common or contract carriers in transporting property and who provides

page 818

or arranges for, directly or indirectly, a driver or operator for the vehicle but does not include taxicabs." Provides a person who conducted business as a transportation subcontractor in the state between July 1, 1976, and the effective date of this Act shall upon application be issued an annual permit.

Deletes section of Finance version that would have changed the definition of "private carrier" (see page 793).

Adds new section providing the Alaska Transportation Commission shall adopt regulations relating to transportation subcontractors within 90 days after the effective date of this Act.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOT.

I. REQUEST
Bill/Resolution No. CSSB 135 (Finance)
Title Act relating to motor vehicles and carriers
Requested by Senate Finance committee Date 4/27/82

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Alaska Transportation Commission
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
Miscellaneous		350.0				
TOTAL		350.0				

FUNDING (Thousands of Dollars)

GENERAL FUND		350.0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						

Original sponsors: Moss, Rogers, Brown and Bettisworth

Offered: 5/12/82
Referred: Rules

IN THE HOUSE BY THE TRANSPORTATION COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 12 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the regulation of private carriers by the Alaska Transportation Commission."

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

* Section 1. AS 42.10.420(7) is amended by adding a new subparagraph to read:

(C) a person who rents, leases, or otherwise provides a motor vehicle for the use of his employer in transporting passengers or property and who operates the vehicle as an employee, if the employer compensates that person with separate disbursements for wages and for the use of the vehicle;

this became SCS CSHB 12 Trsp. + has sec of SB 135 therein

PUBLIC OPINION MESSAGE FORM

POMS are limited to 25 - 50 words. These messages are transmitted via omnicom to Juneau by our staff on a time-available basis.

* ONLY THOSE SINGLE MESSAGES DELIVERED BY THE SIGNING INDIVIDUAL TO THE
* LEGISLATIVE INFORMATION OFFICE BY PHONE, HAND DELIVERED, OR WRITTEN AT
* THE LEGISLATIVE INFORMATION OFFICE WILL BE ACCEPTED FOR TRANSMISSION VIA
* OMNICOM AS A PUBLIC OPINION MESSAGE. (Legislative Council Policy 6/81)

DATE April 24, 1982

NAME Glenn W. Kent

REPRESENTING H & R Landscaping & G. Kent + Love Trucking

MAILING ADDRESS 6311 Hartzell Rd.

Anchorage, Alaska ZIP 99507

PHONE (HOME) 907-277-9267 (WORK) 907-349-2413

TO

RE:

MESSAGE The Anchorage Daily News, published an article, Date 4-24-82 (Wed Pub business page E-1 quote (State may not escape recession.) unquote.

As A Resident of Alaska for Sixteen years, property owner, Registered Voter, Tax Payer and business man, I see My Client & Client, Recession has reached the County level. Originating from relaxation in issuing Permits, and relaxation & inforcing the existing regulations. In Funding it now difficult to maintain living conditions which I have become accustom to.

SIGNATURE

POM TRANSMITTED, DATE TIME OPERATOR

LAA/PS 6/22/81

A twenty acre subdivision was recently excavated in Anchorage, with all the trucks utilized, that one had hauling authority, was excavating out a strip approximitly 32 feet wide and 8 to 10 feet deep. The trucks were paid $50.00 per hr. haul. $8.00 per hr. haul less than the average rate. Operations of this nature can only lead to poor maintance. Increasing damage to public and property. Material was hauled in by a carrier with operating authority, again at a rate no local carrier could operate for. The carrier appears to be a person who requested and was issued authority. Not a property owner, nor a registered voter, nor a tax payer of Alaska. He was another Washington commuter. His dump trucks and semi tractors are licensed with Alaska licenses, yet the car he drives on the state highways washington plates, and has for 2 years. When construction season for the season, his car is loaded in the truck, Washington bound, to stay for the winter months. Returning in the spring Anchorage, Alaska. Should the transits continue to be issued ATC permits, The Residents such as myself, will be forced to sell our homes, our industrial property and our belongings. we will be forced to relocate

to A cheaper location to live. Should the economy in Washington, the commuter will cease to commute, thus furthering the situation with unfounded personal anxiety now damage to the public and property.

Sincerely
Glenn W. Kent

Our copy

Original sponsors: Bennett, Fahrenkamp and Parr

Offered: 5/8/82

IN THE SENATE

BY THE RULES COMMITTEE

CS FOR SENATE BILL NO. 135 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to motor vehicles and carriers; and providing for an effective date."

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

* Section 1. AS 42.10 is amended by adding a new section to read:

Sec. 42.10.095. TRANSPORTATION SUBCONTRACTORS. (a) The commission shall supervise and regulate transportation subcontractors in the state and shall prescribe regulations consistent with this chapter concerning the filing of reports by transportation subcontractors, the issuance of nontransferable annual permits to transportation subcontractors based on public convenience and necessity, and the maximum and minimum rates that may be charged by transportation subcontractors.

(b) A permit issued under this section shall authorize the specific number and the types of vehicles to be operated by the transportation subcontractor.

(c) A permit issued under this section does not transfer with a sale, lease, or other transfer of a vehicle. A permit may ~~only~~ not be transferred with the approval of the commission on the death of or injury or economic hardship to the transportation subcontractor who holds the permit, to family members. Factors. Lottery board.

(d) A transportation subcontractor may replace vehicles authorized under a permit but may not increase the number of vehicles authorized under the permit.

(e) In this section "transportation subcontractor" means a person who rents, leases, or otherwise provides a motor vehicle for the use of

Sec. dtly. —
say by date of application.

common or contract carriers in transporting property and who provides or arranges for, directly or indirectly, a driver or operator for the vehicle but does not include taxicabs.

(f) A person who conducted business as a transportation subcontractor in the state between July 1, 1976, and the effective date of this Act shall upon application be issued an annual permit under this section.

#2- ~~in this~~ at any time
↔ and who applies within ~~two years~~ one year.

* Sec. 2. AS 42.10.280(b) is amended to read:

delete (b) ~~A common carrier~~ shall annually evaluate the public need and authorize new permits by regulation. ~~to that end~~

~~(b) A common carrier~~ shall file with the commission, and print and keep open to public inspection, schedules showing the maximum and minimum rates, charges, and classifications for the transportation of property within the state between each point upon its route, and between each point upon its route and each point upon every route leased, operated, or controlled by it, and between each point upon its route or upon any route leased, operated, or controlled by it and each point upon the route of a common carrier, whenever a through route and joint rate has been established or ordered between two such points. If no joint rate over a through route has been established, the carriers in a through route shall file, print, and keep open to public inspection the separately established rates, charges, and classifications applied to the through transportation. The schedules of contract and common carriers shall plainly state the places between which property will be carried, and the schedules of common carriers shall also contain classifications of property in force, and state separately all terminal, storage, icing, and other charges which the commission requires to be stated, all privileges or facilities allowed, and rules and regulations which affect or determine any part or the aggregate of the rates and charges, or the value of the service given to the shipper or consignee. The schedules shall be plainly printed in large type. The carrier shall keep a copy of each schedule readily accessible for inspection by the public in

by date of application ~~some basis - fit, willing and able~~

every station or office where property is received for transportation when the station or office is in charge of an agent, and in every station or office of the carrier where bills of lading or receipts for property are issued. The carrier shall produce a schedule for inspection upon the demand of any person. The carrier shall keep posted in two public and conspicuous places in each station in which a schedule is kept a notice, printed in bold type, which states that the schedules are on file with the agent and open to inspection by any person, and that the agent will assist the person to determine rates or rules and regulations. The commission shall prescribe the form of schedules. The form shall conform as nearly as practicable to the form of schedules required by the Interstate Commerce Commission.

* Sec. 3. The Alaska Transportation Commission shall adopt regulations as provided in AS 42.10.095 enacted in sec. 1 of this Act within 90 days after the effective date of this Act.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Alaska LYNDEN TRANSPORT

3027 Rampart Drive
Anchorage, Alaska 99501
(907) 276-4800

May 5, 1982

Dear Representative:

As a representative of one of Alaska's oldest surviving transportation companies who has been thoroughly involved in the history of owner-operators in Alaska, I feel compelled to explain the real economic factors behind the wild allegations being made in Juneau recently, by a group of truck owners.

There has been a lot of publicity, a lot of political pressure, a lot of table thumping, a lot of lobbying efforts in recent days loudly proclaiming that a group of people called "owner-operators of Alaska" have been discriminated against, cheated by their employers, and in general, are deprived of their rights by the State, you as legislators, and the trucking companies as employers.

Let the record show that this information circulated to you by paid advertisements, telegrams, phone calls, and personal visits does not reflect the true story at all!

During the construction of the now famous Trans Alaska Oil Pipeline, there was created a need for a very large fleet of trucks to move the huge volumes of supplies and construction material north out of Fairbanks, Alaska.

The trucking companies in existence in Alaska at the start of this enormous project were limited to their ability to provide the equipment and drivers necessary. Old, dormant, trucking company operating rights were revived, new companies were created overnight. The 350 mile road now known as the Dalton Highway was finished in a record 154 days. The Yukon River Bridge was completed.

The numbers are staggering! During the peak of construction, there were trucking firms in Fairbanks dispatching over 100 trucks per day!

The Teamsters Union in Alaska had demanded and put into agreement with the trucking firms, a wage guarantee for drivers running north from

5615 W. Marginal Way S.W.
Seattle, Washington 98106
(206) 764-6300

3001 Peger Road
Fairbanks, Alaska 99701
(907) 456-5535

Prudhoe Bay, Alaska
(907) 659-3644

P.O. Box 1007
Mineral Creek
Loop Road
Valdez, Alaska 99686
(907) 835-2216

Rt. 1, Box 23
Kenai, Alaska 99611
(907) 283-9640

P.O. Box 2589
8401 Airport Way
Juneau, Alaska 99803
(907) 789-0435

P.O. Box 433
8631 Depot Road
Lynden, Washington 98264
(206) 354-2101

Fairbanks to Prudhoe Bay. This totally unreasonable driving wage guaranteed that each driver would get eighteen hours of pay (8 streight time, 10 overtime) for each twenty four hours he was away from Fairbanks on a trip. This wage demand also included provisions that if a driver worked into a Sunday, his wage scale doubled and stayed that way until he returned to Fairbanks!

Trucking companies employed owner-operators during and after the pipeline construction project as a way of providing economic incentive to keep the drivers working in spite of the 18 hour guarantee. None of the trucking companies who operated company equipment survived the post pipeline recession.

Records show that an owner-operator will average over $10,000 per month North of Fairbanks with a trucking company that runs steady. Some of the high figures will reach $14,000 per month. These are the people that are demanding "more" from each of the trucking firms. These are the people who forced a strike on their employers. These are the people who are demanding that you "protect" them with legislation. These are the people who have created the situation that exists today. These are the people who, because of their own near sightedness, have brought upon themselves the situation you have been asked to correct.

The notion that Alaska's unemployed owner-operators are mistreated, underpaid, and abused, is absurd.

A long series of strikes and decertification petitions between Alaska's trucking companies and the Teamsters Union has created a situation today whereby approximately 70% of all Alaska trucking is non-union. This transfer of union to non-union trucking is the basis for the current level of unemployed truck owners. As carriers went on strike, they had to replace the striking drivers, and in so doing, new drivers and owner-operators entered the state and took the jobs of the striking drivers. We feel it is improper for the legislature to interfere with these strike issues by creating new regulations that are monopolistic, inflationary and anti free enterprise.

We trust that when making your decision concerning SB 135, you consider that the individuals who represent themselves as poor, starving, abused, owner-operators are actually "on strike" Teamsters who have been grossly overpaid since 1975, and who struck a very depressed Alaska trucking industry in an effort to further increase Alaska's transportation costs.

Sincerely yours,

LYNDEN TRANSPORT, INC.

Jim Jansen
President

JJ:amc

TO WHOM IT MAY CONCERN

WE THE UNDERSIGNED WISH TO SUPPORT SENATE BILL 135 AS PENDING BEFORE THE RULES COMMITTEE. ALSO, WE WISH TO APPOINT TIM GUNDERSON, PRESIDENT OF ATOOCA, AS OUR AGENT IN THIS MATTER.

NAME	ADDRESS	PHONE	SIGNATURE
Dick B. Wills	Box 3-516 EC	279-4675	Dick B. Wills
BUNNY B DAHRMAN	5012 Garland Circle	333-4360	Bunny B Dahrman
ERNESTE Dahrman	5012 Garland Circle	333-4360	Ernest E Dahrman
Ernestine Dahrman	9010 Galovia	344-9337	Ernestine Dahrman
Lezley Dahrman	5012 GARLAND CIR	333-4360	Lezley Dahrman
[redacted]			
[redacted]	[redacted]		
BERTIN J. LANDRY	903 W 53 Ave	279-1005	Bertin J. Landry
Therese M. Landry	903 W. 53 ave	279-1005	Therese M. Landry
James L Lasseter	3361 amber Bay Loop	344-7386	James L Lasseter
Mike Gibeau	7243 Linden dr	243-7614	Mike Gibeau
Edward Baker	RR4 Box 17424	344-9145	Edward Baker
Kenneth Baptiste	8291 OPAL DR	241-7762	Kenneth Baptiste
DAN C. ULERY	3103 EUREKA	274-9482	Dan C. Ulery
TIM R. ULERY	4109 GARFIELD	278 9991	Tim R. Ulery
Edward C Lanier	1545-S-Hoyt APT 57 ANCHOR.	—	Edward C Lanier
EDWARD E. CHANLEY	6610 NEIMEL	248-5235	Edward E. Chanley

TO WHOM IT MAY CONCERN

WE THE UNDERSIGNED WISH TO SUPPORT SENATE BILL 135 AS PENDING BEFORE THE RULES COMMITTEE. ALSO WE WISH TO APPOINT TIM. GUNDERSON, PRESIDENT OF ATOUCA AS OUR AGENT IN THIS MATTER.

NAME	ADDRESS	PHONE	SIGNATURE
RON SARTORI	1702 BIRCHWOOD ST. ANCHORAGE, AK	274-9263	Ron Sartori
JAY PETERSON	Box 954 WASILLA AK	376-2096	Jay R Peterson
George Pucko	7200 Dupen Ave Apt 2 Anch	333 5085	G Pucko
Wayne Taylor	1506 Dobina Circle anch AK 99504	337-4904	Wayne Taylor
Jim Weymouth	Box 398 KIRKWOOD	783-29R	Jim Weymouth
Leonard Neher	801 Airport Heights	279-0975	Leonard Neher
Robert J Moore	8125 Sundial Dr	243-6120	Robert J Moore
JOSEPH GOODRICH	7509 Old Harbor Rd	222-5656	Joseph Goodrich
BE Schultz	PO Box 10-2009	349-0953	B E Schultz
John Forceskie	3030 Bennett Dr	243-2208	JOHN FORCESKIE
DON HENNESSY	8274 Seaview Circle	243-4473	Don Hennessy

(2)

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NAME	ADDRESS	PHONE	SIGNATURE
T. Bukowski	SR Box 2279 Anch AK	344-3982	
F. Cummings	6820 SHANE PL.	349-5661	Frank Cummings
T. Rasmussen	P.O. Box 8571	344-0073	Ted Rasmussen
C. PARK	PO Bx. 10-1605 and	3450818	
J. WREN	6850 BUKLWOOD DR	344-7939	James J. Wren
Mark Olson	Po 2781 anch ak	6943614	Mark Olson
Joseph Oliverson	7316 Ptarmigan Dr anch ak	349 2996	Joseph Oliverson
Ed Smith	1545 So Hoyt #344	337-2053	Ed Smith
Robert Langwell	3236 W. 30th	274-6442 248-4638	Robert F. Langwell
J. D. Jensen	P.O. Box 4-780 Anch 99509	344-8448	James D. Jensen
R. L. Canales	2600 Redwood St Anch 99504	274-7846	R. L. Canales
K. M. Ridle	SRA 15624 Anch AK 99507	345-3628	Kenneth M. Ridle

TO WHOM IT MAY CONCERN

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NAME	ADDRESS	PHONE	SIGNATURE
GLENN W. KENT	8311 HARTZELL RD.	349-2413	Glenn W. Kent
JACK J. WIEGELE	2248 Zurich Anch AK	344-8934	Jack Wiegele
HERSHEL L. PRESTON	5800 Glenn Hwy Apt #41 Anch	333-5111	Hershel L. Preston
RON MALEY	9030 ELim	344-8379	Ron Maley
MICHAEL R. MATHENY	6049 MORELLO #1	338-4257	Michael R. Matheny
Dick COMBS Dick Combs	2551 Solomon Dr	344-1338	Dick Combs
DON JOSTEN NOW AT AG UNIFORM	2507 BLUEBERRY	272-4780	Don Josten
Laurence VanDenburgh	5001 Nottingham	278-3340	Howard L. VanDenburgh
Peter ALLAM	6606 Rosewood Anch.	344-8175	Peter Allam
Jim Gearhart	5807 Mickey dr.	337-8152	Jim Gearhart
JOHN ROBINSON	8810 Cordell #2	248-4761	John A. Robinson
GENE SHADLE Gene Shadle	1641 Diamond DR	344-6845	Gene Shadle
ALEX LAWS	5650 OLD SEWARD Hwy	274-2201	Alex Laws
LONNIE RAWLESON	PO Box 907	338 0535	Lonnie Rawleson
Tommy Lamb	3400 Wyland Dr.	333-2635	Tommy Lamb
GLENN KENT SR.	2501 LaTourchest	277-9267	Glenn Kent Sr.

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NAME	ADDRESS	PHONE	SIGNATURE
[redacted]	[redacted] South Anch		
[redacted]			
Norieta Rule	1727 Bartlett Dr. Anchorage Alaska 99507	344-5909	Norieta J. Rule
Milt Slover	237 W 23rd Anchorage Alaska	274-7335	Milt Slover
Roy Goodrow	RT. 1 Box 25 Crestview Lane - EAGLE RIVER, AK	694-3477	Roy Goodrow
L.V. Krall	1200 W. Dimond Anch. AK 99502	349-6379	L.V. Krall
R.S. Bacot	3671 Alanis Dr. Anch. AK	243-5351	Rodney S. Bacot
Ray Perrin	3008 Rampart Terr Anch AK	337-7175	Ray Perrin
Roger F. Miles	633 N Flower Anch, AK	272-9329	Roger F. Miles
Barbara Rule	1727 Bartlett Anch AK	344-4068	Barbara Rule
W.F. MURRAY	3213 E. Tudor Road Anchorage	277-7406	W.F. Murray
Karen Hood	P.O. Box 8469 Anch	337-3775	Karen Hood
[redacted]	[redacted]		
Benita Joyner	1727 Bartlett Dr. Anch. 99507	345-4834	Benita Joyner
Mike Kline	Box 2172-2206 Lee Rd	337-5729	Michael Kline

TO WHOM IT MAY CONCERN

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NAME	ADDRESS	PHONE	SIGNATURE
Glen Young	310 W 32nd	349-3827	GLEN YOUNG
Homer Sprague	1200 W Dimond	344-6067	Homer Sprague
Darwin SPRINKLE	8300 E 32nd	337-5513	Darwin J Sprinkle
FUZZY SPRINKLE	8123 HARTZELL	344-0812	Fuzzy Sprinkle
Dolight Sprinkle	8123 HARTZELL	344-0812	Dolight M Sprinkle
DENNIS Young	310 W. 32nd Ave	274-0754	Dennis Young
DaLonna Sprinkle	8123 Hartzell Rd	344-0812	DaLonna Sprinkle
Bev Williams	8123 1/2 Hartzell Rd.	349-2912	Bev Williams
Ricki D. Sprague	1200W Dimond Blvd	344-6067	Ricki D Sprague
George Piaskowski	2906 Iris Ave B.	243-3727	George Piaskowski
RJ Conn	1831 E 5th Ave Unit J Anc 99510	349-3122	RJ Conn
David Sprinkle	Box 8620	653-8673	Dal Sprinkle
Robert E ERWIN	Box 4-1083 Anch AK 99509	248 5046	Robert E Erwin
MEL Fliegel	3319 W 86th Anch AK	243-5004	Mel Fliegel
SD Williams	8173 1/2 Hartzell	3492912	SD Williams
Clyde Pobello	1900 E 53rd Anchorage	344-3998	Clyde R Pobello
Michael C Smith	3306 Thompson Anch	272626	Michael C Smith
T. J Smith	633 N. FLOWER #5	276-8046	Thomas J. Smith
W.G. GOSSETT	100 B St #9 Fairbanks AK	456 6576	W G Gossett
GALE DOGGETT	Eagle River	688-2166	Gale Doggett
DUANE L SPRINKLE	2011 W 46th AVE	248-1731	Duane L Sprinkle
DARRELL SHOOP	SRA 6343 Palmer AK. 99645	—	Darrell Shoop

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NAME	ADDRESS	PHONE	SIGNATURE
Phil Boggess	241 W. Cook Anch	272-0105	Phil Boggess
John H. Greenwood	7320 Mayer Ct. Anch	337-2854	John H. Greenwood
Dennis B Jones	Box 4-1650 Anch 99509	274-7106	Dennis B Jones
Robert D Peck	5272 E 24TH Anch 99504	338-5370	Robert D Peck
Dora Cathey	521 Mellow PL	333 8042	Dora Cathey
Mike Stark	1850 HELEN CR	349-4804	Mike Stark
J. P. Stanley	Box 2092 ANCH AK	276-4331	J. P. Stanley
James H Gunson	2260 LAKE GEO DR	333-4089	James H Gunson
Clifford C. Hill	SRA 872	345-5109	Clifford C. Hill
Gerald Goodrich	7509 OLD Harbor	3335656	Gerald Goodrich
Kay Kogele (KAY / Kagele)	Box 10-1972 Anch 99511	345-3454	Kay Kogele
George Pullins	Mi 54½ Parks Hwy Wasilla	892-6521	George Pullins
Twanda Pullin's	mi 54½ Parks Hiway Wasilla	892-6521	Twanda Pullins
MARK SPOHN	5321 TUDOR TOP CR 99507	344-1334	Mark Spohn
Linda Spohn	5321 Tudor Top Circle 99507	344-1334	Linda Spohn
Otto Kogele	Box 10-1972 ANCH 99511	345-3454	Otto Kogele
EDWARD SCHMITT	8329 LAKE OTIS 99507	349-8480	Edward Schmitt
LINDA SCHMITT	"	"	Linda Schmitt
DAVE NIKA	Petes Creek	688-2788	David Nika
LORI NIKA	Petes Creek	688-2768	Lori Nika
JACK HAMILTON	Box 10-1972 ANCH AK 99501	345-3454	Jack Hamilton
LESLIE RULE	5906 SOUTAHITI	349-4793	Leslie Rule
BEN RULE	1777 BARTLETT DR. ANCH. AK.	344-5809	Ben Rule

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NAME	ADDRESS	PHONE	SIGNATURE
Elizabeth Lynn Wylie	4900 Kuparuk St.	344-4266	Elizabeth Lynn Wylie
Wm Jones	3264 Montclair Ct.	274-1330	Wm Jones
George W. Pefsh	3264 Montclair Ct.	274 1330	George W. Pefsh
Pat Faulkerson	4858 Kuparuk St. Anchorage	344-0373	Pat Faulkerson
~~Ralph Bowers~~	Box 665 Eagle River	694 2561	Ralph Bowers
Nancy Bowers	Box 665 Eagle Alaska	694-2561	Nancy Bowers
DON HILL	Box 155, Cordova Alaska 99574	344-8170	Don Hill
Bob Hill	934 ORCA Anch. AK	272-9287	Robert Hill
Gordon Mahr	Birchwood Loop Rd. Eagle River N.	688-3615	Gordon Mahr
Larry Schanders	9221 KAVIK Anchorage, Alaska 99502	243-5597	Larry Schanders
Jim Miller	Anchorage	345-2833	Jim Miller
Jack Reitman	SR 2 Box 5414 Homestead Rd. Chugiak ak 99567	688-9194	Jack Reitman
EARLE REASLEY	5400 Cope St. Anchorage Alaska 99502	272-2047	Earle Reasley
JIM SMITH	Anchorage Alaska	265-9502	Jim Smith
Bob Noe	639 E. 16th Anch AK 99501	344-7863	Robert Noe
Jack Dogget	DeArmon Rd Anchorage	345-3751	Jack Dogget
JIM SMITH	SRA Box 493C Anchorage 99507	345-9955	Jim Smith
Tony Shivers	5720 Glenn Hiway Anchorage 99504 #43	337-1403	Tony Shivers
Art Smith		275-6848	Art Smith
E.D. (Bud) Greene	1400 west 25th #8 Anch. 99503	277-2304	Bud Greene
Jim Burzinski	8021 Northwind Ave.	337-4672	Jim Burzinski
[redacted]			
Glenn Tisl	2811 Jefferson Ave Anch.	243-1934	Glenn Tisl
Nobel BAILEY	P.O. Box 814 - Eagle River 99577	688-2440	Nobel Bailey
Brenda Bailey	P.O. Box 814 - "	688-2440	Brenda Bailey
John ARSENAULT	P.O. Box 241 Chugiak Alaska 99567	345-6128	John Arsenault

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NAME	ADDRESS	PHONE	SIGNATURE
JOSEPH D. RULE	5906 SOUTH TAHITI LOOP ANCH AK 99504	349-4793	Joseph D. Rule
GLENN PRINCE	3608 LOCARNO DR. ANCH. AK 99504	274-0375	Glenn Prince
CHARLIE PINKHAM	3207 BONIFACE PARK ANCH AK. 99504	337 8284	Charlie Pinkham
George Nicholl	7209 Dubea Apt 8 Anch 99504	333-5485	George Nicholl
DAN ENGLISH	4110 DEBARR #20F ANCH AK 99504	337-4686	Dan English
WILLIAM O FORD	MI-23 OLD ANCH GLEN HWY	688-3897	William O Ford
DAVID W. SCHACHT	P.O. BOX 833 Zip 99508 3636 LORERD ANCH, AK	344-8447	David W. Schacht
Mike P Kush	6840 E 3rd Ave 99504	337 5913	Mike P Kush
LEON L. LAPKA	3820 BALCHEN DR. 99503	243-0638	Leon L Lapka
~~CHARLIE E. PARKER~~	~~3207 BONIFACE PARK ANCH AK 99504~~	~~337-8284~~	~~Charlie E. Parker~~ C.P.
MARK E. THOMPSON	BOX 33 PALMER, AK.	745-4188	Mark E. Thompson
Theodore G Lesko	2930 Wiley Post 99503	243-3175	Theodore G Lesko
HOWARD TILLINGHAST	SCRAP 2025 AA WASILLA	376-4220	Howard Tillinghast
Cal Mattingly	3520 Glenaire	338-3106	Cal Mattingly
E.R. Overturf	2984 Brandywine	274-3004	E R Overturf
DARYL R SPAETH	BOX 8-705	333-2664	Daryl R Spaeth
Harold E McClure	2612 Glenwood	277-8436	H.E. McCLURE
Mark D Jewick	4501 MARS DR	344-5828	MARK D. JEWICK
Mark A Mitchell	SRA Box	345-0904	Mark A Mitchell
John A. Roberts	7010 Dickerson	337-6833	John A. Roberts
Marlin Fryer	410 No Bliss. anch.	276-1243	Marlin Fryer
Jimmie Lear	1551 Crescent	277-7773	Jimmie Lear
John W. Hood	1200 W Dimond #211	344-0117	John W. Hood
Chuck Adams	SRA 1553 Y	345 0377	Chuck Adams
Phillip J. Kusl	3005 W 31st anch 99503	2484870	Phillip J. Kusl
Russ Ishihara	734 E 11TH APT. 3	278-4866	Russ Ishihara
Glen Fraser	1338 "F" ST. ANCH	279-4851	Glen J. Fraser
Richard Dafford	SRA BOX 4327 345-0997		Richard Dafford
Aaron Hood	P.O. Box 8416	337-3773	Aaron Hood
Randy Allender	2500 Douglas	248 2716	Randy Allender
P.A. Baker	9010 Noble Cir	248 2106	PHILIP R. BAKER

SB

148

COMMITTEE REPORT

HOUSE

4/9/81 FURTHER: FINANCE

(3)

Date: _____

Mr. Speaker:

The Committee on LABOR & COMMERCE has had CSSB 148(Fin)am

"An Act relating to housing loans; and providing for an effective date."

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

_____

_____

_____

_____

_____

_____

_____

_____

_____

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

_____

_____

_____

_____

_____

_____

CHAIRMAN

H 60 (Rev. 3/81)

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

"NONCONFORMING HOUSING LOAN PROGRAM"

Lending Activity - FY-81

As of April 29, 1981

TOTAL COMMITTED STATEWIDE

1ST JUDICIAL DISTRICT	$ 689,500
2ND JUDICIAL DISTRICT	$ 544,350
3RD JUDICIAL DISTRICT	$. 559,550
4TH JUDICIAL DISTRICT	$ 605,450
TOTAL	$2,398,850

1ST JUDICIAL DISTRICT

TOTAL COMMITTED

COMMUNITY LOAN AMOUNT	INTEREST RATES
Auke Bay	
$ 56,000	10%
Craig	
$ 73,500	8 3/4%
62,200	8 3/4%
Ketchikan	
$ 76,500	10%
73,450	10%
Juneau	
$ 82,150	10%
87,250	10%
52,250	10%
Sitka	
$ 51,200	10%
Yakutat	
$ 75,000	8 3/4%
+	
$689,500 Total District 01	

2ND JUDICIAL DISTRICT

TOTAL COMMITTED

COMMUNITY LOAN AMOUNT	INTEREST RATES
Kotzebue	
$140,000	8 3/4%
80,500	8 3/4%
23,750	8 3/4%
Nekoryuk	
$ 50,000	8 3/4%
Nome	
$ 72,650	8 3/4%
96,300	8 3/4%
33,250	8 3/4%
77,900	8 3/4%
$566,350 Total District 02	

4/

3RD JUDICIAL DISTRICT

TOTAL COMMITTED

COMMUNITY / LOAN AMOUNT	INTEREST RATE
Anchorage	
$ 73,350	10%
Beluga	
$125,500	8 3/4%
Coopers Landing	
$ 54,150	10%
61,750	8 3/4%
Chugiak	
$ 44,850	10%
99,750	9%
Kodiak	
$ 63,650	9%
Palmer	
$ 36,550	10%
+	
$559,550 Total District 03	

4TH JUDICIAL DISTRICT

TOTAL COMMITTED

COMMUNITY / LOAN AMOUNT	INTEREST RATES
Fairbanks	
$ 48,600	10%
55,800	10%
61,750	10%
33,300	10%
40,950	10%
50,350	10%
130,000	10%
37,050	10%
Nenana	
$147,750	10%
+	
$605,450 Total District 04	

LOANS COMMITTED

First Bank, Ketchikan	$ 263,350
B.M.Behrends	82,150
Arctic First Federal Savings & Loan	40,850
Alaska Bank of Commerce	36,550
Mt. McKinley Mutual Savings & Loan	130,000
First National Bank of Anchorage	200,600
United Bank Alaska	950,900
Alaska Statebank	242,650
Alaska National Bank of the North	451,800
TOTAL	$2,398,850

PARTICIPATING LENDERS
(SELLER/SERVICER'S)

Rainier Mortgage Company

Arctic First Federal Savings & Loan

The B.M. Behrends Bank

United Bank Alaska

Alaska Pacific Bank

Alaska Statebank

Alaska National Bank of the North

Alaska Teamsters Federal Credit Union

Alaska Bank of Commerce

The 1st National Bank of Anchorage

Mt. McKinley Mutual Savings & Loan

1st National Bank of Fairbanks

National Bank of Alaska

Peoples Bank & Trust

2

LOANS COMMITTED

Location	Interest Rate		Amount
FIRST BANK, KETCHIKAN			
Ketchikan	10%		$ 76,500
Sitka	10%		51,200
Ketchikan	10%		73,450
Craig	8 3/4%		62,200
		TOTAL	$ 263,350
B.H. BEHRENDS			
Juneau	10%		$ 82,150
		TOTAL	$ 82,150
ARCTIC FIRST FEDERAL SAVINGS & LOAN			
Fairbanks	10%		$ 40,850
		TOTAL	$ 40,850
ALASKA BANK OF COMMERCE			
Palmer	10%		$ 36,550
		TOTAL	$ 36,550
MT. MCKINLEY NATIONAL BANK			
Fairbanks	10%		$ 130,000
		TOTAL	$ 130,000
FIRST NATIONAL BANK OF ANCHORAGE			
Adak Bay	10%		$ 56,000
Chugiak	10%		44,850
Chugiak	9%		99,750
		TOTAL	$ 200,600
UNITED BANK ALASKA			
Coopers Landing	8 3/4%		$ 61,750
Craig	8 3/4%		73,500
Kodiak	9%		63,650

Location	Interest Rate		Amount
Kotzebue	8 3/4%		$ 110,000
Juneau	10%		52,250
Yakutat	8 3/4%		75,000
Nenana	10%		147,750
Beluga	8 3/4%		125,500
Juneau	8 3/4%		87,250
Kotzebue	8 3/4%		80,500
Nekoryuk	8 3/4%		50,000
Kotzebue	8 3/4%		23,750
		TOTAL	$ 950,900
ALASKA STATEBANK			
Fairbanks	10%		$ 48,600
Anchorage	10%		73,350
Juneau	10%		33,300
Fairbanks	10%		50,350
Fairbanks	10%		37,050
		TOTAL	$ 242,650
ALASKA NATIONAL BANK OF THE NORTH			
Fairbanks	10%		$ 55,800
None	8 3/4%		72,650
Cooper Landing	10%		54,150
None	8 3/4%		96,300
Fairbanks	10%		61,750
None	8 3/4%		33,250
None	8 3/4%		77,900
		TOTAL	$ 451,800
		TOTAL ALL BANKS	$2,393,850

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ALASKA STATE BANK

Location	Interest Rate	Amount
Fairbanks	10%	$ 37,050
Fairbanks	10%	50,350
Fairbanks	10%	37,500
Galena	8 3/4%	20,000
Anchorage	10%	71,250
	TOTAL	$216,150

ALASKA PACIFIC BANK

Location	Interest Rate	Amount
Anchorage	10%	$50,000
Palmer	10%	25,000
	TOTAL	$75,000

PEOPLES BANK AND TRUST

Location	Interest Rate	Amount
Indian	10%	$43,000
Eagle River	10%	79,300
	TOTAL	$122,300

FIRST NATIONAL BANK OF FAIRBANKS

Location	Interest	Amount
Fairbanks	10%	$ 19,000
Fairbanks	10%	16,150
	TOTAL	$ 35,150

ALASKA NATIONAL BANK OF THE NORTH

Location	Interest Rate	Amount
Note	8 3/4%	$125,500
"	"	30,000
"	"	49,979
"	"	128,975
"	"	70,565
"	"	160,000
"	"	141,000
"	"	125,500
"	"	142,500
"	"	80,000
"	"	25,000
"	"	50,000
"	"	50,000
"	"	42,750
"	"	155,000
"	"	20,000
	TOTAL	$1,254,289

Rainier Mortgage:

Location	Interest	Amount
Fairbanks	10%	$ 30,400

UNITED BANK OF ALASKA

Location	Interest	Amount
Cooper Landing	8 3/4%	$ 61,750
Nuiqsut	8 3/4%	90,250
Kodiak	9%	63,650
Dillingham	8 3/4%	22,000
Dillingham	8 3/4%	12,000
Dillingham	8 3/4%	76,000
King Cove	8 3/4%	80,000
Ruby	8 3/4%	25,000
Dillingham	8 3/4%	50,000
Nenana	8 3/4%	50,000
Dillingham	8 3/4%	136,800
Dillingham	8 3/4%	63,800
Dillingham	8 3/4%	44,600
Dillingham	8 3/4%	90,100
Dillingham	8 3/4%	8,500
Nome	8 3/4%	100,000
Juneau	10%	66,900
Fairbanks	10%	37,150
	TOTAL	$1,138,500

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Location	Interest	Amount
Fairbanks	9%	$ 52,250
Fairbanks	10%	71,250
	TOTAL	$123,500

FIRST NATIONAL BANK OF ANCHORAGE - JUNEAU OFFICE

Location	Interest	Amount
Juneau	10%	$129,000
Juneau	10%	88,000
Juneau	10%	50,000
	TOTAL	$267,000

FIRST NATIONAL BANK OF ANCHORAGE - KODIAK

Location	Interest	Amount
Kodiak (Island Lake)	10%	$50,000
" (Monashka Bay)	10%	50,000
" (Bell Flats)	10%	60,000
	TOTAL	$ 160,00

ALASKA BANK OF COMMERCE - WASILLA

Location	Interest	Amount
Palmer	10%	$76,500

LOANS IN PROCESS

Alaska State Bank	$ 216,150
Alaska Pacific Bank	75,000
Peoples Bank & Trust	122,300
1st National Bank of Fairbanks	35,150
Alaska National Bank of the North	1,254,269
Rainier Mortgage	30,400
Arctic First Federal Savings & Loan	123,500
1st National Bank of Anchorage, Juneau	267,600
1st National Bank of Anchorage, Kodiak	160,000
Alaska Bank of Commerce	76,500
B.M. Behrends Bank	90,000
United Bank of Alaska	1,138,500
First Bank, Ketchikan	205,750
Nome Field Office	1,272,636
Kotzebue Field Office	878,000
Dillingham Field Office	1,776,144
TOTAL IN PROCESS	$9,691,919

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NOME FIELD OFFICE
(IN PROCESS)

LOCATION	INTEREST RATE	AMOUNT
Nome	8 3/4%	$ 160,000
"	"	45,000
"	"	142,500
"	"	50,000
"	"	71,000
"	"	50,000
"	"	20,175
"	"	15,000
"	"	45,000
"	"	90,000
"	"	125,500
"	"	140,961
"	"	70,000
"	"	27,300
"	"	60,000
"	"	114,000
"	"	45,000
	TOTAL	$1,272,636

1ST BANK

Location	Interest Rate	Amount
Craig	8 3/4%	$ 36,100
"	"	62,200
"	"	34,000
Ketchikan	"	73,450
	TOTAL	$ 205,750

B.N. [illegible]

Location	Interest	Amount
Juneau	10%	$10,000
Tenakee Springs	8 3/4%	35,000
Juneau	10%	45,000
	TOTAL	$90,000

KOTZEBUE FIELD OFFICE
(IN PROCESS)

LOCATION	INTEREST RATE	AMOUNT
Kiana	8 3/4%	$ 30,000
"	"	30,000
"	"	30,000
"	"	40,000
"	"	40,000
Kotzebue	"	76,000
"	"	125,000
"	"	50,000
"	"	50,000
"	"	27,000
"	"	50,000
"	"	50,000
"	"	50,000
"	"	160,000
"	"	7,000
	TOTAL	$ 878,000

DILLINGHAM OFFICE

Location	Interest	Amount
Dillingham	8 3/4%	$ 50,000
"	"	70,000
"	"	50,000
"	"	50,000
Koliganek	"	50,000
Dillingham	"	50,000
Dillingham	"	50,000
Igiugig	"	50,000
Dillingham	"	55,000
"	"	12,257
"	"	22,000
"	"	51,887
Manokotak	"	50,000
Illiamna	"	50,000
Dillingham	"	80,000
Kwiak	"	50,000
Manokotak	"	50,000
Dillingham	"	100,000
Chignik Bay	"	50,000
"	"	50,000
"	"	50,000
"	"	50,000
St. Mary's	"	
Illiamna	"	50,000
"	"	50,000
"	"	50,000

Location	Interest	Amount
New Stuyahok	8 3/4%	$ 50,000
"	"	50,000
Chignik Bay	"	50,000
Iliamna	"	50,000
Chignik Bay	"	50,000
Point Heiden	"	50,000
"	"	50,000
"	"	50,000
"	"	50,000
Iliamna	"	50,000
Dillingham ..	"	80,000
Chignik Bay	"	50,000
Ugashik	"	50,000
Iliamna	"	50,000
Point Heiden	"	50,000
Dillingham	"	50,000
New Stuyahok	"	60,000
Naknek	"	70,000
Point Heiden	"	50,000
Dillingham	"	80,000
Koliganek	"	50,000
King Salmon	"	50,000
Pilot Point	"	50,000
Point Heiden	"	50,000
Perryville	"	50,000
Dillingham	"	70,000

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Location	Interest	Amount
Dillingham	8 3/4%	70,000
"	"	70,000
Alexnagik	"	50,000
Illiamna	"	50,000
Dillingham	"	70,000
Illiamna	"	50,000
Dillingham	"	70,000
Illiamna	"	50,000
Dillingham	"	70,000
Ugashik	"	50,000
Ugashik	"	50,000
Pilot Point	"	50,000
Good News Bay	"	70,000
Chignik Bay	"	50,000
Illiamna	"	50,000
Chignik Bay	"	50,000
	TOTAL	3,746,144

2

TOTAL LOANS IN PROCESS BY JUDICIAL DISTRICT

1st Judicial District	$ 631,150
2nd Judicial District	$3,864,275
3rd Judicial District	$4,785,394
4th Judicial District	421,100
TOTAL	$9,691,919

1ST JUDICIAL DISTRICT

TOTAL IN PROCESS

COMMUNITY / LOAN AMOUNT	INTEREST RATES
Clear	
$ 36,100	8 3/4%
62,200	"
34,000	"
Ketchikan	
$ 74,350	10%
Juneau	
$ 66,900	10%
10,000	10%
45,000	10%
129,000	10%
68,000	10%
59,600	10%
Tenakee Springs	
$ 35,000	8 3/

$631,150 Total District 01

2ND JUDICIAL DISTRICT

TOTAL IN PROCESS

COMMUNITY LOAN AMOUNT	INTEREST RATES
Kiana	
$ 30,000	6 3/4
30,000	"
30,000	"
40,000	"
40,000	"
Buckland	
$ 76,000	"
125,000	"
50,000	"
50,000	"
27,000	"
50,000	"
50,000	"
50,000	"
160,000	"
7,000	"
Noorvik	
$ 125,500	
30,000	"
49,979	"
120,975	"
70,585	"
160,000	"
141,000	"
125,500	"
60,000	"
25,000	"
50,000	"

Cont.

Ross	
$ 50,000	8 3/4%
42,750	"
156,600	"
20,000	"
160,000	"
165,000	"
45,000	"
142,500	"
50,000	"
71,000	"
50,000	"
20,000	"
15,000	"
45,000	"
90,000	"
125,500	"
140,961	"
70,000	"
27,350	"
60,000	"
114,000	"
45,600	"
Ruby	
$ 25,000	"
Russell	
$ 90,250	"
$3,654,275	TOTAL DISTRICT 02

3RD JUDICIAL DISTRICT

TOTAL IN PROCESS

COMMUNITY LOAN AMOUNT	INTEREST RATES
Ashland	
$ 50,000	8 3/4%
Antrim	
$ 50,000	10%
71,750	10%
Manchester	
$ 50,000	8 3/4%
50,000	"
New Hampshire	
$ 50,000	8 3/4%
50,000	"
60,000	"

CONTINUED

6th JUDICIAL DISTRICT

TOTAL IN PROCESS

COMMUNITY / LOAN AMOUNT	INTEREST RATES
Aleknagik	
$ 50,000	6 3/4 %
Chignik Bay	
$ 50,000	6 3/4%
50,000	6 3/4%
50,000	6 3/4%
50,000	6 3/4%
50,000	6 3/4%
50,000	6 3/4%
50,000	6 3/4%
50,000	6 3/4%
Copper Landing	
$ 61,750	6 3/4%
Dillingham	
$ 70,000	6 3/4%
70,000	6 3/4%
70,000	6 3/4%
22,000	6 3/4%
12,000	6 3/4%
70,000	6 3/4%
50,000	6 3/4%
136,000	6 3/4%
63,800	6 3/4%

CONTINUED

3RD JUDICIAL DISTRICT

TOTAL IN PROCESS

COMMUNITY LOAN AMOUNT DILLINGHAM/CONTINUED	INTEREST RATES
$ 44,600	8 3/4%
90,100	"
8,500	"
50,000	"
70,000	"
50,000	"
50,000	"
50,000	"
50,000	"
55,000	"
19,757	"
22,000	"
51,887	"
80,000	"
100,000	"
60,000	"
50,000	"
80,000	"
70,000	"
70,000	"
70,000	"
Eagle River	
$ 75,300	8 3/4%
Good News Bay	
$ 70,000	8 3/4%

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TOTAL IN PROCESS

COMMUNITY LOAN AMOUNT	INTEREST RATES
Williams	
$ 50,000	8 3/4%
50,000	"
50,000	"
50,000	"
50,000	"
50,000	"
50,000	"
50,000	"
50,000	"
50,000	"
50,000	"
50,000	"
50,000	"
Dickson	
$ 44,000	"
Lyncrest	
$ 50,000	8 3/4%
Kenton	
$ 50,000	10%
50,000	"
50,000	"
63,000	"
Pine Cove	
$ 80,000	8 3/4%
King Solomon	
$ 50,000	8 3/4%
Evergreen	
$ 50,000	8 3/4%

3RD JUDICIAL DISTRICT

TOTAL IN PROCESS

COMMUNITY, LOAN AMOUNT	INTEREST RATES
Pilot Point	
$ 50,000	8 3/4%
50,000	8 3/4%
Perrytown	
$ 50,000	8 3/4%
Paloma	
$ 76,500	10%
25,000	10%
Fort Belton	
$ 50,000	8 3/4%
50,000	8 3/4%
50,000	8 3/4%
50,000	8 3/4%
50,000	8 3/4%
50,000	8 3/4%
50,000	8 3/4%
Uvalde	
$ 50,000	8 3/4%
50,000	8 3/4%
50,000	8 3/4%
Hubbock	
$ 70,000	8 3/4%
Tomak	
$ 50,000	
$4,785,394	Total District 03

6TH JUDICIAL DISTRICT

TOTAL IN PROCESS

COMMUNITY LOAN AMOUNT		INTEREST RATE
Fairbanks		
$ 37,050		10%
50,350		10%
37,500		10%
47,150		10%
19,000		10%
16,[illegible]		10%
[illegible],450		10%
52,250		9%
71,250		10%
Galena		
$ 20,000		8 3/4%
Emma		
$ 50,000		8 3/4%
$421,100	Total District 06	

Totals as of April 29, 1981

Total Loans In Process	$9,691,919
Total Loans Committed	$2,398,850
Total Activity	$12,090,769

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

A M E N D M E N T #1

Offered in the HOUSE By Cuddy

TO: CSSB 148(Fin)am

Page 4, lines 26 and 27, delete all material and insert:

"(1) an interest rate one percent less than the interest rate prescribed in AS 44.47.410(2) [NINE PERCENT] for a mortgage loan made to a person who is an eligible veteran under AS 18.56.101;"

A M E N D M E N T #2

Offered in the HOUSE By Cuddy

TO: CSSB 148(Fin)am

Page 4, lines 28 and 29, delete all material and insert:

"(2) the interest rate prescribed by law for a loan made under the special mortgage loan purchase program established under AS 18.56.098 [TEN PERCENT] for a mortgage loan made to a person other than a person described in (1) of this subsection."

A M E N D M E N T #3

Offered in the HOUSE By Cuddy

TO: CSSB 148(Fin)am

Page 4, line 23:

After "LOANS." insert "(a)"

Page 4, after line 29, insert the following:

(b) Mortgage loans in urban areas and in areas other than urban areas must bear identical interest rates.

A M E N D M E N T #4

Offered in the HOUSE By Cuddy

TO: CSSB 148(Fin)am

Page 1, lines 9 - 13, delete all material.

Page 1, line 20, delete "originate,".

Page 1, line 21, delete "."

Page 2, line 18, delete "originate direct loans or"

Page 2, line 22, delete "originate direct loans or"

Page 3, line 13, delete "originate direct loans or"

Page 4, lines 3 - 21, delete all material.

Page 5, line 1 - page 6, line 6, delete all material.

Page 6, line 19, delete "originated or"

Page 6, line 22 - page 7, line 2, delete all material.

Renumber bill sections accordingly.

ALASKA STATE LEGISLATURE HOUSE OF REPRESENTATIVES

REPRESENTATIVE SALLY SMITH • 321 CHURCH STREET • FAIRBANKS, ALASKA 99701 • IN JUNEAU: POUCH V • JUNEAU, ALASKA 99811

March 18, 1981

David Wurm
Galena Avionics
SR Box 30928
Fairbanks, Alaska 99701

Dear Mr. Wurm:

Thank you for your message supporting long-term, low-interest, lower monthly payment housing and small business loans. As you may already be aware, the legislature is considering some changes to the various loan program requirements.

The Labor and Commerce Committee will consider various amendments to the statutory loan provisions and a copy of your message has been sent to Labor and Commerce Chair Vern Hurlbert. If you have additional information that you would like to provide, I urge you to contact Representative Hurlbert at Pouch V, Juneau, 99811.

Your comments have been noted and I will consider them carefully before taking any action on legislation which might affect these state programs.

Again, thanks for your input.

Sincerely,

Sally

Sally Smith
Alaska State Representative

cc: Rep. Hurlbert

Loans — Commerce

MSG 81-00007774 PRTY 1 03/11/81 13:35:29 ORIG: LF00 IN= 0013 OUT= 0066
FROM: MAXINE TO: JUNO INFO
TARGET: LJH2 SUBJ: POM PAGE 0001

TO: REP BETTISWORTH, BROWN, FANNING, RANDOLPH, ROGERS, SMITH
SEN. BENNETT, FAHRENKAMP, PARR

FR: DAVID WURM, GALENA AVIONICS, SR 3 BOX 30998, FAIRBANKS 99701
PH. 452-6961

RE: LOANS, SMALL BUS & HOUSING

SUGGESTION: INTEREST FREE SMALL BUSINESS/HOUSING LOANS WITH 15 YR TERM. COMPARED TO THE CURRENT AHFC 30 YR PROGRAM, THE BORROWERS MONTHLY PAYMENTS WOULD BE LOWER (70% OF AHFC). THE STATE'S TOTAL INTEREST SUBSIDY OVER THE LOAN TERM WOULD BE UNCHANGED. POSSIBLE LIMITS, 10% DOWN, 100,000 TOTAL.

CONTACT 8-11PM DAILY

ALASKA STATE LEGISLATURE HOUSE OF REPRESENTATIVES

REPRESENTATIVE SALLY SMITH • 321 CHURCH STREET • FAIRBANKS, ALASKA 99701 • IN JUNEAU: POUCH V • JUNEAU, ALASKA 99811

May 6, 1981

Barry Brown
Legislative Committee Chair
Fairbanks Board of Realtors
101 College Road
Fairbanks, AK 99701

Dear Barry,

Thank you for your comments concerning Senate Bill 148.

Senate Bill 148 is in House Labor & Commerce so I am sending Labor & Commerce Chair Vern Hurlbert a copy of your message. He can then use it as backup for committee deliberations. If you have further comments on this piece of legislation, I urge you to contact Representative Hurlbert at Pouch V, Juneau 99811. Rest assured, I will take your comments into consideration when this bill comes to the House floor.

Again, thanks for your input!

Sincerely,

Sally Smith
Alaska State Representative

cc: Rep. Vern Hurlbert
jg

JBXBD Cotton

Rtn to Gruen

4/19/81 (H) L+C

9

CG 81-00013605 PRTY 1 04/22/81 16:47:14 ORIG: LF01 IN= 0009 OUT= 0069
ROM: MAXINE/FAIRBANKS TO: JUNO INFO
ARGET: LJH2 SUBJ: POM

D: REP ROGERS, BROWN, SMITH, MALONE, COTTEN
SEN FAHRENKAMP, PARR, BENNETT

: BARRY BROWN, LEGIS CMTE CHAIR, FBX BR REALTORS
101 COLLEGE RD, FAIRBANKS 99701 PH. 456-5351

: AHFC & NON CONFORMING LOAN PROGRAM (SB148)

HE FAIRBANKS BOARD OF REALTORS REQUESTS THAT AHFC LOAN COMMITTMENTS
BACKED BY SET-ASIDE FUNDS, NOT HOLLOW COMMITTMENTS WHICH ONLY REPRESENT
QUALIFICATION OF THE BORROWER. ALSO, WE REQUEST THAT THE AMENDMENT TO
148 EXCLUDING CITIES WITH POPULATIONS OVER 3500 BE DROPPED. PLEASE CALL
YOU NEED MORE INFO FROM US. THANK YOU.

---EOM

AMBA
ALASKA MORTGAGE BANKERS ASSOCIATION
ANCHORAGE, ALASKA

April 16, 1981

The Honorable Vernon Hurlbert
Alaska State House of Representatives
Pouch V
State Capitol Building
Juneau, Alaska 99811

Dear Representative Hurlbert:

The Alaska Mortgage Bankers Association has reviewed CS for Senate Bill No. 148. Section 44.47.385. Eligible Locations. This section appears to have the intent to make financing through the nonconforming Housing Loan Fund available only in areas with population of 3,500 or less. Such action would appear to be inequitable to areas of Alaska such as Anchorage, Fairbanks, Juneau, Ketchikan, Kodiak, the Kenai Peninsula, Mat-Su Borough, etc.

We strongly recommend loan programs funded by the State be available to residents of all areas.

Sincerely,

Lynn Manley
President

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

FINANCE DIVISION
POUCH WF–STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3795

May 4, 1981

M E M O R A N D U M

TO: Honorable Jim Duncan, Speaker
Alaska House of Representatives

FROM: Milt Barker, Fiscal Analyst MB
Legislative Finance Division

SUBJECT: Working Capital, Inventory, and Refinance Loans

The policy of the small business loans programs while it has been under the Department of Commerce has been to not make loans for the purpose of working capital, inventory, or refinancing. A very minor portion of a loan made for other purposes, i.e., a new business or a business expansion, has been allowed on occasion for such purposes.

In the last 8 years, about five or six inventory loans have been made against a pledge of real property or equipment; no inventory loans were made against inventory.

During the same period, no straight working capital loans were made. A few loans for construction or equipment allowed $5,000 to $10,000 for working capital.

During the same period, a handful of refinancing loans were done to avoid bankruptcy or permit expansion. In the case of expansion, no refinancing actually was done with State funds because the bank was required to participate in the new loan in an amount equal to its prior loan plus 10% of the expansion. No equity extraction was permitted in any case.

Even if it is desired that AIDA make working capital, inventory, or refinancing loans, it is not necessary for the State to subsidize such loans to be able to offer the borrower a reduced interest cost. The IRS statutes permit up to 10% of an tax-exempt bond issue to be used for non-tax-exempt purposes. Thus, if AIDA plans $400 million in

tax-exempt bonding for qualified projects, they could instead issue $444 million and have $44 million available for working capital, inventory, and refinancing loans (these purposes are not otherwise eligible for tax-exempt bonding).

It has been suggested that AIDA could offer these loans at a reduced interest cost by funding them from taxable bonds. The taxable bond rate is currently several points below the prime rate of banks. These loans generally pay prime plus 2%, so there could be a four to five percent reduction in interest cost for borrowers paying the taxable bond rate.

However, borrowing long and lending short is not sound. If interest rates fall, new working capital and inventory loans will be made from repayments on the initial loans at lesser rates than the bonds which will still be outstanding.

MBB/pw

DIVISION OF HOUSING ASSISTANCE LOANS

The Division of Housing Assistance in the Department of Community and Regional Affairs was established through passage of Senate Bill No. 1 during the 1980 Legislative Session. The Division is responsible for administering the Nonconforming Housing Loan Program, which will provide monies from the Nonconforming Housing Loan Fund to be used for the purchase of (1) nonconforming housing mortgage loans; (2) loans for building materials for nonconforming housing; and (3) loans made for renovations or improvements to existing nonconforming housing. $10 million has been appropriated from the General Fund for the program's first year of operation. The loan money is to be distributed on an equitable and statewide basis.

"Nonconforming Housing" under this program, is defined as housing that does not meet the standards established by national and state codes regarding construction practices or minimum space requirements, or normal utilities, or normal title in fee simple ownership. Housing must meet minimum standards of structural integrity and be devoid of any conditions that are a serious hazard to physical safety.

The Nonconforming Housing Loan Program has been designed to fulfill the need of individuals for obtaining housing in all geographical areas of the State of Alaska. A major objective of the Division of Housing Assistance is to accomodate the need for safe and adequate housing in the rural areas of the State. Many individuals living in the more remote locations of Alaska have in the past, been unable to obtain financing for housing because of geographical constraints, and the inability of other lending institutions to serve these areas. The Division, in an effort to serve the rural areas, will be establishing four field offices to be located in Kotzebue, Bethel, Dillingham and Nome. These offices will be staffed by loan information officers who will be trained to assist individuals seeking a Nonconforming Housing Loan, as well as providing comprehensive loan information on all state loan programs.

TYPE OF LOAN	Maximum Loan Amount	Loan to Value Ratio	Interest Rate	Maximum Term
Single Family (non-veteran)	147,750	95%	10%	30 Years
Single Family (veteran)	147,750	95%	9%	30 Years
Duplex (non-veteran)	189,000	95%	10%	30 Years
Duplex (veteran)	189,000	95%	9%	30 Years
Rural/Remote Areas Single Family	125,500	95%	8 3/4%	30 years
Rural/Remote Areas Duplexes	160,000	90%	8 3/4%	30 Years

TERMS OF LOAN:

1. Must be for purchase of an existing house for owner occupancy
2. Loan to value ratio will be determined by the market value of the property securing the mortgage as established by an appraiser or the purchase price of the property whichever is lower.
3. Maximum term of the loan shall not exceed 30 years or 80% of the remaining physical life of the property
4. Loans are assumable.
5. Where possible, fire insurance will be required.

BORROWER ELIGIBILITY:

1. A person is eligible under the nonconforming housing program for a residential mortgage loan to finance the purchase of a single family or duplex building which must be designed for residential use and intended as the principal residence of the borrower.
2. There are no maximum income limits.
3. The borrower must have sufficient income to meet debt service payments, heating and utility payments, plus normal living expenses.

MINIMUM CONSTRUCTION STANDARDS: are established as the construction standards which in the opinion of the Division are acceptable within the normal construction standards which will permit water holding tanks, individual water and sewage haul systems, on-site water and sewer systems, foundation variations and other deviations as specific engineers certification that the characteristics of such physical construction will not impair the health or safety of the occupants of the residence. The Division will require as a condition to its purchasing, a mortgage loan, a waiver and release from each borrower that the Division is not responsible for any failure of the residence to meet normal minimum construction standards.

SECURITY FOR LOAN: made to a purchaser of an existing house shall consist of a deed of trust and evidence that the land is conveyed in fee simple ownership. If land is restricted native allotment, then security shall consist of a deed of trust and an executed leasehold which must exceed the loan term by at least 10 years.

HOW TO APPLY: eligible borrowers may contact local lending institutions to process their loan applications.

RURAL/REMOTE AREA LOANS: are loans for residences located in areas of the State not connected by road or rail to Anchorage or Fairbanks, or serviced by the state marine highway system, and located in a community having a population of 2200 or less.

RENOVATION/IMPROVEMENT LOANS OR BUILDING MATERIAL LOANS: are available to homeowners to upgrade their existing homes. Renovation work shall meet all applicable building codes. Applications for a loan shall be submitted through a lending institution and shall include plans and specifications of work to be done, cost estimates, and properly executed contracts for the proposed renovation work.

Borrowers must have sufficient income to meet all housing expenses plus normal living expenses.

100 - 4585

ALASKA DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIRECTORY

BANKS & FINANCIAL INSTITUTIONS

Charles R. Webber, Commissioner
Department of Commerce
& Economic Development

Julius J. Brecht Director
Division of Banking, Securities,
Small Loans & Corporations

APRIL 1980

PREFACE

The Division of Banking, Securities, Small Loans and Corporations charters and supervises state-chartered commercial banks, mutual savings banks, savings and loan associations, and trust companies; registers and examines bank holding companies, licenses and examines small loan offices and premium finance companies and filings under the Model Foreign Bank Loan Act.

Currently, there are six state-chartered commercial banks, two mutual savings banks, two state-chartered savings and loan associations and one trust company with banking privileges. These institutions operate a total of forty-eight offices in the State as of this date.

Total assets for all banks in Alaska were $2,248,372 as of December 31, 1979, which represents an increase of $115,319,000 over last year. The total assets of all state-chartered banks and trust companies of that date were $824,441,000 which represents a 13.8 percent increase over last year. Approximately 37 percent of the total assets of all banks and trust companies are held in state-chartered institutions, which represents a 3 percent increase over last year. With the conversion of one national bank in February 1980, approximately 40 percent of the total assets of all banks and trust companies are held in state-chartered institutions.

This directory updates the one published last year and is designed to provide a comprehensive listing of all state-chartered banks, national banks, state and federal savings and loan associations, small loan and premium finance companies, and branch offices that are approved and operating in the State of Alaska at the time of publication.

It is our hope that the information will be helpful to you. Your suggestions for additions or corrections to the information contained in this directory would be appreciated. Next year the division will publish the directory incorporating the changes and improvements, as necessary.

Additionally, two state-chartered savings and loan associations are in their formation stages, but had no significant effect on deposit or loan volume as of year-end.

Please feel free to make as many copies of the directory as you need.

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Prepared By
Division of Banking, Securities, Small Loans and Corporations
Julius J. Brecht, Director
Pouch D
Juneau, Alaska 99811
(907) 465-2521

A sufficient number of copies are produced to make a basic distribution to Alaska Financial Institutions. Each issue is printed only once. Users are free to make as many copies as they may need or wish.

STATE BANKS

ALASKA BANK OF COMMERCE

Anchorage

Main Office
712 West 4th Avenue
Pouch 7012
Anchorage, Alaska 99510
Telephone: (907) 276-7200

Boniface Branch
Boniface and Northern Lights Blvd.
Pouch 7012
Anchorage, Alaska 99510
Telephone: (907) 276-7200

C Street Branch
3230 C Street
Pouch 7012
Anchorage, Alaska 99510
Telephone: (907) 276-7200

Dimond Branch
Dimond Mall
800 East Dimond Boulevard
Pouch 7012
Anchorage, Alaska 99510
Telephone: (907) 276-7200

Drive-In Branch
7th Avenue at G Street
Pouch 7012
Anchorage, Alaska 99510
Telephone: (907) 276-7200

Drive-In Facility
2810 Minnesota Drive
Pouch 7012
Anchorage, Alaska 99510
Telephone: (907) 276-7200

O'Malley Branch
1000 O'Malley Road
Pouch 7012
Anchorage, Alaska 99510
Telephone: (907) 276-7200

Tudor Branch
3335 E. Tudor Road
Pouch 7012
Anchorage, Alaska 99510
Telephone: (907) 276-7200

Eagle River

Eagle River Branch
Mile 14, Old Glenn Highway
Pouch 7012
Anchorage, Alaska 99510
Telephone: (907) 276-7200

ALASKA BANK OF COMMERCE continued

Homer

Homer Branch
Lakeside Mall
Drawer 198
Homer, Alaska 99603
Telephone: (907) 235-8146

Naknek

Naknek/King Salmon Branch
Bristol Bay Borough Building
Box 208
Naknek, Alaska 99633
Telephone: (907) 268-4402

Palmer

Palmer Branch
840 S. Colony Way, Box AA
Palmer, Alaska 99645
Telephone: (907) 745-2161

Soldotna

Soldotna Branch
Blazy Mall, Box 2258
Soldotna, Alaska 99669
Telephone: (907) 262-4468

Wasilla

Wasilla Branch
Mile 41, Parks Highway
P.O. Box 600
Wasilla, Alaska 99687
Telephone: (907) 376-5109

Branch Approved

Willow/Talkeetna - Mobile Branch

ALASKA MUTUAL SAVINGS BANK

Anchorage

Main Office
601 West 5th Avenue
P.O. Box 1120
Anchorage, Alaska 99510
Telephone: (907) 274-3561

Minnesota-Benson Branch
1503 West 31st
Anchorage, Alaska 99503
Telephone: (907) 274-2551

Teamsters Mall Branch
1200 Airport Heights Road
Anchorage, Alaska 99504
Telephone: (907) 274-5722

ALASKA MUTUAL SAVINGS BANK continued

Eagle River

Eagle River Branch
Parkgate Professional Building
Eagle River, Alaska 99577
Telephone: (907) 694-9571

ALASKA PACIFIC BANK

Anchorage

Main Office
601 West 5th Avenue
P.O. Box 420
Anchorage, Alaska 99510
Telephone: (907) 276-3110

Benson Banking Center Branch
101 Benson Boulevard
P.O. Box 420
Anchorage, Alaska 99510
Telephone: (907) 276-3110

ALASKA STATEBANK

Anchorage

Main Office
442 West 5th Avenue
P.O. Box 240
Anchorage, Alaska 99510
Telephone: (907) 277-5661

Drive-In Branch
6th Avenue and E Street
Anchorage, Alaska 99501
Telephone: (907) 277-5661

Mountain View Branch
4010 Mountain View Drive
Drawer 8970
Anchorage, Alaska 99508
Telephone: (907) 277-7588

Northern Lights Branch
310 E. Northern Lights Boulevard
Anchorage, Alaska 99503
Telephone: (907) 279-7637

Tudor Road Branch
2545 East Tudor Road
Anchorage, Alaska 99509
Telephone: (907) 276-3121

Fairbanks

Airport Way Branch
1989 Airport Way
Fairbanks, Alaska 99701
Telephone: (907) 452-8321

STATE BANKS

ALASKA STATEBANK continued

Bentley Mall Branch
3200 College Road
Fairbanks, Alaska 99701
Telephone: (907) 452-5067

Fairbanks Branch
5th Avenue on the Mall
P.O. Box 769
Fairbanks, Alaska 99707
Telephone: (907) 452-1221

Kenai

Kenai Branch
Kenai Spur Road
Drawer 910
Kenai, Alaska 99611
Telephone: (907) 283-7542

Unalaska

Unalaska Branch
Unisea Mall
P.O. Box 77
Unalaska, Alaska 99685
Telephone: (907) 581-1300

THE B.M. BEHRENDS BANK

Juneau

Main Office
234 Seward Street
P.O. Box 1367
Juneau, Alaska 99802
Telephone: (907) 586-6800

Mendenhall Branch
9½ Mile Glacier Highway
RR#5 Box 5131
Juneau, Alaska 99803
Telephone: (907) 789-0101

Hoonah

Hoonah Branch
Main Street
P.O. Box 198
Hoonah, Alaska 99829
Telephone: (907) 945-3297

Yakutat

Yakutat Branch
Main Street
P.O. Box 334
Yakutat, Alaska 99689
Telephone: (907) 784-3204

FIRST BANK

Anchorage

Financial Center Bank Branch
811 E. 36th Avenue
Anchorage, Alaska 99503
Telephone: (907) 276-6911

Craig

Prince of Wales Branch
3rd & Main Street
P.O. Box 74
Craig, Alaska 99921
Telephone: (907) 826-3254

Ketchikan

Main Office
331 Dock Street
Box 7920
Ketchikan, Alaska 99901
Telephone: (907) 225-6101

Totem Branch
2530 Tongass Avenue
P.O. Box 5100
Ketchikan, Alaska 99901
Telephone: (907) 225-5128

Petersburg

Le Conte Branch
204 Harbor Way
P.O. Box 1109
Petersburg, Alaska 99833
Telephone: (907) 772-4277

Sitka

Sitka Branch
1867 Halibut Point Road
P.O. Box 1829
Sitka, Alaska 99835
Telephone: (907) 747-6636

MT. MCKINLEY MUTUAL SAVINGS BANK

Fairbanks

531 Third Avenue
P.O. Box 73880
Fairbanks, Alaska 99707
Telephone: (907) 452-1751

PEOPLES BANK & TRUST

Anchorage

Main Office
807 G Street
Pouch 7007
Anchorage, Alaska 99510
Telephone: (907) 279-7511

PEOPLES BANK & TRUST continued

Dimond-Jewel Lake Branch
8981 Jewel Lake Road
Pouch 7-007
Anchorage, Alaska 99510
Telephone: (907) 279-7511

University Center Branch
9655 East 38th Street
Pouch 7-007
Anchorage, Alaska 99510
Telephone: (907) 279-7511

UNITED BANK ALASKA

645 G Street
Anchorage, Alaska 99501
Telephone: (907) 276-1911

NATIONAL BANKS

ALASKA NATIONAL BANK OF THE NORTH

Anchorage

Calais II Branch
3301 C Street
Pouch 7-010
Anchorage, Alaska 99510
Telephone: (907) 278-4581

Captian Cook Branch
5th Avenue at K Street
Captain Cook Plaza
Pouch 7-010
Anchorage, Alaska 99510
Telephone: (907) 278-4581

Metropolitan Branch
4th Avenue at E Street
Pouch 7-010
Anchorage, Alaska 99510
Telephone: (907) 278-4581

University Center Branch
3901 Seward Highway
Pouch 7-010
Anchorage, Alaska 99510
Telephone: (907) 278-4581

Barrow

Barrow Branch
Box 207
Barrow, Alaska 99723
Telephone: (907) 852-6200

Delta Junction

Delta Branch
P.O. Box 60032
Delta Junction, Alaska 99737
Telephone: (907) 895-4509

Eielson Airforce Base

Eielson Branch
Baker Field House
Box 3032
Eielson A.F.B., Alaska 99702
Telephone: (907) 372-4166

Fairbanks

Main Office
Alaska National Bank Bldg.
P.O. Box 60730
Fairbanks, Alaska 99706
Telephone: (907) 479-2281

Airport Road Branch
620 Gaffney Road
P.O. Box 60730
Fairbanks, Alaska 99706
Telephone: (907) 479-2281

ALASKA NATIONAL BANK OF THE NORTH continued

College Office and
Administrative Center Branch
794 University Avenue & Geist
Box 60730
Fairbanks, Alaska 99706
Telephone: (907) 479-2281

International Airport Branch
P.O. Box 60032
Fairbanks, Alaska 99706
Telephone: (907) 479-2281

Juneau

Juneau Branch
One Sealaska Plaza
P.O. Box 1607
Juneau, Alaska 99801
Telephone: (907) 586-2565

Kotzebue

Kotzebue Branch
Lagoon at 3rd Street
P.O. Box 54
Kotzebue, Alaska 99752
Telephone: (907) 442-3258

Nenana

Nenana Branch
Parks Highway
Nenana, Alaska 99760
Telephone: (907) 832-5424

Nome

Miners and Merchants Branch
Box 760
Nome, Alaska 99762
Telephone: (907) 443-2223

Tok

Tok Branch
P.O. Box 185
Tok, Alaska 99780
Telephone: (907) 883-2871

Valdez

Valdez Branch
Pouch A
Valdez, Alaska 99686
Telephone: (907) 835-4721

FIRST NATIONAL BANK OF ANCHORAGE

Anchorage

Main Office
646 West 4th Avenue
P.O. Box 720
Anchorage, Alaska 99510
Telephone: (907) 276-6300

Drive-In Branch
5th Avenue and G Street
Anchorage, Alaska 99501
Telephone: (907) 265-3572

Eastchester Branch
1821 Seward Highway
Box 3128
Anchorage, Alaska 99503
Telephone: (907) 276-6300

Elmendorf Branch
Building 3-850
8th and E Street
Elmendorf A.F.B., Alaska 99506
Telephone: (907) 753-1170

Northern Lights Branch
1210 W. Northern Lights Blvd.
P.O. Box 4-H
Anchorage, Alaska 99509
Telephone: (907) 276-6300

Parkway Branch
5305 E. Northern Lights Blvd.
P.O. Box 8-9066
Anchorage, Alaska 99504
Telephone: (907) 276-6300

South Center Branch
201 W. 36th Avenue
Box 4-2090
Anchorage, Alaska 99509
Telephone: (907) 276-6300

Bethel

Kuskokwim Branch
1st and Main Street
P.O. Box 286
Bethel, Alaska 99559
Telephone: (907) 543-2601

Cordova

Cordova Branch
528 First Street
Box 3600
Cordova, Alaska 99574
Telephone: (907) 424-7521

NATIONAL BANKS

FIRST NATIONAL BANK OF ANCHORAGE
continued

Eagle River

Eagle River Branch
Old Glenn Highway and
Business Boulevard
P.O. Box 548
Eagle River, Alaska 99577
Telephone: (907) 694-2103

Fairbanks

Interior City Branch
407 8th Avenue
Pouch 500
Fairbanks, Alaska 99701
Telephone: (907) 452-1871

Haines

Haines Branch
3rd at Main
P.O. Box 70
Haines, Alaska 99827
Telephone: (907) 766-2321

Juneau

Channel Branch
840 W. 10th Street
Box 1248
Juneau, Alaska 99801
Telephone: (907) 586-3313

Juneau Branch
238 Front Street
P.O. Box 1667
Juneau, Alaska 99801
Telephone: (907) 586-2550

Kenai

Kenai Branch
Mile 11, Kenai Spur Road
P.O. Box 4070
Kenai, Alaska 99611
Telephone: (907) 283-3585

Kodiak

Kodiak Branch
218 Center Street
P.O. Box 2517
Kodiak, Alaska 99615
Telephone: (907) 486-3251

Palmer

Palmer Branch
101 Dogwood Street
P.O. Box 1147
Palmer, Alaska 99645
Telephone: (907) 745-4848

FIRST NATIONAL BANK OF ANCHORAGE
continued

Seward

Seward Branch
4th Avenue at Adams
P.O. Box 37
Seward, Alaska 99664
Telephone: (907) 224-5217

Sitka

Sitka Branch
104 Lincoln Street
P.O. Box 1070
Sitka, Alaska 99835
Telephone: (907) 747-3272

Valdez

Valdez Branch
Meals Avenue
P.O. Box 645
Valdez, Alaska 99686
Telephone: (907) 835-4381

FIRST NATIONAL BANK OF FAIRBANKS

College

College Branch
University Avenue at
College Road
P.O. Box 90
Fairbanks, Alaska 99706
Telephone: (907) 452-2146

Fairbanks

Main Office
Second and Cushman
P.O. Box 1230
Fairbanks, Alaska 99707
Telephone: (907) 452-2146

Cushman & Gaffney Branch
Cushman and Gaffney Streets
P.O. Box 1230
Fairbanks, Alaska 99707
Telephone: (907) 452-2146

Gavora Mall Branch
Steese Hwy. at 3rd Avenue
P.O. Box 1230
Fairbanks, Alaska 99707
Telephone: (907) 452-2146

Shoppers Forum Branch
Airport Way & Cowells Street
Shoppers Forum Shopping Center
P.O. Box 1230
Fairbanks, Alaska 99707
Telephone: (907) 452-2146

FIRST NATIONAL BANK OF FAIRBANKS
continued

North Pole

North Pole Branch
Badger Road and Richardson
Highway
P.O. Box 1230
Fairbanks, Alaska 99705
Telephone: (907) 452-2146

NATIONAL BANK OF ALASKA

Anchorage

Main Office
301 W. Northern Lights Blvd.
P.O. Box 600
Anchorage, Alaska 99510
Telphone: (907) 265-2809

4th Avenue Branch
446 W. 4th Avenue
P.O. Box 2540
Anchorage, Alaska 99510
Telephone: (907) 265-2734

Dimond Boulevard Branch
Dimond Blvd. and Old Seward Hwy.
Box 6127
Anchorage, Alaska 99502
Telephone: (907) 263-2606

Fifth Avenue Branch
630 E. 5th Avenue
Box 3-3859
Anchorage, Alaska 99501
Telephone: (907) 263-2501

Government Hill Branch
871 E. Loop Road
P.O. Box 6127
Anchorage, Alaska 99502
Telephone: (907) 263-2524

Airport Branch
C Concourse Terminal Bldg.
Box 6-168
Anchorage, Alaska 99502
Telephone: (907) 263-2600

Mall Branch
700 E. Northern Lights Blvd.
Box 6127
Anchorage, Alaska 99502
Telephone: (907) 263-2534

Russian Jack Branch
5700 DeBarr Avenue
Box 6127
Anchorage, Alaska 99502
Telephone: (907) 263-2574

NATIONAL BANKS

NATIONAL BANK OF ALASKA continued

Sand Lake Branch
6961 Jewel Lake Road
P.O. Box 6127
Anchorage, Alaska 99502
Telephone: (907) 263-2620

Spenard Branch
2709 Spenard Road
Box 4-J
Anchorage, Alaska 99503
Telephone: (907) 263-2547

510 L Street Branch
510 L Street
Anchorage, Alaska 99501
Telephone: (907) 263-2521

Operations Center
6831 Arctic Boulevard
Anchorage, Alaska 99502

B A C Center
6831 Arctic Boulevard
Anchorage, Alaska 99502
Telephone: (907) 349-1581

Cordova

Cordova Branch
First Street
Box 1250
Cordova, Alaska 99574
Telephone: (907) 424-3258

Dillingham

Dillingham Branch
Southside Main Street
Box 206
Dillingham, Alaska 99576
Telephone: (907) 842-5285

Fairbanks

Bentley Mall Branch
¼ Mile College Road
Pouch 1200
Fairbanks, Alaska 99707
Telephone: (907) 263-2600

Fairbanks Branch
615 Cushman Street
Pouch 1000
Fairbanks, Alaska 99701
Telephone: (907) 452-4733

Fort Richardson

Fort Richardson Branch
Building #5
P.O. Box 5329
Ft. Richardson AB, Alaska 99505
Telephone: (907) 265-2800

NATIONAL BANK OF ALASKA continued

Glennallen

Glennallen Branch
Mile 187½ Richardson Highway
Box 67
Glennallen, Alaska 99588
Telephone: (907) 822-3214

Homer

Homer Branch
Pioneer Drive
Box 135
Homer, Alaska 99603
Telephone: (907) 235-8151

Juneau

Glacier Valley Branch
Mile 9½ Glacier Highway
RR#3 Box 3522
Juneau, Alaska 99803
Telephone: (907) 789-9550

Juneau Branch
123 Seward Street
Box 1189
Juneau, Alaska 99801
Telephone: (907) 586-3324

Kenai

Kenai Branch
N/S Kenai Spur Road
Drawer H
Kenai, Alaska 99611
Telephone: (907) 283-7581

Ketchikan

Ketchikan Branch
306 Main Street
Box 6538
Ketchikan, Alaska 99901
Telephone: (907) 225-2184

Tongass Branch
2415 Tongass Avenue
Ketchikan, Alaska 99901
Telephone: (907) 225-4141

Kodiak

Kodiak Branch
78 Mill Bay Road
Box 1067
Kodiak, Alaska 99615
Telephone: (907) 486-3126

NATIONAL BANK OF ALASKA continued

Metlakatla

Metlakatla Branch
Main Road and Annette
Box 326
Metlakatla, Alaska 99926
Telephone: (907) 886-6363

Nikishka

Nikishka Branch
Mile 26 North Road
Box 7193 NRB
Kenai, Alaska 99611
Telephone: (907) 776-8118

Petersburg

Petersburg Branch
310 Main Street
P.O. Box 229
Petersburg, Alaska 99833
Telephone: (907) 772-3833

Seward

Seward Branch
3rd and D Street
Box 517
Seward, Alaska 99664
Telephone: (907) 224-5283

Sitka

Sitka Branch
300 Lincoln Street
Box 639
Sitka, Alaska 99835
Telephone: (907) 747-3226

Skagway

Skagway Branch
6th & Broadway
Box 516
Skagway, Alaska 99840
Telephone: (907) 983-2264

Soldotna

Soldotna Branch
Kenai Spur Road
Box 509
Soldotna, Alaska 99669
Telephone: (907) 262-4435

Valdez

Valdez Branch
337 Egan Drive
Box 67
Valdez, Alaska 99686
Telephone: (907) 835-4745

NATIONAL BANK OF ALASKA continued

Wasilla

Wasilla Branch
Mile 42 Parks Highway
Box 1930
Wasilla, Alaska 99687
Telephone: (907) 272-0112

Wrangell

Wrangell Branch
16 Front Street
Box 261
Wrangell, Alaska 99929
Telephone: (907) 874-3341

SECURITY NATIONAL BANK

Anchorage

Main Office
880 H Street
Pouch 7-777
Anchorage, Alaska 99510
Telephone: (907) 276-6800

Real Estate Branch
2525 C Street
Pouch 7-777
Anchorage, Alaska 99510
Telephone: (907) 276-6800

STATE SAVINGS AND LOAN ASSOCIATIONS

FRED MEYER SAVINGS & LOAN

Anchorage

1000 E. Northern Lights Blvd.
Anchorage, Alaska 99503
Telephone: (907) 274-8683

PENINSULA SAVINGS & LOAN

Soldotna

Blazy Mall
Pouch 1000
Soldotna, Alaska 99669
Telephone: (907) 262-9166

FEDERAL SAVINGS AND LOAN ASSOCIATIONS

ALASKA FEDERAL SAVINGS & LOAN ASSOCIATION

Juneau

Main Office
301 North Franklin
P.O. Box 1828
Juneau, Alaska 99801
Telephone: (907) 586-1010

Valley Branch
Nugget Mall Shopping Center
P.O. Box 2660
Juneau, Alaska 99803
Telephone: (907) 789-2468

Ketchikan

Ketchikan Branch
400 Mission Street
Ketchikan, Alaska 99901
Telephone: (907) 225-6146

Palmer

Palmer Branch
836 S. Colony Way
P.O. Box 1028
Palmer, Alaska 99645
Telephone: (907) 745-4234

Petersburg

Petersburg Branch
Main Street
P.O. Box 748
Petersburg, Alaska 99833
Telephone: (907) 772-3443

Sitka

Sitka Branch
Lake & Lincoln Street
P.O. Box 1610
Sitka, Alaska 99835
Telephone: (907) 747-8688

Valdez

Valdez Branch
126 Pioneer Drive
Box 907
Valdez, Alaska 99686
Telephone: (907) 835-4703

Wrangell

Wrangell Branch
205 Front Street
P.O. Box 1290
Wrangell, Alaska 99929
Telephone: (907) 874-2356

ARCTIC FIRST FEDERAL SAVINGS & LOAN OF FAIRBANKS

Anchorage

Anchorage Branch
701 W. 4th Avenue
Anchorage, Alaska 99501
Telephone: (907) 278-9541

Fairbanks

Main Office
570 Gaffney Road
P.O. Box 709
Fairbanks, Alaska 99707
Telephone: (907) 452-4471

Steese Branch
400 Steese Highway
P.O. Box 709
Fairbanks, Alaska 99707
Telephone: (907) 452-4471

FIRST FEDERAL SAVINGS & LOAN OF ANCHORAGE

Anchorage

Main Office
813 W. Northern Lights
P.O. Box 4-2200
Anchorage, Alaska 99509
Telephone: (907) 274-6565

Dimond Branch
Dimond Blvd. at Seward Highway
P.O. Box 4-2200
Anchorage, Alaska 99509
Telephone: (907) 274-1418

Downtown Branch
305 W. 5th Avenue
P.O. Box 4-2200
Anchorage, Alaska 99509
Telephone: (907) 277-6602

Kenai

Kenai Branch
Kenai Mall
P.O. Box 3411
Kenai, Alaska 99611
Telephone: (907) 283-4197

Kodiak

Kodiak Branch
Kodiak Mall
P.O. Box 1427
Kodiak, Alaska 99615
Telephone: (907) 486-4128

FIRST FEDERAL SAVINGS & LOAN OF ANCHORAGE continued

Wasilla

Wasilla Branch
Anchorage-Fairbanks Highway
and Airport Circle
P.O. Box 1910
Wasilla, Alaska 99687
Telephone: (907) 376-5201

HOME FEDERAL SAVINGS & LOAN ASSOCIATION

535 D Street
Pouch 7008
Anchorage, Alaska 99510
Telephone: (907) 272-1451

SMALL LOAN COMPANIES

BENEFICIAL FINANCE COMPANY OF ALASKA

Anchorage

215 East Fourth Avenue
P.O. Box 984
Anchorage, Alaska 99501
Telephone: (907) 272-9551

4101 Mountain View Drive
P.O. Box 8023
Anchorage, Alaska 99508
Telephone: (907) 279-2556

Eagle River

Parkgate Shopping Center
Space A-7, Eagle River Road
P.O. Box 1048
Eagle River, Alaska 99577
Telephone: (907) 694-9516

Fairbanks

330 Barnette Street
P.O. Box 849
Fairbanks, Alaska 99707
Telephone: (907) 452-2161

Kenai

Professional Building
Willow Street
P.O. Box 65
Kenai, Alaska 99611
Telephone: (907) 283-4881

HOUSEHOLD FINANCE COMPANY CORPORATION OF ALASKA

Anchorage

340 West Fifth Avenue
P.O. Box 1612
Anchorage, Alaska 99510
Telephone: (907) 272-6594

4009 Mountain View Drive
P.O. Box 8012
Anchorage, Alaska 99504
Telephone: (907) 277-5576

300 W. 36th Street
Bay #11, Plaza Mall
P.O. Box 4-2144
Anchorage, Alaska 99501
Telephone: (907) 277-8661

636 East 15th Street
Gambell Building, Suite H
Anchorage, Alaska 99501
Telephone: (907) 272-7577

Fairbanks

536 Fourth Avenue, Parrish Bldg.
P.O. Box 1169
Fairbanks, Alaska 99707
Telephone: (907) 456-7781

PREMIUM FINANCE COMPANIES

AFCO
7 Hanover Square
New York, New York 10005

Operating Through: 1411 Fourth Avenue Building
Seattle, Washington 98101
Telephone: (206) 624-4472

AICCO
70 Pine Street
New York, New York 10005

Operating Through: 3550 Wilshire Boulevard
Los Angeles, California 90010
Telephone: (213) 736-8251

BERJAC OF COLORADO
3201 East Virginia
P.O. Box 10235
Denver, Colorado 80210
Telephone: (303) 744-1597

BERJAC OF EUGENE
2590 River Road #3
P.O. Box 726
Eugene, Oregon 97401
Telephone: (503) 688-1322

BERJAC OF PORTLAND
2554 S.E. Buttercup
Hilsboro, Oregon 97123
Telephone: (503) 640-4122

BERJAC OF WASHINGTON
4215 198th S.W., #204B
P.O. Box 1018
Lynnwood, Wahsington 98136
Telephone: (206) 776-4995

BORG-WARNER INSURANCE FINANCE
CORPORATION
6000 Southcenter Boulevard
P.O. Box 88026
Seattle, Washington 98188
Telephone: (206) 575-3945

BUFCO, INC.
300 East Joppa Road
Baltimore, Maryland 21204
Telephone: (301) 296-7474

C & F CREDIT CORPORATION
Madison Avenue at Canfield Road
CN 077
Morristown, New Jersey 07960
Telephone: (201) 267-1600

*IMPERIAL CREDIT CORPORATION
9920 South La Cienega Boulevard
Inglewood, California 90301

INAC CORPORATION
77 Grant Avenue
P.O. Box 919
Clark, New Jersey 07066
Telephone: (201) 272-8383

INSURANCE BUDGET PLAN, INC.
501 West Northern Lights Boulevard
Anchorage, Alaska 99503
Telephone: (907) 276-3626

*Denotes applications in process but the companies are not yet licensed.

PREMIUM FINANCE COMPANIES

INSURANCE CREDIT CORP.
29225 Chagrin Boulevard
Pepper Pike, Ohio 44122
Telephone: (216) 831-2600

KEY RESOURCES, INC.
1740 Broadway
New York, New York 10019
Telephone: (212) 489-9620

PREFCO, INC.
301 Seward Street
Juneau, Alaska 99801
Telephone: (907) 586-2414

PREMIUM ACCEPTANCE CORPORATION
2911 Second Avenue
P.O. Box C-34201
Seattle, Washington 98124
Telephone: (206) 583-2300

PREMIUM BUDGET COMPANY
15316 Bothell Way, N.E.
Seattle, Washington 98155
Telephone: (206) 365-4344

THICO PLAN, INC.
59 Maiden Lane
New York, New York 10038

Operating Through: 3 Embarcadero Center, Suite 1975
San Francisco, California 94111
Telephone: (415) 434-4995

PRESIDENTS OF BANKS & SAVINGS ASSOCIATIONS

ALASKA BANK OF COMMERCE.....R.J. Miller, Jr., President
(907-276-7200) 712 [illegible]th Avenue
An[illegible], Alaska 99501

ALASKA FEDERAL SAVINGS & LOAN ASSOCIATION.....L.C. Coffman, President
(907-586-1010) 301 North Franklin
P.O. Box 1828
Juneau, Alaska 99801

ALASKA MUTUAL SAVINGS BANK.....Earl Miller, President
(907-274-3561) 601 W. 5th Avenue
Anchorage, Alaska 99501

ALASKA NATIONAL BANK OF THE NORTH.....Frank Murkowski, President
(907-479-2281) Alaska National Bank Building
P.O. Box 60730
Fairbanks, Alaska 99706

ALASKA PACIFIC BANK.....Robert Richards, President
(907-276-3110) Box 420
Anchorage, Alaska 9[illegible]10

ALASKA STATEBANK.....Michael S. Lynch, President
(907-277-5661) Box 240
Anchorage, Alaska 99510

ARCTIC FIRST FE[illegible]RAL SAVINGS & LOAN OF FAIRBANKS.....Robert M. Haverfield, President
(907-452-4471) 570 Gaffney Road
P.O. Box 709
Fairbanks, Alaska 99707

THE B.M. BEHRENDS BANK.....Remington Low, President
(907-586-6800) 234 Seward Street
Juneau, Alaska 99801

FIRST BANK.....W.G. Moran, President
(907-225-6101) 311 Dock Street
Box 7920
Ketchikan, Alaska 99901

FIRST FEDERAL SAVINGS & LOAN OF ANCHORAGE.....Raymond A. Santoro, President
(907-274-6565) 813 W. Northern Lights Blvd.
P.O. Box 4-2200
Anchorage, Alaska 99509

FIRST NATIONAL BANK OF ANCHORAGE.....Daniel H. Cuddy, President
(907-276-6300) 646 W. Fourth Avenue
P.O. Box 720
Anchorage, Alaska 99510

FIRST NATIONAL BANK OF FAIRBANKS.....Marc Langland, President
(907-452-2146) 2nd & Cushman Street
P.O. Box 1230
Fairbanks, Alaska 99707

FRED MEYER SAVINGS & LOAN.....J. Wallace Webb
(907-274-8683) General Manager for Alaska
1000 E. Northern Lights Blvd.
Anchorage, Alaska 99503

PRESIDENTS OF BANKS & SAVINGS ASSOCIATIONS

HOME FEDERAL SAVINGS & LOAN ASSOCIATION.....Paul Kapansky, President
(907-272-1451) 535 D Street
Pouch 7008
Anchorage, Alaska 99510

MT. MCKINLEY MUTUAL SAVINGS BANK.....K.G. Thompson, President
(907-452-1751) 531 3rd Avenue
Fairbanks, Alaska 99701

NATIONAL BANK OF ALASKA.....Edward Rasmuson, President
(907-265-2809) 301 W. Northern Lights Blvd.
P.O. Box 600
Anchorage, Alaska 99510

PENINSULA SAVINGS & LOAN.....Eddie J. Turner, President
(907-262-9166) Blazy Mall
Pouch 1000
Soldotna, Alaska 99669

PEOPLES BANK & TRUST.....Donald Rhodes, President
(907-279-7511) 644 W. 8th Avenue
Anchorage, Alaska 99501

SECURITY NATIONAL BANK.....Roger D. Moore, President
(907-276-6800) 880 H Street
Pouch 7-777
Anchorage, Alaska 99510

UNITED BANK ALASKA.....Eugene Erskine, President
(907-276-1911) 645 G Street
Anchorage, Alaska 99501

SB

348

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

(5)

3/22/82

Date: 4-8-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had CSSB 548(Fin)

"An Act relating to the Medical Indemnity Corporation of Alaska (AS 21.88)."

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

Terry Martin

DC Byrne

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martin
CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 548
Title An act relating to the medical indemnity corporation of Alaska -
Requested by Colletta Date 5/5/81
(as.21.8

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Public Protection
BRU, Program, or Subprogram(s) Affected Division of Insurance
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

IV. DATE May 12,1981 PREPARED BY Kenneth C. Moore Director of Insurance
AGENCY Commerce & Economic Development
PHONE 465-2515

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

March 10, 1982

Dear :

As a member of the medical community, you may be interested in a bill I am sponsoring that would change portions of the law relating to the Medical Indemnity Corporation of Alaska.

I believe Senate Bill 548 makes several technical changes that would make MICA more competitive and benefit its policy holders.

First, it would remove uncertainty over the floating premium rate relating to malpractice insurance. Currently, the director of insurance can increase the premium retroactively from zero to 150 percent, depending on the risk factor. My bill gives the director the authority to fix the rate at a prudent level, so that the physician, when he signs a contract, knows in advance the maximum level of increase in his policy.

Second, Senate Bill 548 gives MICA the authority to pick up claims handled by a prior insurance company, so that the physician is covered at all times.

Third, the bill would cover related malpractice liabilities. For example, a medical facility would be protected against a patient who falls and breaks a leg in the facility and claims the staff, in some way, was negligent.

If Senate Bill 548 interests you, I would suggest you contact the Senate Finance Committee and urge co-chairmen Ed Dankworth and Don Bennett to schedule the bill for public hearings.

If I can be of any further assistance, don't hesitate to contact me in Juneau.

Sincerely,

Mike Colletta

FILE Copy

Alaska State Legislature

Official Business

M. Leary chair
Hohman v. chair
Fahrenkamp
Rodey
Zigler

Senate

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

CS SB 548; Sectional Analysis:

"An act relating to the Medical Indemnity Corporation of Alaska"

Section 1): Amends As 21.88.030(a)(3)to read: (3) Two professionals form the insurance industry who are authorized to do business in the State. The current statute reads "insurance companies authorized" and the proposed change would allow for persons who are agents or brokers (insurance industry professionals) to have board membership.

Section 2): Amends AS 21.88.050(a)(1) provides for a substantive change to permit "tail coverage" (retroactive insurance) to cover malpractice claims. New language states: at the option of the corporation, if approved by the director, and for an additional premium the contract may cover claims against the physician or hospital that arise out of professional services performed by the physician for any period before the contract is issued except that coverage will not be provided for a claim already filed or of which the physician or hospital had or reasonably should have had notice at the time the retroactive insurance was purchased.

Section 3): Amends As 21.88.050 (b) (3): Provides coverage to insureds for other hazards when approved by the director; Encompasses insurance coverage for premisses liability for circumstances in which an injury occurs on the premisses as a result of "an ommission of health care" by a physician or medical staff. Example: Inadvertantly, the rail on a hospital bed is left down, and a patient sleeping under medication falls form the bed, injuring himself on the premisses. The injury resulted from an "omission in health care" by the attending nurse, and should be covered as such.

Section 4): Repeals and reenacts AS21.88.050(b)(12) to extend coverage to a person, entity, or facility that renders health care services in the state under the supervision of a physician. Expanded coverage for health care providers such as "bush medicine teams" who don't ordinarily fall within the conventional definition.

Section 5: Repeals and reenacts AS21.88.080 (17): Major change allows for a sliding

scale" assessment levied upon insureds in the event that the earned premiums for any given year are less than the incurred claims, claim expenses, underwriting expenses, and reserves. Presently, by statute, the director of the Division of Insurance must assess 150% on the premiums for all insureds if the earned premiums fall beneath incurred claims and expenses. Although this condition has never occurred, if it were to happen in the future, and if the director determines there is sound actuarial basis for the extinguishment of the assessment, the director would be able to extinguish all or a portion of the assessment.

Section 6: Amends AS 21.88.900 (17)(a) Deletes the phrase (DURING THE SAME PERIOD OF CONTINUOUS COVERAGE) to provide consistency throughout the MICA statutes for the ability to offer "tail coverage" (retroactive insurance) to insureds to cover claims which occurred prior to MICA coverage.

Section 7: Relates to the purpose of the bill which would allow MICA to remain more competitive within the marketplace and better fulfill its obligations to the medical community.

Section 8: Amends section 21(b), CH 177, SLA 1978; Technical change to permit "tail coverage" through the deletion of the following language: (WHICH OCCUR AFTER THE EFFECTIVE DATE OF THIS ACT).

Additional Information: The Division of Insurance estimates there are 400 licensed physicians in the State, including part time and retired physicians. There are presently 137 MICA insured physicians, with 33 new enrollees this quarter, demonstrating more faith among the medical community in the program.

SB
552

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

(5)

3/22/82 Date: 4-7-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had CSSB 552(Fin)

"An Act exempting certain child care workers from the Alaska Wage and Hour Act."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[X] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Terry Martin

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bill Ryan No Rec

Terry Martin
CHAIRMAN

H 60 (Rev. 12/78)

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Representative Terry Martin, Chairman
House Labor & Commerce Committee

FROM: Senator Bob Mulcahy

SUBJ: SB 552

DATE: March 24, 1982

This bill will exempt certain employees of non-profit educational or child care facilities who are required to reside year-round at the facility from the Alaska Wage and Hour Act.

This is needed to solve certain conflicts with the Wage and Hour Act, and is patterned after federal law, United States Code 29:213 (24), which is enclosed along with other background material.

Thank you.

Kodiak
Baptist
Mission P. O. Box 785, Kodiak, Alaska 99615

February 22, 1981

Senator Bob Mulcahy
Pouch V (MS 3100)
Juneau, Alaska
99811

Dear Bob:

Thank you for the time to took with me, while I was in Juneau, to discuss possible legislation to ease the difficulty of wage and hour pay for employees who are working in a program such as we have here at the Mission.

The labor law as outlined in the United States Code 29:213 (24) is a good starting point for similar state legislation. As discussed, the only shange that would need to be made would be in the first sentence. It would need to read "...a non-profit educational and/or child care institution...".

The State Department of Labor said that the egemption would need to go in Sec. 23.10.055 of the Alaska Statutes.

I believe the base salary figure given in the Federal exemption should be raised in the State exemption from $10,000. to $15,000.

If I can be of any help to you or you need any information in support of such an exemption, please let me know. I am willing to travel to Juneau to testify concerning such legislation.

I really appreciate all the effort you have put forth for us.

Cordially,

Dave Cook

David L. Cook

DLC:dc

Kodiak Baptist Mission P. O. Box 785, Kodiak, Alaska 99615

496-5161

January 27, 1981

Senator Bob Mulcahy
Representative Fred Zharoff
Senator Glenn Hackney
Bouch V (MS 3100)
99811

Dear Friend:

Robert L. Childs wrote you last May 13, 1980 that the DHSS raised the issue of minimum wage and our complicance to the regulation. DHSS did make it an issue in the final audit report for Kodiak Baptisi Mission FY 79.

We are now in the process of agreeing to a voluntary audit to be in compliance with the minimum regulations. However, I believe that the arbitrary drawing of lines dividing on/off duty hours as required by minimum wage requirements is not conducive to the effectiveness of our program. The drawing of these lines also is the beginning of the disintegration of a lifestyle that is a part of our treatment program.

The Federal Government recognizes the difficulty involved with minimum wage and "live-in" personnel involved in child-care. I have enclosed a copy of the Federal regulation which does not provide complete exemption but a different compensation method. I would appreciate it if such a regulation could be established for Alaska Statutes so effective child-care programs do not have to be compromised.

I appreciare the efforts extended on our behalf last spring.

Cordially,

David L. Cook

David L. Cook

DLC:dc

23:10:055

Attach 3
Kodiak
Bureau
Ltr

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811
Phone: 465-2700

May 20, 1981

Mr. Michael Thill
Senate Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. ~~Thill~~ Michael:

Reference our discussions on Senate Bill No. 552, I would recommend the following language for Section 1, as Exemption Number 12 to AS 23.10.055.

> "An employee or an employee and spouse employed by a non-profit educational or child care facility to serve as a parent or parents of children while the children are in residence at the facility, if the employee resides in the facility and is compensated on a cash basis at an annual rate of not less than $5,000 exclusive of room and board, or if the employee and spouse reside in the facility and are together compensated on a cash basis at an annual rate of not less than $10,000 exclusive of room and board."

My apologies for the delay in preparing this exemption. I did attempt other language only to create more confusion. Call if you have questions.

Sincerely,

Judy

Judy Knight
Legislative Liaison

07-G9LH

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for Senate Bill No. 552 (Finance)

Title "An Act exempting child care workers from the Wage & Hour. . ."

Requested by House Labor & Commerce Committee Date 3/31/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Labor Standards & Safety

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

No fiscal impact.

IV. DATE 3/31/82 PREPARED BY Nico Bus, Finance Officer

AGENCY Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

SB

611

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY

(5)

3/5/82

Date: 4-8-82

Mr. Speaker: (TAken from Judiciary 3/5/82)

The Committee on LABOR & COMMERCE has had SB 611

"An Act revising the criminal penalties for unlawful operation of an aircraft."

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

Terry Martin

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martin
CHAIRMAN

H 60 (Rev. 12/78)

Introduced: 1/11/82
Referred: Labor & Commerce
and Judiciary

IN THE SENATE

BY RAY AND DANKWORTH

HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 611

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION
A BILL

For an Act entitled: "An Act revising the criminal penalties for unlawful operation of an aircraft."

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

* Section 1. STATEMENT OF INTENT CONCERNING CHAPTERS 30 & 35 OF TITLE 2, ALASKA STATUTES. It is recognized by the Legislature, that from time to time certain Statutes require revision in order that they comply with Federal provisions, state of the art and public concern and safety. For these reasons, the intent of the Legislature in this bill is to make those revisions to the two above noted Chapters of Alaska Statutes which will at once cause them to operate in concert with applicable Federal Aviation Regulations, actual operating characteristics of the aircraft and aircrews involved, and to focus attention on the several areas of violation which the Legislature perceives as areas of major public concern. The Legislature recognizes that Air Commerce is an invaluable portion of the activities of the State, but that safety and operations of those aircraft so involved are such that without a high degree of professionalism and carefully prepared and enforced controls, the public is hopelessly at the mercy of the various operators. Therefore the following provisions are hereby enacted to provide workable statutes which do not provide duplication of penalties without genuine purpose.

* Section 2 AS 02.30.010 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 3. AS 02.30.030 (a) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 4. AS 02.30.030 (b) is amended to read:

Sec. 02.30.010 (a) No person may operate an aircraft occupied by a crew member [or passenger] who is obviously under the influence of intoxicating intoxicating liquor or [habit-forming] drugs.

* Section 5. AS 02.30.030 (c) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 6. AS 02.30.030 (d) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 7. AS 02.30.040 is repealed and reenacted to read:

Sec. 02.30.020. PENALITIES A person violating AS 02.30.010 shall be guilty of a class B misdemeanor.

* Section 8. AS 02.35.010 is amended to read:

Sec. 02.35.010. Federal law followed. It is declared that the policy, principals, and practices established by the United States Air Commerce Act of 1958 [1926], and all amendments to it are adopted and extended and made applicable to cover all air traffic in this state, so far as not covered by federal law.

* Section 9. AS 02.35.020 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 10. AS 02.35.030 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 11. AS 02.35 040 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 12. AS o2.35.050 is repealed effective June 1. 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 13. AS 02.35.060 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 14. AS 02.35.070 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 15. AS 02.35.080 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 16. AS 02.35.090 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 17. AS 02.35.100 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 17. AS 02.35.110 is amended to read:

Sec. 02.35.020. Emergency rations and equipment. (a) No airman may make a flight inside the State with an aircraft unless emergency equipment is carried as follows:

(1) The minimum equipment to be carried during the summer months is as follows:

(A) food for each occupant sufficient to sustain life for two weeks;

(B) one axe or hatchet;

(C) One first aid kit <u>with capacity for each passenger and crewmember carried, as stated by the kit manufacturer</u>;

(D) one pistol, revolver, shotgun or rifle, and ammunition for same <u>in the following minimum quantities: pistol or revolver: 50 rounds shotgun or rifle: 20 rounds</u>;

(E) one small gill net, and an assortment of tackle such as hooks, flies, lines, sinkers etc.;

(F) one knife <u>with a blade at least 5" long</u>;

(G) [two small boxes of matches] <u>two waterproof containers of matches each containing at least 25 matches, or equal</u>;

(H) one mosquito headnet for each occupant;

(I) [two] four small signaling devices [such as] to include 2 colored smoke bombs, [railroad fuses] and 2 colored rocket or flare devices or Very pistol shells, in sealed metal containers, accompanied by the appropriate pistol or launching device.

(2) In addition to the above, the following must be carried as minimum equipment from October 15 to April 1 of each year:

(A) one pair of snowshoes or one pair of cross country skis with proper bindings, poles and boots;

(B) one sleeping bag;

(C) one wool blanket for each occupant over four years of age, for whom a sleeping bag is not provided;

(b) However, operators of multi-engine aircraft licensed to carry more than 15 passengers need carry only the food, mosquito nets and signalling equipment at all times other than the period from October 15 to April 1 of each year, when two sleeping bags, and one blanket for every two passengers shall be carried. All of the above requirements as to emergency rations and equipment are considered to be minimum requirements which are to remain in full force and effect, except as further safety measures may be from time to time imposed by the department, in the form of published regulations.

* Section 18. AS 02.35.115 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 19. AS 02.35.120 is repealed and reenacted to read:

Sec. 02.35.030. Penalties for violation of this chapter. A person who violates a provision of this chapter shall be guilty of a class B misdemeaner.

* Section 20. AS 02.35.130 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 21. AS 02.35.140 is amended by changing its identification to AS 02.35.040.

* Section 22. AS 02.35.150 is amended by adding a second paragraph to read:

AS 02.35.050 (b) "AIRCRAFT" is defined in this chapter means a device that is used or intended to be used for flight in the air, and includes helicopters, gyrocopters, airplanes, sailplanes and gliders.

RATIONALE' AND EXPLANATION

SEC. 02.30.010. Two-way radios required.

Inasmuch as this section refers to "Commercial" aircraft operations with passengers, the applicable portions of the FAR's are found in Part 135. We note that those commercial operations that do not carry passengers, are not covered in the present language, thus allowing training flights with crew or ferry flights in uncontroled airspace, and we feel that this is correct and needs no attention.

Part 135.157, however, provides that:

> *(a) No person may operate, under VFR, an aircraft carrying passengers at night, in a control zone or, except as provided in paragraph (c) of this section, over-the-top unless that aircraft has two-way radio communications equipment able, at least in flight, to transmit to, and receive from, ground facilities 25 miles away.*

This part goes on with additional, similar language for other conditions, as shown in parts (b) and (c), but they are redundant for these purposes.

RATIONALE': The FAR is much more comprehensive and far better wording. The State statute is vague and sloppy. As one simple example, almost no aircraft radio will work 50 miles on the ground, and no other provision is allowed in the State language. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

Finally, the effect of SB 611, as written, would add CRIMINAL penalties to what is basically a technical equipment area of concern. As a practical matter, all part 121 (airline) aircraft always comply. Additionally, it would be a rare situation to find a part 135 (air-taxi/Charter) operator without at least one such aircraft radio; they often have 2 or more!

SEC. 02.30.030. (a) Reckless operation.

This section is also found, almost verbatum in several FAR's, and is redundant.

Part 91.8, provides:

> *No person may assault, threaten, intimidate, or interfere with a crewmember in the performance of the crewmember's duties aboard an aircraft being operated.*

Part 91.9, provides:

> *No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.*

RATIONALE': The FAR's more than adequately cover the problem and provide penalties for violation. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

If the desire is to provide stiffer penalties, then this may be accomplished by simply making reference to the specific FAR and provide Class A or B misdemeaner status.

Sec. 02.30.030 (b) (liquor or drugs)

The Alaska Airmen's Association and AOPA both heartily agree that aircrew members who violate this or parallel FAR's are a serious threat to public safety and are a discredit to an honorable profession. We have no objection to the State tacking on Criminal penalties to his portion.

We do however, have problems with the language of the present section, wherein

> *"No person may operate an aircraft occupied by a crew member or passenger who is obviously under the influence of intoxicating liquor or habit-forming drugs." (emphasis added)*

Part 91.11, provides:

(a) No person may act as a crewmember of a civil aircraft-

(1) Within 8 hours after the consumption of any alcoholic beverage;
(2) While under the influence of alcohol; or
(3) While using any drug that effects his faculties in any way contrary to safety.

(b) Except in an emergency, no pilot of a civil aircraft may allow a person who is obviously under the influence of intoxicating liquors or drugs (except a medical patient under proper care) to be carried in that aircraft. (emphasis added)

Part 135.115, provides:

(a) No person may drink any alcoholic beverage aboard an aircraft unless the certificate holder operating the aircraft has served that beverage.

(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.

(c) No certificate holder may allow any person to board any of its aircraft it that person appears to be intoxicated.

(d) Each certificate holder shall, within 5 days after the incident, report to the Administrator the refusal of any person to comply with paragraph (a) of this section, or any disturbance caused by a person who appears to be intoxicated aboard any of its aircraft. (emphasis added)

RATIONALE': Inasmuch as the FAR's are explicit and more comprehensive than the current State statute section, recommend they be the controling directive; especially in light of Sec. 02.35.010 Specifically adopting the FAR's for State compliance.

We do however, have difficulty in making it a CRIMINAL offence as relates to the passengers. Terms such as "obviously under the influence" also include those suffering a hangover from the previous night, and they do not offer a threat to the Public traveling aboard an aircraft. As a matter of fact, they are docile. Terms such as "appears to be intoxicated" and the like are often used in this context. We submit that rigid enforcement of this portion would, as a practical matter, cut air commerce in this state in half over night.

Recommend that the FAR's be adopted and that the more severe penalty for Air Crew members be adopted on its own.

Sec. 02.30.030 (c) (over water)

This section is more than adequately covered in the FAR's, with little confusion and excellent language:

Part 91.33 (11) provides:

If the aircraft is operated for hire over water and beyond the power-off gliding distance from shore, approved floatation gear readily available to each occupant, and at least one pyrotechnic signaling device. (is required)

Part 91.79 (a) provides:

Except when neccessary for takeoff or landing, no person may operate an aircraft lower than the following altitudes:

(a) ANYWHERE. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

Part 135.167 provides:

No person may operate an aircraft in extended overwater operations unless it carries:

(note: This section is extremely long, and contains all manner of specific relations to rafts, floatation and signalling devices and the like. None of that is required here to make the point that there is no reference to any specific distances from land; only equipment required when flying off shore.)

RATIONALE': To begin with, the current State language, if enforced, would halt approximately 50% of the air commerce in the State immediately. Here are several obvious examples:

1. A single-engine land plane flying from Anchorage to Kodiak. (not uncommon)

To comply with this part, the aircraft would need to fly higher than 25,000 feet! Only those aircraft equipped with both turbochargers and pressurization could possibly comply.

2. A single-engine land plane flying from Anchorage to Juneau or Ketchikan. (not uncommon)

After Yakutat, heading southeasterly, the beach rapidly ends, replaced by beautiful mountains, covered with large trees, ending in rocks and surf. There is no beach; no "landing" is possible. One ditches in the Gulf of Alaska near shore and wades ashore with survival gear.

We feel that the Federal regulations more than adequately cover this contingency, with far better language, in all instances. Inasmuch as Sec. 02.35.010 adopts the FAR's for compliance by the State, it is redundant and confusing to establish still another, poorly worded criteria.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deleting the section.

Sec. 02.30.030 (d) (snow and ice)

This section is more than adequately covered by FAR's:

Part 135.85, provides:

(a) No pilot may take off an aircraft that has-

(1) Frost, snow, or ice adhering to any rotor blade, propeller, windshield, or powerplant installation, or to an airspeed, altitimeter, rate of climb, or flight attitude instrument system;

(2) Snow or ice adhering to the wings, or stabilizing control surfaces; or

(3) Any frost adhering to the wings, or stabilizing control surfaces, unless that frost has been polished to make it smooth.

(there are additional sections, but they are redundant for these purposes)

Part 91.209 provides virtually identical text.

RATIONALE': The FAA language is far more comprehensive. Inasmuch as Sec. 02.35.010 adopts the FAR's for State compliance, it is redundant and confusing to establish yet another, less comprehensive and confusing standard.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs to be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deletion of this section.

Good

Sec. 02.35.010 Federal law followed

This is an excellent section, and would and is referred to above and in other sections not herein noted. Unfortunately the United States Air Commerce Act of 1926 has been void since it was replaced with the 1958 edition. Recommend adoption of the current one.

Sec 02.35.040 Registration of Aircraft

This section provides that all the registration and documentation already required by applicable FAR's, and already on file with the FAA in Oklahoma City, and already available to the public upon request, and already printed in a government circular at least semi-annually, also be duplicated and filed with the Department of Transportation and Public Facilities.

We are unaware of <u>any</u> general aviation pilot who is aware of this provision or complies. We are unaware of any attempts by DOTPF to implement this section. We are unaware of any requirement for it. Recommend its deletion as an unnecessary, expensive and duplicating bureaucratic requirement with no valid requirement.

Sec. 02.35.050, Registration of Airmen

See section 02.35.040 above. Recommend deletion of this ineffective portion as well for the same reasons.

Sec. 02.35.060, 070 & 080.

See items above. <u>Recommend deletion of these sections</u>, which provide administrative control of the previous sections.

COMMENT: Inasmuch as these four (4) sections appear to have been in Public Law since 1949, and no attempt to comply has ever been initiated to our certain knowledge, this fact alone attests to the lack of requirement.

Sec. 02.35.090 License and permit to be exhibited on request.

Part 61.3, provides:

(a) No person shall act as pilot in command or in any other capacity as a required pilot flight crew member of a civil aircraft of United States registry unless he has in his personal possesion a current pilot certificate issued to him under this part.

(h) Each person who holds a pilot certificate, flight instructor certificate, medical certificate, authorization, or license required by this part shall present it for inspection upon request of the Administrator, an authorized representative of the National Transportation Safety Board, or any Federal, State, or local law enforcement officer.

Part 91.27, provides:

(a) Except as provided in part 91.23 (foreign aircraft), no person may operate a civil aircraft unless it has the following.

(1) An appropriate and current airworthiness certificate. Each U.S. airworthiness certificate used to comply with this subparagraph (except a special flight permit, a copy of the applicable operations specifications issued under 21.197(c) of this chapter, appropriate sections of the air carrier manual required by parts 121 or 127 of this chapter contianing that portion of the operations specificatiojs under 21.187(c), or an authorization under 91.45), must have on it the registration number assigned to the aircraft under part 47 of this chapter. However, the air worthiness certificate need not have on it an assigned special identification number before 10 days after that number is first affixed to the aircraft. A revised airworthiness certificate having on it an assigned special identification number, that has been affixed to an aircraft, may only be obtained upon application to an FAA flight standards district office.

(2) a Registration Certificated issued to its owner.

(b) No person may operate a civil aircraft unless the airworthiness certificate required by paragraph (a) of this section or a special flight authorization issued under 91.28 is displayed at the cabin or cockpit entrance so that it is legible to passengers or crew.

RATIONALE' Obviously the Federal language more than adequately covers the entire situation and others not even dreampt of by State officials. Recommend deleting it and relying on Sec. 02.35.010 for application of the FAR's in Alaska.

Sec. 02.35.100 Temporary permit.

This entire section covers an area expressly preempted by the Federal Government. There simply is no legal way for the State of Alaska to license pilots under any circumstances. This is 100% an FAA matter.

As a practicle matter, here is what would happen should there be an earthquake, major fire, flood or other State emergency: The authorized State official on the scene (Civil Defense Director, member of the National Guard etc), invoking whatever emergency authority may be available under other statutes, would notify the pilot/owner of an aircraft that it was required for service to say, send a generator to Bethel, evacuate something, haul medicine or supplies or the like. At that moment, the operator of the aircraft is under control and contract of the State of Alaska, and may operate any aircraft with no licenses at all.

He or she is operating in what is called the PUBLIC SERVICE, much the same as FAA pilots, military pilots, and even State pilots.

Recommend deletion of this entire section.

Sec. 02.35.110 Emergency rations and equipment.

This is an important part of the aviation Safety field in Alaska, and it should remain. There are, however, two (2) items which require updating:

Good

1. Item (2) (A) requires showshoes. We recognize that a pair of cross-country skis, poles and boots are superior to snowshoes for survival travel, and recommend addition of the skis as shown on the attached proposed amended bill.

2. Item (1)(D) requires a firearm and ammunition. While this is an excellent suggestion, there are two (2) problems with the provision:

   a. In most cases a hand-gun is not a suitable survival weapon. Of far more value would be a lightweight shotgun and a supply of slugs and shot. We will not, however, offer this as an amendment at this time, as we have been counseled that it may be a controversial enough issue to bog down passage of the more important safety items. We urge consideration, however.

   b. There is no specified amount of ammunition, and one round could qualify. Recommend a minimum amount such as 25 or 50 rounds.

Sec. 02.35.115 Downed aircraft transmitting devices. (ELT's)

Sec. 91.52, provides

(a) Except as provided in paragraphs (e) and (f) of this section, no person may operate a U.S. registered civil airplane unless it meets the applicable requirements of paragraphs (b), (c) and (d) of this section.

(b) To comply with paragraph (a) of this section, each U.S. registered civil airplane must be equipped as follows:

(1) For operations governed by the supplemental air carrier and commercial operator rules of part 121 of this chapter, or the air travel club rules of part 123 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicability requirements of TSC-C91;

(2) For charter flights governed by the domestic and flag air carrier rules of Part 121 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in

operable condition and meets the applicable requirements of TSO-C91;

(3) For operations governed by Part 135 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91; and

(4) For operations other than those specified in subparagraphs (1), (2) and (3) of this paragraph, there must be attached to the airplane a personal type or an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91.

(Note: there are 2 more pages of technical details that are not required to demonstrate sufficiency here.)

RATIONALE' There is obviously very complete and thorough Federal regulation to cover the installation, maintenance and operation of ELT's in all aircraft operations in this state; commercial and private. This is an area over which the state has no authority whatsoever, and where the state regulations CONFLICT with the appropriate Federal regulations.

Additionally, and as a much more practicle matter, one notes that under the FAR's, such ELT is inspected each year during the annual inspection of the aircraft under FAA criteria, and the aircraft is grounded if the ELT is not present, not in proper order or has an expired battery date. There is no such inspection system established or required under State authority.

OK Recommend that the item be deleted in its entirety and that reference to the FAR's via Sec. 02.35.010 for application in Alaska be sufficient.

Sec. 02.35.120, Penalties for violation of Chapter

maybe delete This section will be reduced in scope by the actions above. The only requirement for the section remaining in in those areas which the State desires to inflict CRIMINAL penalties on top of Federal penalties. These are reflected in the attached, proposed substitute bill.

Sec. 02.35.130, Penalty for iolation of 90 or 110 of this chapter.

Same as above.

Sec. 02.35.150, Deffinitions

Because of difficulties in interpretation, we suggest that "aircraft" and "airplane" be defined here precisely as they are in FAR's.

OK AIRCRAFT means: a device that is used or intended to be used for flight in the air, and when used in air traffic control terminology, may include the aircrew. (includes aircraft, helicopters, gyrocopters and all other heavier-than-air equipment, as well as gliders and sail planes)

AIRPLANE means: a divice such as above, but not including helicopters or gyrocopters.

GENERAL: Penalties under the FAR's are found in two (2) areas:

Sec. 609: wherein the Administrator has authority to revoke, suspend, or modify certificates. This includes pilot certificates, aircraft certificates and operator certificates. This is considered severe and serious penalty authority, and exceeds anything the State is empowered to do.

Sec. 901; wherein the FAA may impost Civil Penalties. Such penalties are limited in current law to $1,000 for each violation.

AIRCRAFT OWNERS AND PILOTS ASSOCIATION

The Honorable Terry Martin
State House of Representatives
The Behrends Building, Room 211
Pouch V, Juneau, Alaska 99 11
Interdepartmental mail stop: 3100

Atten: Ms Mary Isaacs 081-27

Dear Mary, 22 March 1982

Thank you so much for your call this morning concerning our interest in SB 611, the "Drunk Pilot Bill".
Yes indeed, I have made some input on the matter. I think that it swept through the Senate without comment because the bill is so simple and so short. There is no reference to airplanes or pilots, and I think most folks did what I did; put a copy off to the side to research at the "first spare moment". Well, the Associated Press did the basic research and it was their item in the paper that got our attention. We were first concerned because of two aspects of the report to the press:

a. The drunk pilot language currently on the books includes passengers under the influence, and they need to be separated because slapping a class A misdemeaner on a pilot with a hungover passenger is STEEP!

b. The report incorrectly stated that the criteria for a single engine aircraft offshore, related to "Fixed Gear". That would indicate that a retractible gear, single engine bird was o.k.

So the research began, and what to our wondering eyes appeared, but a whole raft of statutes dealing with aircraft and pilots, all of which needed complete overhaul! It is terrible, and in many cases, in direct conflict with the Federal Aviation Administration Regulations.

What I attempted to do was to re-write the two chapters of title 2 to fix every-thing and update it. As you can see from the package attached, the Alaska Airmen's Association has already endorsed the proposed changes. At this writing the Alaska Air Carriers Association is reviewing it, and preliminary indications this morning were that they would also endorse the proposal. The FAA Regional Counsel has a copy, at his request, and you may receive some input there, and if he does not generate it, you may consider asking for it.

I will be in Juneau from about noon on Thursday the 1st of April through 5 pm on Friday the 2nd, and will be pleased to visit with you and any staff or committee members on this bill. I will also be there to work on HB 634 and the new work in progress in Senator Mulcahy's Committee to increase the aviation fuel tax in support of the Alaskan Aviation Safety Foundation.

Thank you again; I look forward to seeing you all next week!

KENT LEE WOODMAN,
Regional Representative

encl: SB 611 package

Alaska Air Carriers Association

March 22, 1982

The Honorable Terry Martin
Chairman
House Commerce Committee
Pouch V
Juneau, AK 99811

RE: SB611

Dear Mr. Martin:

The Alaska Air Carriers Association supports the amendments to Title 2 prepared by the Aircraft Owners and Pilots Association.

AACA agrees that the entire Title 2, especially chapters 30 and 35, are in need of revision.

AACA is particuraly concerned that Sec. 02.30.030 as written in SB611 and Title 2 will have a severe impact on air commerce in Alaska. AACA believes limitations on overwater flight are covered in the Federal Air Regulations. AACA recommends deleting this section.

AACA is also concerned with the wording of Section 02.30.030(b) (liquor or drugs). Air carriers would find it difficult to enforce the prohibition on transporting passengers "obviously under the influence" of alchol or drugs.

The Aircraft Owner's and Pilots Association proposed several other important changed in Title 2.

AACA recommends that your committee adopt the proposed changes.

Sincerely,

Tulinda Deegan

Tulinda Deegan
Executive Director

4790 Business Park Boulevard • Suite 4 • Anchorage, Alaska 99503 • (907) 272-9933

ALASKA AIRMEN'S ASSN., INC. P.O. Box 4-1287 Anchorage, Alaska 99509

THE HONORABLE RAMONA L BARNES
Chairperson, House Judiciary Committee
The Capitol Building, Room 122
Pouch V, Juneau, Alaska 99811

Atten: Mr Dave Stancliff

Dear Mr Stancliff, 06 March 1982

This letter is to confirm that the Alaska Airmen's Association, Inc. supports the position and the work done by the AOPA representitive on SB 611.

The entire Title 2 and especially chapters 30 and 35, were in need of work. As Mr Woodman has indicated, there certainly would not be 1 pilot in 50 that was aware of many of the requirements of the two chapters. Indeed, the DOTPF, even before it was emasculated by the present structure, never made any effort to establish the procedures, forms and formats for the various requirements under the current statute.

We suspect that had a pilot actually turned in certified copies of his aircraft registration, pilots license and the like, requesting his certified receipt, that the DOTPF would have been hard-pressed to develop any reasonable response. Similarly, the issuance of a temporary airmen's (pilot's) certificate in an emergency situation would certainly be a shock to them as well as to the FAA, who has the preemptive authority.

We are pleased that Mr Woodman has taken the time and effort to go through both chapters in detail and update them all at one massive effort, rather than just respond to what we might have perceived as a threat to our members and their operations from SB 611. In this way we feel that we have made a genuine effort to assist the State and the public by the effort.

Please call upon us if you should require additional materials or if you should have any questions. Thank you very much in advance for your assistance. I have taken the liberty of enclosing one of our membership applications.

Best personal regards,

JIM WOOD,
President

encl: application

cy to: AOPA
Alaska Air Carriers Association.

AIRCRAFT OWNERS AND PILOTS ASSOCIATION

FEDERAL AVIATION ADMINISTRATION
Office of the Regional Counsel
701 C Street
Anchorage, Alaska 99501

068-23

Atten: Don Boberick

Dear Mr Boberick,

09 March 1982

Thank you so much for the convseration Friday concerning State House Bill 611 and its impact on Alaskan aircraft and airmen operations.

As you can see from the attached documents, which you requested, I undertook to do a complete review of the whole of Chapters 30 & 35 of Alaska Statutes Title 2. As you can also see, most of the work leans towards simple adoption of the applicable FAR's and away from any confusion with two sets of rules covering the same areas....one of which is weak.

The reception from Representative Romona Barnes' office to date has been excellent and I have high hopes that the proposed House Committee Substitute may be introduced at least similar to the attached. If this bill should make it through the House and be accepted by the Senate, it will go a long way towards cleaning up the Statutes, and at the same time give them the heavier penalties they felt they needed for drinking and flying.

As you can also see, the Alaska Airmen's Association has already endorsed the submittal. The Alaska Air Carriers Association is currently studying it and I anticipate similar endorsement. If you feel you can provide an FAA endorsement as well, then I am certain Representative Barnes will appreciate it very much and it will go a long way towards helping this bill through expediciously.

Good reading! and thank you again,

KENT LEE WOODMAN
Regional Representative

encl: Proposed bill
Rationale'
cy AOPA ltr
cy Airmen ltr
cy Statutes

AIRCRAFT OWNERS AND PILOTS ASSOCIATION

THE HONORABLE RAMONA L BARNES
Chairperson, House Judiciary Committee
The Capitol Building, Room 122
Pouch V, Juneau, Alaska 99811

Atten: Mr Dave Stancliff 064-22

Dear Dave, 05 March 1982

This letter, with attachments, will confirm our several conversations, and provide the input to SB 611 from both the Alaska Airmen's Association (the largest general aviation organization in the State of Alaska, representing the interests of over 12,500 pilots) and the AOPA (the largest general aviation organization in the world).

We were alarmed by press reports of some of the impact of SB 611 on certain Alaskan flying operations, and this caused the research. First let me tell you that that research into Title 2 of Alaska Statutes was an eye-opener for me, a pilot in Alaska for over 20 years! Virtually every pilot I have spoken to had absolutely no knowledge of Alaskan flying regulations with the exception of 02.35.110; Emergency rations and equipment.

As it turns out, the Associated Press coverage of the intent and effects of the bill were incorrect, but we completed our researches in any event, with the idea of allowing this opportunity to present a complete review of the Statute and to update and fix it all in one shot. Attached to this letter are two documents:

a. A proposed amendment to SB 611, containing all the "repairs" we feel are required to update.

b. A description sheet providing all the rationale' and references for each of the proposed changes.

Thank you so much for the opportunity of visiting with you on the bill. It would be our pleasure to participate in teleconference, in-person testimony on the bill and/or subcommittee efforts to complete proper language for a substitute. Please be advised that we feel strongly enough about these provisions to lobby as required, and this is not casual input. After you have reviewed the materials herein, please comment on the timing and appropriateness of releasing it to the Senate sponsors so that they may be ready for joint committee. We intend to go public with the positions as required.

KENT LEE WOODMAN
Regional Representative

encl: Amended SB 611
Data sheets

cy to: Alaska Airmen's Association
Alaska Air Carriers Association

Alaska State Legislature

PAT CARNEY
DISTRICT 6
WASILLA, ALASKA 99687

POUCH V
JUNEAU, ALASKA 99811

COMMITTEES

FINANCE
RESOURCES

House of Representatives

March 22, 1982

Arthur J. Petersen
Great Northern Construction
Box 509
Wasilla, Alaska 99687

Dear Art:

Thank you for writing to me to inform me of some of the concerns you have with Senate Bill 611. I have talked with some people who are familiar with the area and they have indicated that they too have been concerned with the requirements that the proposed legislation would impose on pilots.

The bill is up for hearing in the House Labor and Commerce Committee on Thursday, March25, 1982. I have sent a copy of your letter to Representative Martin so that he, too, may be aware of your suggestions. You may wish to call him directly at 465-3783.

If I can be of further assistance, please don't hesitate to contact me.

Sincerely,

Patrick J. Carney
Representative

GREAT NORTHERN CONSTRUCTION

BOX 509 • WASILLA, ALASKA 99687

MAR 16 1982

March 8, 1982

Representative Pat Carney
Pouch N
Wasilla, AK 99687

Dear Representative Carney:

Last week i read in the Anchorage Daily News that Senate Bill 611 recently passed had a stipulation and a stiff penality for flying a single engine wheel plane over water at a low altitude as to making it impossilbe if the engine quite and you could not glide to shore.

If this is so, I feel then the House should hold some hearings on this bill in both the Anchorage and Mat-Su Valley areas. Becuase flying between Point McKenzie and Anchorage fields a private plane has to go over or under Elmendorfs Airspace. Most small planes use what is called the Ship Creek departure and cross the inlet from the mouth of Ship Creek to Point McKenzie at the 600 foot level and use the same return. This route is flown many times a day. If these planes were required to climb over the military corridor, they would have to circle over Anchorage to get to the required altitude and this in turn will thoroughly conjest and already crowded air space. If the paragraph states as was stated in the News, I really don't see its reasoning for it.

Sincerely,

Arthur J. Petersen, Private Pilot

Thanks Pat

Glen F. Martin – 733-2236 – Talkeetna • Art Petersen – 745-4583 – Palmer • Ed Martin, Jr. – 495-6446 – Willow

AIRCRAFT OWNERS AND PILOTS ASSOCIATION

THE HONORABLE RAMONA L BARNES
Chairperson, House Judiciary Committee
The Capitol Building, Room 122
Pouch V, Juneau, Alaska 99811

Atten: Mr Dave Stancliff

064-22

Dear Dave,

05 March 1982

This letter, with attachments, will confirm our several conversations, and provide the input to SB 611 from both the Alaska Airmen's Association (the largest general aviation organization in the State of Alaska, representing the interests of over 12,500 pilots) and the AOPA (the largest general aviation organization in the world).

We were alarmed by press reports of some of the impact of SB 611 on certain Alaskan flying operations, and this caused the research. First let me tell you that that research into Title 2 of Alaska Statutes was an eye-opener for me, a pilot in Alaska for over 20 years! Virtually every pilot I have spoken to had absolutely no knowledge of Alaskan flying regulations with the exception of 02.35.110; Emergency rations and equipment.

As it turns out, the Associated Press coverage of the intent and effects of the bill were incorrect, but we completed our researches in any event, with the idea of allowing this opportunity to present a complete review of the Statute and to update and fix it all in one shot. Attached to this letter are two documents:

a. A proposed amendment to SB 611, containing all the "repairs" we feel are required to update.

b. A description sheet providing all the rationale and references for each of the proposed changes.

Thank you so much for the opportunity of visiting with you on the bill. It would be our pleasure to participate in teleconference, in-person testimony on the bill and/or subcommittee efforts to complete proper language for a substitute. Please be advised that we feel strongly enough about these provisions to lobby as required, and this is not casual input. After you have reviewed the materials herein, please comment on the timing and appropriateness of releasing it to the Senate sponsors so that they may be ready for joint committee. We intend to go public with the positions as required.

Kent Lee Woodman

Box 2586 Star Rte 1
Anch. AK 99507

KENT LEE WOODMAN
Regional Representative

encl: Amended SB 611
Data sheets

cy to: Alaska Airmen's Association
Alaska Air Carriers Association

Introduced: 1/11/82
Referred: Labor & Commerce
and Judiciary

IN THE SENATE

BY RAY AND DANKWORTH

HOUSE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 611

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE - SECOND SESSION
A BILL

For an Act entitled: "An Act revising the criminal penalties for unlawful operation of an aircraft."

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

* Section 1. STATEMENT OF INTENT CONCERNING CHAPTERS 30 & 35 OF TITLE 2, ALASKA STATUTES. It is recognized by the Legislature, that from time to time certain Statutes require revision in order that they comply with Federal provisions, state of the art and public concern and safety. For these reasons, the intent of the Legislature in this bill is to make those revisions to the two above noted Chapters of Alaska Statutes which will at once cause them to operate in concert with applicable Federal Aviation Regulations, actual operating characteristics of the aircraft and aircrews involved, and to focus attention on the several areas of violation which the Legislature perceives as areas of major public concern. The Legislature recognizes that Air Commerce is an invaluable portion of the activities of the State, but that safety and operations of those aircraft so involved are such that without a high degree of professionalism and carefully prepared and enforced controls, the public is hopelessly at the mercy of the various operators. Therefore the following provisions are hereby enacted to provide workable statutes which do not provide duplication of penalties without genuine purpose.

* Section 2 AS 02.30.010 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 3. AS 02.30.030 (a) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 4. AS 02.30.030 (b) is amended to read:

Sec. 02.30.010 (a) No person may operate an aircraft occupied by a crew member [or passenger] who is obviously under the influence of intoxicating intoxicating liquor or [habit-forming] drugs.

* Section 5. AS 02.30.030 (c) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 6. AS 02.30.030 (d) is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 7. AS 02.30.040 is repealed and reenacted to read:

Sec. 02.30.020. PENALITIES A person violating AS 02.30.010 shall be guilty of a class B misdemeanor.

* Section 8. AS 02.35.010 is amended to read:

Sec. 02.35.010. Federal law followed. It is declared that the policy, principals, and practices established by the United States Air Commerce Act of 1958 [1926], and all amendments to it are adopted and extended and made applicable to cover all air traffic in this state, so far as not covered by federal law.

* Section 9. AS 02.35.020 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 10. AS 02.35.030 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 11. AS 02.35 040 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 12. AS 02.35.050 is repealed effective June 1. 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 13. AS 02.35.060 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 14. AS 02.35.070 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 15. AS 02.35.080 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 16. AS 02.35.090 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 17. AS 02.35.100 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 17. AS 02.35.110 is amended to read:

Sec. 02.35.020. Emergency rations and equipment. (a) No airman may make a flight inside the State with an aircraft unless emergency equipment is carried as follows:

(1) The minimum equipment to be carried during the summer months is as follows:

(A) food for each occupant sufficient to sustain life for two weeks;

(B) one axe or hatchet;

(C) One first aid kit <u>with capacity for each passenger and crewmember carried, as stated by the kit manufacturer</u>;

(D) one pistol, revolver, shotgun or rifle, and ammunition for same <u>in the following minimum quantities: pistol or revolver: 50 rounds shotgun or rifle: 20 rounds</u>;

(E) one small gill net, and an assortment of tackle such as hooks, flies, lines, sinkers etc.;

(F) one knife <u>with a blade at least 5" long</u>;

(G) [two small boxes of matches] <u>two waterproof containers of matches each containing at least 25 matches, or equal</u>;

(H) one mosquito headnet for each occupant;

(I) [two] four small signaling devices [such as] to include 2 colored smoke bombs, [railroad fuses] and 2 colored rocket or flare devices or Very pistol shells, in sealed metal containers, accompanied by the appropriate pistol or launching device.

(2) In addition to the above, the following must be carried as minimum equipment from October 15 to April 1 of each year:

(A) one pair of snowshoes or one pair of cross country skis with proper bindings, poles and boots;

(B) one sleeping bag;

(C) one wool blanket for each occupant over four years of age, for whom a sleeping bag is not provided;

(b) However, operators of multi-engine aircraft licensed to carry more than 15 passengers need carry only the food, mosquito nets and signalling equipment at all times other than the period from October 15 to April 1 of each year, when two sleeping bags, and one blanket for every two passengers shall be carried. All of the above requirements as to emergency rations and equipment are considered to be minimum requirements which are to remain in full force and effect, except as further safety measures may be from time to time imposed by the department, in the form of published regulations.

* Section 18. AS 02.35.115 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 19. AS 02.35.120 is repealed and reenacted to read:

Sec. 02.35.030. Penalties for violation of this chapter. A person who violates a provision of this chapter shall be guilty of a class B misdemeaner.

* Section 20. AS 02.35.130 is repealed effective June 1, 1982 and will hereinafter be referred to the applicable Federal Aviation Regulation in accordance with AS 02.35.010.

* Section 21. AS 02.35.140 is amended by changing its identification to AS 02.35.040.

* Section 22. AS 02.35.150 is amended by adding a second paragraph to read:

AS 02.35.050 (b) "AIRCRAFT" is defined in this chapter means a device that is used or intended to be used for flight in the air, and includes helicopters, gyrocopters, airplanes, sailplanes and gliders.

RATIONALE' AND EXPLANATION

SEC. 02.30.010. Two-way radios required.

Inasmuch as this section refers to "Commercial" aircraft operations with passengers, the applicable portions of the FAR's are found in Part 135. We note that those commercial operations that do not carry passengers, are not covered in the present language, thus allowing training flights with crew or ferry flights in uncontroled airspace, and we feel that this is correct and needs no attention.

Part 135.157, however, provides that:

> *(a) No person may operate, under VFR, an aircraft carrying passengers at night, in a control zone or, except as provided in paragraph (c) of this section, over-the-top unless that aircraft has two-way radio communications equipment able, at least in flight, to transmit to, and receive from, ground facilities 25 miles away.*

This part goes on with additional, similar language for other conditions, as shown in parts (b) and (c), but they are redundant for these purposes.

RATIONALE': The FAR is much more comprehensive and far better wording. The State statute is vague and sloppy. As one simple example, almost no aircraft radio will work 50 miles on the ground, and no other provision is allowed in the State language. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

Finally, the effect of SB 611, as written, would add CRIMINAL penalties to what is basically a technical equipment area of concern. As a practical matter, all part 121 (airline) aircraft always comply. Additionally, it would be a rare situation to find a part 135 (air-taxi/Charter) operator without at least one such aircraft radio; they often have 2 or more!

SEC. 02.30.030. (a) Reckless operation.

This section is also found, almost verbatum in several FAR's, and is redundant.

Part 91.8, provides:

> *No person may assault, threaten, intimidate, or interfere with a crewmember in the performance of the crewmember's duties aboard an aircraft being operated.*

Part 91.9, provides:

> *No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.*

RATIONALE': The FAR's more than adequately cover the problem and provide penalties for violation. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

If the desire is to provide stiffer penalties, then this may be accomplished by simply making reference to the specific FAR and provide Class A or B misdemeaner status.

Sec. 02.30.030 (b) (liquor or drugs)

The Alaska Airmen's Association and AOPA both heartily agree that aircrew members who violate this or parallel FAR's are a serious threat to public safety and are a discredit to an honorable profession. We have no objection to the State tacking on Criminal penalties to his portion.

We do however, have problems with the language of the present section, wherein

> *"No person may operate an aircraft occupied by a crew member or pas-*

Part 91.11, provides:

(a) No person may act as a crewmember of a civil aircraft-

(1) Within 8 hours after the consumption of any alcoholic beverage;
(2) While under the influence of alcohol; or
(3) While using any drug that effects his faculties in any way contrary to safety.

(b) Except in an emergency, no pilot of a civil aircraft may allow a person who is obviously under the influence of intoxicating liquors or drugs (except a medical patient under proper care) to be carried in that aircraft. (emphasis added)

Part 135.115, provides:

(a) No person may drink any alcoholic beverage aboard an aircraft unless the certificate holder operating the aircraft has served that beverage.

(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.

(c) No certificate holder may allow any person to board any of its aircraft it that person appears to be intoxicated.

(d) Each certificate holder shall, within 5 days after the incident, report to the Administrator the refusal of any person to comply with paragraph (a) of this section, or any disturbance caused by a person who appears to be intoxicated aboard any of its aircraft. (emphasis added)

RATIONALE': Inasmuch as the FAR's are explicit and more comprehensive than the current State statute section, recommend they be the controling directive; especially in light of Sec. 02.35.010 Specifically adopting the FAR's for State compliance.

We do however, have difficulty in making it a CRIMINAL offence as relates to the passengers. Terms such as "obviously under the influence" also include those suffering a hangover from the previous night, and they do not offer a threat to the Public traveling aboard an aircraft. As a matter of fact, they are docile. Terms such as "appears to be intoxicated" and the like are often used in this context. We submit that rigid enforcement of this portion would, as a practical matter, cut air commerce in this State in half over night.

Recommend that the FAR's be adopted and that the more severe penalty for Air Crew members be adopted on its own.

Sec. 02.30.030 (c) (over water)

This section is more than adequately covered in the FAR's, with little confusion and excellent language:

Part 91.33 (11) provides:

If the aircraft is operated for hire over water and beyond the power-off gliding distance from shore, approved floatation gear readily available to each occupant, and at least one pyrotechnic signaling device. (is required)

Part 91.79 (a) provides:

Except when neccessary for takeoff or landing, no person may operate an aircraft lower than the following altitudes:

(a) ANYWHERE. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

Part 135.167 provides:

No person may operate an aircraft in extended overwater operations unless it carries:

(note: This section is extremely long, and contains all manner of specific relations to rafts, floatation and signalling devices and the like. None of that is required here to make the point that there is no reference to any specific distances from land; only equipment

RATIONALE': To begin with, the current State language, if enforced, would halt approximately 50% of the air commerce in the State immediately. Here are several obvious examples:

1. A single-engine land plane flying from Anchorage to Kodiak. (not uncommon)

To comply with this part, the aircraft would need to fly higher than 25,000 feet! Only those aircraft equipped with both turbochargers and pressurization could possibly comply.

2. A single-engine land plane flying from Anchorage to Juneau or Ketchikan. (not uncommon)

After Yakutat, heading southeasterly, the beach rapidly ends, replaced by beautiful mountains, covered with large trees, ending in rocks and surf. There is no beach; no "landing" is possible. One ditches in the Gulf of Alaska near shore and wades ashore with survival gear.

We feel that the Federal regulations more than adequately cover this contingency, with far better language, in all instances. Inasmuch as Sec. 02.35.010 adopts the FAR's for compliance by the State, it is redundant and confusing to establish still another, poorly worded criteria.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deleting the section.

Sec. 02.30.030 (d) (snow and ice)

This section is more than adequately covered by FAR's:

Part 135.85, provides:

(a) No pilot may take off an aircraft that has-

(1) Frost, snow, or ice adhering to any rotor blade, propeller, windshield, or powerplant installation, or to an airspeed, altitimeter, rate of climb, or flight attitude instrument system;

(2) Snow or ice adhering to the wings, or stabilizing control surfaces; or

(3) Any frost adhering to the wings, or stabilizing control surfaces, unless that frost has been polished to make it smooth.

(there are additional sections, but they are redundant for these purposes)

Part 91.209 provides virtually identical text.

RATIONALE': The FAA language is far more comprehensive. Inasmuch as Sec. 02.35.010 adopts the FAR's for State compliance, it is redundant and confusing to establish yet another, less comprehensive and confusing standard.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs to be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deletion of this section.

Sec. 02.35.010 Federal law followed

This is an excellent section, and would and is referred to above and in other sections not herein noted. Unfortunately the United States Air Commerce Act of 1926 has been void since it was replaced with the 1958 edition. Recommend adoption of the current one.

Sec 02.35.040 Registration of Aircraft

This section provides that all the registration and documentation already required by applicable FAR's, and already on file with the FAA in Oklahoma City, and already available to the public upon request, and already printed in a government circular at least semi-annually, also be duplicated and filed with the Department of Transportation and Public Facilities.

We are unaware of any general aviation pilot who is aware of this provision or complies. We are unaware of any attempts by DOTPF to implement this section. We are unaware of any requirement for it. Recommend its deletion as an unnecessary, expensive and duplicating bureaucratic requirement with no valid requirement.

Sec. 02.35.050, Registration of Airmen

See section 02.35.040 above. Recommend deletion of this ineffective portion as well for the same reasons.

Sec. 02.35.060, 070 & 080.

See items above. Recommend deletion of these sections, which provide administrative control of the previous sections.

COMMENT: Inasmuch as these four (4) sections appear to have been in Public Law since 1949, and no attempt to comply has ever been initiated to our certain knowledge, this fact alone attests to the lack of requirement.

Sec. 02.35.090 License and permit to be exhibited on request.

Part 61.3, provides:

(a) No person shall act as pilot in command or in any other capacity as a required pilot flight crew member of a civil aircraft of United States registry unless he has in his personal possesion a current pilot certificate issued to him under this part.

(h) Each person who holds a pilot certificate, flight instructor certificate, medical certificate, authorization, or license required by this part shall present it for inspection upon request of the Administrator, an authorized representative of the National Transportation Safety Board, or any Federal, State, or local law enforcement officer.

Part 91.27, provides:

(a) Except as provided in part 91.28 (foreign aircraft), no person may operate a civil aircraft unless it has the following.

(1) An appropriate and current airworthiness certificate. Each U.S. airworthiness certificate used to comply with this subparagraph (except a special flight permit, a copy of the applicable operations specifications issued under 21.197(c) of this chapter, appropriate sections of the air carrier manual required by parts 121 or 127 of this chapter contianing that portion of the operations specifications under 21.187(c), or an authorization under 91.45), must have on it the registration number assigned to the aircraft under part 47 of this chapter. However, the air worthiness certificate need not have on it an assigned special identification number before 10 days after that number is first affixed to the aircraft. A revised airworthiness certificate having on it an assigned special identification number, that has been affixed to an aircraft, may only be obtained upon application to an FAA flight standards district office.

(2) a Registration Certificated issued to its owner.

(b) No person may operate a civil aircraft unless the airworthiness certificate required by paragraph (a) of this section or a special flight authorization issued under 91.28 is displayed at the cabin or cockpit

RATIONALE' Obviously the Federal language more than adequately covers the entire situation and others not even dreampt of by State officials. Recommend deleting it and relying on Sec. 02.35.010 for application of the FAR's in Alaska

Sec. 02.35.100 Temporary permit.

This entire section covers an area expressly preempted by the Federal Government. There simply is no legal way for the State of Alaska to license pilots under any circumstances. This is 100% an FAA matter.

As a practicle matter, here is what would happen should there be an earthquake, major fire, flood or other State emergency: The authorized State official on the scene (Civil Defense Director, member of the National Guard etc), invoking whatever emergency authority may be available under other statutes, would notify the pilot/owner of an aircraft that it was required for service to say, send a generator to Bethel, evacuate something, haul medicine or supplies or the like. At that moment, the operator of the aircraft is under control and contract of the State of Alaska, and may operate any aircraft with no licenses at all.

He or she is operating in what is called the PUBLIC SERVICE, much the same as FAA pilots, military pilots, and even State pilots.

Recommend deletion of this entire section.

Sec. 02.35.110 Emergency rations and equipment.

This is an important part of the aviation Safety field in Alaska, and it should remain. There are, however, two (2) items which require updating:

1. Item (2) (A) requires showshoes. We recognize that a pair of cross-country skis, poles and boots are superior to snowshoes for survival travel, and recommend addition of the skis as shown on the attached proposed amended bill.

2. Item (1)(D) requires a firearm and ammunition. While this is an excellent suggestion, there are two (2) problems with the provision:

   a. In most cases a hand-gun is not a suitable survival weapon. Of far more value would be a lightweight shotgun and a supply of slugs and shot. We will not, however, offer this as an amendment at this time, as we have been counseled that it may be a controversial enough issue to bog down passage of the more important safety items. We urge consideration, however.

   b. There is no specified amount of ammunition, and one round could qualify. Recommend a minimum amount such as 25 or 50 rounds.

Sec. 02.35.115 Downed aircraft transmitting devices. (ELT's)

Sec. 91.52, provides

(a) Except as provided in paragraphs (e) and (f) of this section, no person may operate a U.S. registered civil airplane unless it meets the applicable requirements of paragraphs (b), (c) and (d) of this section.

(b) To comply with paragraph (a) of this section, each U.S. registered civil airplane must be equipped as follows:

(1) For operations governed by the supplemental air carrier and commercial operator rules of part 121 of this chapter, or the air travel club rules of part 123 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicability requirements of TSC-C91;

operable condition and meets the applicable requirements of TSO-C91;

(3) For operations governed by Part 135 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91; and

(4) For operations other than those specified in subparagraphs (1), (2) and (3) of this paragraph, there must be attached to the airplane a personal type or an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91.

(Note: there are 2 more pages of technical details that are not required to demonstrate sufficiency here.)

RATIONALE' There is obviously very complete and thorough Federal regulation to cover the installation, maintenance and operation of ELT's in all aircraft operations in this state; commercial and private. This is an area over which the state has no authority whatsoever, and where the state regulations CONFLICT with the appropriate Federal regulations.

Additionally, and as a much more practicle matter, one notes that under the FAR's, such ELT is inspected each year during the annual inspection of the aircraft under FAA criteria, and the aircraft is grounded if the ELT is not present, not in proper order or has an expired battery date. There is no such inspection system established or required under State authority.

Recommend that the item be deleted in its entirety and that reference to the FAR's via Sec. 02.35.010 for application in Alaska be sufficient.

Sec. 02.35.120, Penalties for violation of Chapter

This section will be reduced in scope by the actions above. The only requirement for the section remaining in in those areas which the State desires to inflict CRIMINAL penalties on top of Federal penalties. These are reflected in the attached, proposed substitute bill.

Sec. 02.35.130, Penalty for violation of 90 or 110 of this chapter.

Same as above.

Sec. 02.35.150, Deffinitions

Because of difficulties in interpretation, we suggest that "aircraft" and "airplane" be defined here precisely as they are in FAR's.

AIRCRAFT means: a device that is used or intended to be used for flight in the air, and when used in air traffic control terminology, may include the aircrew. (includes aircraft, helicopters, gyrocopters and all other heavier-than-air equipment, as well as gliders and sail planes)

AIRPLANE means: a divice such as above, but not including helicopters or gyrocopters.

GENERAL: Penalties under the FAR's are found in two (2) areas:

Sec. 609: wherein the Administrator has authority to revoke, suspend, or modify certificates. This includes pilot certificates, aircraft certificates and operator certificates. This is considered severe and serious penalty authority, and exceeds anything the State is empowered to do.

Sec. 901; wherein the FAA may impost Civil Penalties. Such penalties are limited in current law to $1,000 for each violation.

SEC. 02.30.010. Two-way radios required.

Inasmuch as this section refers to "Commercial" aircraft operations with passengers, the applicable portions of the FAR's are found in Part 135. We note that those commercial operations that do not carry passengers, are not covered in the present language, thus allowing training flights with crew or ferry flights in uncontroled airspace, and we feel that this is correct and needs no attention.

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RATIONALE': The FAR is much more comprehensive and far better wording. The State statute is vague and sloppy. As one simple example, almost no aircraft radio will work 50 miles on the ground, and no other provision is allowed in the State language. Inasmuch as Sec. 02.35.010 Specifically adopts all the FAR's for State compliance, there is no need to lay this additional one on and attempt to enforce it.

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We do however, have problems with the language of the present section, wherein

> *"No person may operate an aircraft occupied by a crew member or passenger who is obviously under the influence of intoxicating liquor or habit-forming drugs." (emphasis added)*

(a) No person may act as a crewmember of a civil aircraft-

(1) Within 8 hours after the consumption of any alcoholic beverage;
(2) While under the influence of alcohol; or
(3) While using any drug that effects his faculties in any way contrary to safety.

(b) Except in an emergency, no pilot of a civil aircraft may allow a person who is obviously under the influence of intoxicating liquors or drugs (except a medical patient under proper care) to be carried in that aircraft. (emphasis added)

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(b) No certificate holder may serve any alcoholic beverage to any person aboard its aircraft if that person appears to be intoxicated.

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(d) Each certificate holder shall, within 5 days after the incident, report to the Administrator the refusal of any person to comply with paragraph (a) of this section, or any disturbance caused by a person who appears to be intoxicated aboard any of its aircraft. (emphasis added)

RATIONALE': Inasmuch as the FAR's are explicit and more comprehensive than the current State statute section, recommend they be the controling directive; especially in light of Sec. 02.35.010 Specifically adopting the FAR's for State compliance.

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Part 91.79 (a) provides:

Except when neccessary for takeoff or landing, no person may operate an aircraft lower than the following altitudes:

(a) ANYWHERE. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

Part 135.167 provides:

No person may operate an aircraft in extended overwater operations unless it carries:

(note: This section is extremely long, and contains all manner of specific relations to rafts, floatation and signalling devices and the like. None of that is required here to make the point that there is no reference to any specific distances from land; only equipment required when flying off shore.)

RATIONALE': To begin with, the current State language, if enforced, would halt approximately 50% of the air commerce in the State immediately. Here are several obvious examples:

1. A single-engine land plane flying from Anchorage to Kodiak. (not uncommon)

To comply with this part, the aircraft would need to fly higher than 25,000 feet! Only those aircraft equipped with both turbochargers and pressurization could possibly comply.

2. A single-engine land plane flying from Anchorage to Juneau or Ketchikan. (not uncommon)

After Yakutat, heading southeasterly, the beach rapidly ends, replaced by beautiful mountains, covered with large trees, ending in rocks and surf. There is no beach; no "landing" is possible. One ditches in the Gulf of Alaska near shore and wades ashore with survival gear.

We feel that the Federal regulations more than adequately cover this contingency, with far better language, in all instances. Inasmuch as Sec. 02.35.010 adopts the FAR's for compliance by the State, it is redundant and confusing to establish still another, poorly worded criteria.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deleting the section.

Sec. 02.30.030 (d) (snow and ice)

This section is more than adequately covered by FAR's:

Part 135.85, provides:

(a) No pilot may take off an aircraft that has-

(1) Frost, snow, or ice adhering to any rotor blade, propeller, windshield, or powerplant installation, or to an airspeed, altitimeter, rate of climb, or flight attitude instrument system;

(2) Snow or ice adhering to the wings, or stabilizing control surfaces; or

(3) Any frost adhering to the wings, or stabilizing control surfaces, unless that frost has been polished to make it smooth.

(there are additional sections, but they are redundant for these purposes)

Part 91.209 provides virtually identical text.

RATIONALE': The FAA language is far more comprehensive. Inasmuch as Sec. 02.35.010 adopts the FAR's for State compliance, it is redundant and confusing to establish yet another, less comprehensive and confusing standard.

Finally, we feel that enforcement of this regulation is more than adequately covered by the FAA and no CRIMINAL record needs to be developed, and no more severe penalties need be applied to this section of the code than is already provided.

Recommend deletion of this section.

Sec. 02.35.010 Federal law followed

This is an excellent section, and would and is referred to above and in other sections not herein noted. Unfortunately the United States Air Commerce Act of 1926 has been void since it was replaced with the 1958 edition. Recommend adoption of the current one.

Sec 02.35.040 Registration of Aircraft

This section provides that all the registration and documentation already required by applicable FAR's, and already on file with the FAA in Oklahoma City, and already available to the public upon request, and already printed in a government circular at least semi-annually, also be duplicated and filed with the Department of Transportation and Public Facilities.

We are unaware of any general aviation pilot who is aware of this provision or complies. We are unaware of any attempts by DOTPF to implement this section. We are unaware of any requirement for it. Recommend its deletion as an unnecessary, expensive and duplicating bureaucratic requirement with no valid requirement.

Sec. 02.35.050, Registration of Airmen

See section 02.35.040 above. Recommend deletion of this ineffective portion as well for the same reasons.

Sec. 02.35.060, 070 & 080.

See items above. Recommend deletion of these sections, which provide administrative control of the previous sections.

COMMENT: Inasmuch as these four (4) sections appear to have been in Public Law since 1949, and no attempt to comply has ever been initiated to our certain knowledge, this fact alone attests to the lack of requirement.

Sec. 02.35.090 License and permit to be exhibited on request.

Part 61.3, provides:

(a) No person shall act as pilot in command or in any other capacity as a required pilot flight crew member of a civil aircraft of United States registry unless he has in his personal possesion a current pilot certificate issued to him under this part.

(h) Each person who holds a pilot certificate, flight instructor certificate, medical certificate, authorization, or license required by this part shall present it for inspection upon request of the Administrator, an authorized representative of the National Transportation Safety Board, or any Federal, State, or local law enforcement officer.

Part 91.27, provides:

(a) Except as provided in part 91.28 (foreign aircraft), no person may operate a civil aircraft unless it has the following.

(1) An appropriate and current airworthiness certificate. Each U.S. airworthiness certificate used to comply with this subparagraph (except a special flight permit, a copy of the applicable operations specifications issued under 21.197(c) of this chapter, appropriate sections of the air carrier manual required by parts 121 or 127 of this chapter contianing that portion of the operations specificatiojs under 21.187(c), or an authorization under 91.45), must have on it the registration number assigned to the aircraft under part 47 of this chapter. However, the air worthiness certificate need not have on it an assigned special identification number before 10 days after that number is first affixed to the aircraft. A revised airworthiness certificate having on it an assigned special identification number, that has been affixed to an aircraft, may only be obtained upon application to an FAA flight standards district office.

(2) a Registration Certificated issued to its owner.

(b) No person may operate a civil aircraft unless the airworthiness certificate required by paragraph (a) of this section or a special flight authorization issued under 91.28 is displayed at the cabin or cockpit entrance so that it is legible to passengers or crew.

RATIONALE' Obviously the Federal language more than adequately covers the entire situation and others not even dreampt of by State officials. Recommend deleting it and relying on Sec. 02.35.010 for application of the FAR's in Alaska.

Sec. 02.35.100 Temporary permit.

This entire section covers an area expressly preempted by the Federal Government. There simply is no legal way for the State of Alaska to license pilots under any circumstances. This is 100% an FAA matter.

As a practicle matter, here is what would happen should there be an earthquake, major fire, flood or other State emergency: The authorized State official on the scene (Civil Defense Director, member of the National Guard etc), invoking whatever emergency authority may be available under other statutes, would notify the pilot/owner of an aircraft that it was required for service to say, send a generator to Bethel, evacuate something, haul medicine or supplies or the like. At that moment, the operator of the aircraft is under control and contract of the State of Alaska, and may operate any aircraft with no licenses at all.

He or she is operating in what is called the PUBLIC SERVICE, much the same as FAA pilots, military pilots, and even State pilots.

Recommend deletion of this entire section.

Sec. 02.35.110 Emergency rations and equipment.

This is an important part of the aviation Safety field in Alaska, and it should remain. There are, however, two (2) items which require updating:

1. Item (2) (A) requires showshoes. We recognize that a pair of cross-country skis, poles and boots are superior to snowshoes for survival travel, and recommend addition of the skis as shown on the attached proposed amended bill.

2. Item (1)(D) requires a firearm and ammunition. While this is an excellent suggestion, there are two (2) problems with the provision:

   a. In most cases a hand-gun is not a suitable survival weapon. Of far more value would be a lightweight shotgun and a supply of slugs and shot. We will not, however, offer this as an amendment at this time, as we have been counseled that it may be a controversial enough issue to bog down passage of the more important safety items. We urge consideration, however.

   b. There is no specified amount of ammunition, and one round could qualify. Recommend a minimum amount such as 25 or 50 rounds.

Sec. 02.35.115 Downed aircraft transmitting devices. (ELT's)

Sec. 91.52, provides

(a) Except as provided in paragraphs (e) and (f) of this section, no person may operate a U.S. registered civil airplane unless it meets the applicable requirements of paragraphs (b), (c) and (d) of this section.

(b) To comply with paragraph (a) of this section, each U.S. registered civil airplane must be equipped as follows:

(1) For operations governed by the supplemental air carrier and commercial operator rules of part 121 of this chapter, or the air travel club rules of part 123 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicability requirements of TSC-C91;

(2) For charter flights governed by the domestic and flag air carrier rules of Part 121 of this chapter, there must be attached to the

operable condition and meets the applicable requirements of TSO-C91;

(3) For operations governed by Part 135 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91; and

(4) For operations other than those specified in subparagraphs (1), (2) and (3) of this paragraph, there must be attached to the airplane a personal type or an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of TSO-C91.

(Note: there are 2 more pages of technical details that are not required to demonstrate sufficiency here.)

RATIONALE' There is obviously very complete and thorough Federal regulation to cover the installation, maintenance and operation of ELT's in all aircraft operations in this state; commercial and private. This is an area over which the state has no authority whatsoever, and where the state regulations CONFLICT with the appropriate Federal regulations.

Additionally, and as a much more practicle matter, one notes that under the FAR's, such ELT is inspected each year during the annual inspection of the aircraft under FAA criteria, and the aircraft is grounded if the ELT is not present, not in proper order or has an expired battery date. There is no such inspection system established or required under State authority.

Recommend that the item be deleted in its entirety and that reference to the FAR's via Sec. 02.35.010 for application in Alaska be sufficient.

Sec. 02.35.120, Penalties for violation of Chapter

This section will be reduced in scope by the actions above. The only requirement for the section remaining in in those areas which the State desires to inflict CRIMINAL penalties on top of Federal penalties. These are reflected in the attached, proposed substitute bill.

Sec. 02.35.130, Penalty for violation of 90 or 110 of this chapter.

Same as above.

Sec. 02.35.150, Deffinitions

Because of difficulties in interpretation, we suggest that "aircraft" and "airplane" be defined here precisely as they are in FAR's.

AIRCRAFT means: a device that is used or intended to be used for flight in the air, and when used in air traffic control terminology, may include the aircrew. (includes aircraft, helicopters, gyrocopters and all other heavier-than-air equipment, as well as gliders and sail planes)

AIRPLANE means: a divice such as above, but not including helicopters or gyrocopters.

GENERAL: Penalties under the FAR's are found in two (2) areas:

Sec. 609: wherein the Administrator has authority to revoke, suspend, or modify certificates. This includes pilot certificates, aircraft certificates and operator certificates. This is considered severe and serious penalty authority, and exceeds anything the State is empowered to do.

Sec. 901; wherein the FAA may impost Civil Penalties. Such penalties are limited in current law to $1,000 for each violation.

SB
630

COMMITTEE REPORT

HOUSE

(5) FURTHER:

4/22/82

Date: 4-23-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had CSSSSB 630(SA)am

"An Act relating to the legislative oversight procedures relating to state agencies, boards, and commissions under AS 08.03 and AS 44.66; and providing for an effective date."

under consideration and reports it back as follows:

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

_____

_____

_____

_____

_____

_____

_____

_____

MEMBERS HAVING
OTHER RECOMMENDATIONS:

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_____
CHAIRMAN

H 60 (Rev. 3/81)

Rec'd. 11.20
2 - communications

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

April 24, 1982

SUBJECT: Sunset of state agencies, boards and commissions (HCS CSSSSB 630 (Labor and Commerce)

TO: Representative Terry Martin
Chairman, House Labor and Commerce

FROM: Edward H. Hein EHH
Legislative Counsel

At the request of your administrative aide, Mary Isaacs, I have redrafted the committee substitute you requested for SB 630. As I pointed out in another memorandum today, the version you first submitted presented substantial legal and constitutional problems.

I have given you the State Affairs Committee version of the bill with the following changes:

1. Page 1, line 8: "AS 08.03 and" has been deleted because the bill no longer affects that chapter;

2. Page 1, line 17: "1985" was deleted because the continuation of a board or commission in this bill, which is essentially a "cleanup" bill to clarify the language of AS 44.-66.010, constitutes a violation of the single subject rule of Article II, Sec. 13 of the Alaska Constitution; and

3. Page 2, lines 14 - 16: the new language proposed in the State Affairs Committee version was deleted at your request.

EHH:ljb

Enclosure

Rec'd 10:00 am 1pk Commission

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

April 24, 1982

SUBJECT: Sunset of state agencies, boards and commissions (HCS CSSSSB 630 (Labor and Commerce)

TO: Representative Terry Martin
Chairman, House Labor and
Commerce Committee

FROM: Edward H. Hein EH
Legislative Counsel

Enclosed is the draft committee substitute you requested for SB 630. This bill has two serious defects.

1. Sec. 1 of the bill extends the life of the Alcoholic Beverage Control Board, the state Board of Parole, and the Alaska Code Revision Commission. AS 44.66.060(e) provides that

> No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board, commission or agency board or program shall be mentioned in the title of the bill.

This bill violates that section and, if challenged in court, the bill would therefore likely be struck down.

2. This began as a "cleanup" bill to clarify language of AS 44.66.010 and to make the language consistent with similar provisions in AS 08.03. The bill has now been turned into a substantive bill which continues or shortens the life of four boards or commissions. This is not reflected in the title of the bill, as required by Article II, Sec. 13 of the Alaska Constitution. More important, perhaps, the bill appears to be in violation of the single subject rule, Article II, Section 13 of the Alaska Constitution. The question of violation of the constitutional provision is a

matter ultimately determined by the Court. If a violation was found the act would be void.

EHH:ljb

Original sponsor: Sturgulewski

Offered: 2/25/82
Referred: Labor & Commerce

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 630 (State Affairs) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the legislative oversight procedures relating to state agencies, boards, and commissions under AS 08.03 and AS 44.66; and providing for an effective date."

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

* Section 1. AS 44.66.010 is amended to read:

Sec. 44.66.010. TERMINATION OF STATE AGENCIES, BOARDS, AND COMMISSIONS. (a) A state agency, board, or commission [BOARDS AND COMMISSIONS] listed in this subsection is terminated on the date established by this subsection [EXPIRE ON THE DATE SET OUT AFTER EACH]:

(1) Alcoholic Beverage Control Board (AS 04.06.010) -- June 30, ~~1986~~ 1982; [1983]

(2) Alaska Transportation Commission (AS 42.07.011) -- June 30, ~~1983~~ [1982];

(3) State Board of Parole (AS 33.15.010) -- June 30, ~~1985~~ [1982]

(4) Alaska Public Utilities Commission (AS 42.05.010) -- June 30, 1985;

(5) (repealed)

(6) Alaska Council on Science and Technology (AS 44.21.241 - 44.21.255) -- June 30, ~~1985~~ 1986;

(7) Alaska Renewable Resources Corporation (AS 37.12.010) -- June 30, ~~1982~~ 1986;

(8) Alaska Code Revision Commission (AS 24.20.075) -- June 30, ~~1986~~ [1984];

(9) Rural Development Council (AS 44.47.160 - 44.47.190) -- June 30, 1987;

(10) Older Alaskans Commission (AS 44.21.200 - 44.21.240) -- June 30, 1985;

(11) Council on Domestic Violence and Sexual Assault (AS 18.66.010) -- June 30, 1985.

(b) Upon termination, a state agency, board, or commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or limit the powers or authority of the state agency, board, or commission.

(c) A state agency, board, or commission scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years unless the state agency, board, or commission is continued or reestablished for a longer period under AS 44.66.050(e).

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

"Office Copy"

Original sponsor: Sturgulewski

Offered: 2/25/82
Referred: Labor & Commerce

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 630 (State Affairs) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the legislative oversight procedures relating to state agencies, boards, and commissions under AS 08.03 and AS 44.66; and providing for an effective date."

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

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(2) Alaska Transportation Commission (AS 42.07.011) -- June 30, 1983;

(3) State Board of Parole (AS 33.15.010) -- June 30, 1984;

(4) Alaska Public Utilities Commission (AS 42.05.010) -- June 30, 1985;

(5) (repealed) Pipeline Comm.

(6) Alaska Council on Science and Technology (AS 44.21.241 - 44.21.255) -- June 30, 1983;

(7) Alaska Renewable Resources Corporation (AS 37.12.010) -- June 30, 1982;

(8) Alaska Code Revision Commission (AS 24.20.075) -- June 30, 1984;

(9) Rural Development Council (AS 44.47.160 - 44.47.190) -- June 30, 1987;

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(c) A state agency, board, or commission scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years unless the state agency, board, or commission is continued or reestablished for a longer period under AS 44.66.050(e).

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

SB
648

COMMITTEE REPORT

HOUSE

FURTHER:

(5)

3/22/82

Date: 4-7-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had CSSB 8(L&C)

"An Act relating to workers' compensation coverage of certain persons providing community work service."

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 HCS [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [X] New Fiscal Notes (2)

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Bill Rogers

Terry Martin

MEMBERS HAVING OTHER RECOMMENDATIONS:

Terry Martin

CHAIRMAN

H 60 (Rev. 12/78)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

465-3678

DEPARTMENT OF LAW

POUCH KC – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3428

CRIMINAL DIVISION
PRETRIAL SERVICES SECTION

Feb. 15th 1982

The Honorable Robert Mulcahy
Chairman, Labor and Commerce Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

In response to your request for a position on the proposed committee substitute for Sentate Bill 648 whereby the State of Alaska would assume the total cost of worker's compensation for individuals placed in community work service, the Department of Law supports the additional provision of the committee substitute.

In the memorandum of advise on the issue of liability for injuries to offenders performing community work service, dated February 4, 1982, and made available to your committee, analysis of the current provisions of the Worker's Compensation Act indicated that these offenders are excluded from worker's compensation coverage as they are not "employees" within the meaning of the Act. Exclusion of these offenders from coverage under the Act was problematic in that an offender injured in the performance of community work service could only recover damages for the injury by proving both fault and negligence in a common law tort suit action contrary to the underlying purposes of worker's compensation statutes. Additionally, in that this class of individuals is not within the coverage provisions of the Worker's Compensation Act, the exclusive remedy provisions (AS 23.30.055) are not applicable, thus greatly increasing the potential liability for employers in those instances where fault and negligence are proven. The original version of SB 648, requested by the governor at the behest of the Department of Law, attempted resolution by merely redefining "employee" for purposes of the Worker's Compensation Act to include offenders performing community work service. However, as was pointed out at hearings on SB 648 in your committee, merely redefining "employee" to include this class of individual could result in significant problems in implementation. Chief among these problems is the premimum rate that would be charged employers for worker's compensation coverage for offenders

performing community work service. In that offenders processed by the State into community work service perform a variety of functions, each of which may require a differing level of job injury risk (the method by which worker's compensation insurance premiums are determined), the result would be a separate risk premimum determination for each placement rather than a standardized risk premium that had been assumed to be the result. Alternatively, if placements were limited to a few risk classes, the ability of the community work service referral program to creatively place these offenders by matching their existing job skills or interest areas with community referral needs would be severely hampered. Similarly, the risk assessments are comparatively higher for certain job classes which positively impact a greater segment of a community than for other classes which do not; e.g., litter pickup along the highways commands a substantially higher premium than performing janitorial duties in a local agency.

This uncertainty of premium rates likewise results in a continued reticence on the part of agency-employers to accept such referrals, although these agency-employers derive a substantial benefit from the labor provided. Agencies accepting community work service referrals either would need to restrict the type of work to be performed or would have to budget uncertain amounts of funds to pay increased risk premiums should they determine in the course of the budget year that they could substantially benefit from another type of work. This uncertainty would result in the agency-employers realizing a substantially diminished benefit from the program.

The alternative to this legislation is the maintenance of the status quo, whereby the State would continue to assume the excess of any tort liability that would result from community work service placements. As this state of the law promotes lawsuits to enable recovery, and is an uncertain remedy for injured individuals, it belies the purposes of worker's compensation and is unacceptable to the Department of Law.

The proposed committee substitute appears to be the best alternative in terms of achieving statewide acceptance of the program, and thus meaningful implementation. With the proposed committee substitute no determination as to premium rates needs to be accomplished as the State is a self-insurer under the Worker's Compensation Act. As there won't be a variance in premium rates for the type of community work service assigned, the placements can continue to be creative, sensible and worthwhile. Furthermore, with over 2,000 referrals and 50,000 hours of community work service performed to date under the aegis of the State, we have not yet experienced any liability situations, thus making even a speculative cost of this assumption extremely low.

In conclusion, as a matter of strong public policy, the Department supports the proposed committee substitute and views it as a vehicle for uniform implementation of an innovative alternative in the criminal justice system. The speculative costs which attend this version are far outweighed by the benefits provided to both the recipients of the community work service and to the individuals performing it.

If you have further questions regarding this legislation, please feel free to contact me.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

DANIEL W. HICKEY
CHIEF PROSECUTOR

By: Patrick W. Conheady
Patrick W. Conheady
Assistant Attorney General
Chief, Pretrial Services

PWC/ks

MEMORANDUM State of Alaska

fm 58648

TO Wilson L. Condon
Attorney General
and
Daniel W. Hickey
Chief Prosecutor

DATE February 4, 1982

FILE NO

TELEPHONE NO

FROM Patrick W. Conheady
Assistant Attorney General
Pretrial Intervention
Program Director

SUBJECT Liability During Performance of Community Work Service

A number of questions have been raised concerning the potential for liability for offenders who are placed in a community work service alternative at both the pretrial (diversion) or post trial (conviction) stages. These questions have primarily arisen as a result of a reluctance on the part of placement agencies to accept community work service referrals if there is an attendant assumption of liability on the part of the agency. Although placements made through the Department of Law's Pretrial Intervention Program (diversion) have not elicited the level of concern about liability that judicially authorized placements have, the liability issue is nonetheless of major concern in continuing an important component of the diversion program.

The liability issue is a double faceted question. First, what type of liability can potentially result, and to whom, for injuries to the offender in the course of performing community work service. Second, where does liability lie for injuries to others, or to property, for tortious conduct on the part of an offender during the performance of community work service. Resolution of these questions should facilitate implementation of the community work service alternative under AS 12.55.055.

During the last several months, I have worked with both the court system and the Division of Risk Management of the Department of Administration on these problems. I have additionally prepared and submitted legislation to ensure that offenders performing community work service are included within the coverage of the Worker's Compensation Act.

I. Factual Basis

An offender can be required to perform community work service in one of four ways: (1) attendant to a diversion agreement between the state and the offender for a felony or

misdemeanor offense; (2) attendant to a diversion agreement between a municipality and the offender for a misdemeanor offense; (3) resulting from a sentence for a felony offense pursuant to AS 12.55.015 (a)(6) and AS 12.55.055; and (4) resulting from a sentence for a misdemeanor offense pursuant to AS 12.55.015 (a)(6) and AS 12.55.055. This department's Pretrial Intervention Program administers the former three possibilities while having only peripheral involvement with the latter one.

To be eligible for pretrial diversion, an offender must be a first offender, or if previously convicted, the prior offense must be sufficiently in the past so as to be considered stale, and the prior conviction must be of a nature that when considered conjointly with the instant offense, it does not evince a pattern of habituation to crime. The offense charged must be a property crime or a drug offense, or, in rare situations a crime of domestic violence. All other violent crimes are excluded. In post-conviction situations, eligibility is determined by the sentencing judge, relying upon the presentence report prepared by probation personnel in the Division of Corrections for felony offenders. For misdemeanants, community work service is totally within the sentencing judge's discretion with no presentence reports or recommendations. There are no eligibility guidelines for post conviction community work service referrals.

All individuals referred to the Pretrial Intervention Program for community work service are subject to an intake interview. For state diversion referrals, this interview is in-depth and also serves as a screening device; for the other referrals, the interview is in the nature of matching the offender with appropriate community work. The majority of placements are with private, non-profit corporations, although a number are with state or municipal government agencies.

After placement, the Pretrial Intervention Program requires only that the agency report back that the offender is undertaking the requisite community work service on a satisfactory basis; the Pretrial Program does not supervise or otherwise control offenders in the performance of community work.

II. Liability for Injuries to Individuals Performing Community Work Service Resulting from "Employment" Related Accidents.

The first issue that needs to be resolved is whether offenders placed in community work service are "employees" within the meaning of AS 23.30.265(11). If so, they are then subject to the provisions of the Worker's Compensation Act, AS 23.30. This is an issue that has not been directly resolved by Alaska's courts, although there is sufficient precedent to provide considerable guidance on the question.

The definition of employee for purposes of AS 23.30 is not sufficiently clear in determining an offender's status as an employee. AS 23.30.265 provides:

> (11) "employee" means an employee employed by an employer as defined in paragraph (12);
>
> (12) "employer" means the state or its political subdivision or a person employing one or more persons in connection with a business or industry coming within the scope of this chapter and carried on in this state.

Previous opinions of this office delineated the test for an employee 1963 Op. of the Attorney General, No. 8. Citing both Larson, Workmen's Compensation, (1C, p. 8-1, §43 and p. 8-231, §47) and Ferrell v. Industrial Commission of Arizona 79 Ariz. 278, 288 P.2d 492, the opinion stated the rule that a contract of hire, expressed or implied, is essential to create the status of an employee generally, and the word "hire" connotes payment of some kind. This test was likewise utilized by the Alaska Supreme Court:

> The relationship of employer-employee can only be created by a contract which may be expressed or implied.

Solid Construction Co. v. Guarantee Ins. Co., 355 P.2d 389, 393 (Alaska 1960).

The existence of an employee-employer relationship is critical for unless that relationship exists between the offender and the placement agency, or the state, or both, then the exclusiveness of liability remedy provided in AS 23.30.055 is not applicable. The Supreme Court of Alaska has emphasized:

> . . .the [Worker's Compensation] act's coverage extend[s] only to persons occupying the status of an employee under either an express or implied contract of hire

City of Seward v. Wisdom, 413 P.2d 931, 939 (Alaska 1966). Further support for the "contract of hire" requirement is implicit in AS 23.30.020.

The elements of th contract of hire" concept were discussed in a subsequen opinion of this office on the issue of worker's compensation for state prisoners working voluntarily on governmental projects. 1965 Op. of the Attorney General, No. 8. After citing numerous authorities denying coverage to prisoners including a similar case before the Alaska Workmen's Compensation Board, the opinion found the lack of an employee-employer relationship when (1) there was an absence of any pecuniary remuneration for the services performed, and (2) the nature of the services performed were involuntary. In sum, for the establishment of an employee-employer relationship, a "contract of hire" encompassing (1) voluntary acts in return for (2) some type of remuneration needs to be present. See, Larson, §47 et seq.

In the instant case, remuneration can be found for both classes of offender performing community work service. For those individuals participating in the Pretrial Intervention Program where community work service is a portion of the offender's treatment plan, it can be said that the recompense realized in part for performance of community work service is the ultimate dismissal of criminal charges pending against the offender, a valuable, albeit unquantifiable, benefit. Similarly, those offenders sentenced to community work service under AS 12.55.015(a)(6) and AS 12.55.055 can be said to be receiving remuneration in the form of substituted or reduced periods of confinement. However, the absence of voluntariness in either instance precludes a conclusion that a contract of hire is present.

It is quite clear that offenders sentenced to community work service are not free to bargain and contract for their services. The apparent voluntariness present in the offender's choice to refuse to perform community work service when sentenced under AS 12.55.015(a)(6) and AS 12.55.055 is belied by the residual right of compulsion present with the sentencing authority. A refusal on the part of the

sentenced offender to perform community work service would most likely lead to the offender's incarceration, a significantly more onerous result.

Likewise, offenders in the Pretrial Intervention Program who "voluntarily" agree to perform community work service as part of an individualized treatment plan developed for them are free to negotiate the place and manner of performance of that obligation, but there is no voluntariness present with respect to what that performance will encompass and how long it will last. While participation in the Pretrial Intervention Program is clearly in the offender's best interest and entry is on a voluntary basis, the alternative to diversion, prosecution, belies a freedom for offenders to bargain and contract for their services.

Consequently, the lack of any express provision in the Alaska Worker's Compensation Act, AS 23.30, according offenders performing community work service the status of employees in conjunction with the absence of a true contract of hire between the offender and the state or a referral agency, precludes recovery for offenders performing community work service under worker's compensation. Absent coverage under the Worker's Compensation Act, an offender who is injured performing community work service must bring a common law action in tort to recover for injuries sustained.

III. Tort Liability

A determination of potential liability for tortious conduct occuring either by or to an offender is a much more difficult question. This is due to the large number of variations as to questions of fact that may occur in any given situation. As a matter of law, fact situations can be hypothesized which give rise to liability on the part of the state, political subdivisions of the state, placement agencies and the offender. Similarly, those situations can be altered to exclude tort liability as a matter of law for any of the potentially liable parties. Consequently, the tort liability issue should be resolved in a manner consistent with the legislative intent embodied in AS 12.55.055, that is, to institute a workable community work service program in the state. To this end, two approaches have been formally proposed.

A. HB 255 and SB 285. Under this proposed legislative solution, the state would automatically assume all liability

for tortious conduct to others, or to property, by an offender sentenced to community work service. This approach, however, would only include offenders sentenced by a court under AS 12.55.055, therefore excluding a large portion of offenders performing community work service under diversion agreements. It would additionally place the total financial burden upon the state, ignoring current levels of liability coverage maintained by political subdivisions of the state and non-profit corporations which serve as placement agencies and receive the benefits of the community work service. Moreover, it would hold the state strictly liable, irrespective of the conduct of the various parties involved.

B. Assumption of Excess Liability. The second, and preferable, alternative is that embodied in John Haywood's memoranda of November 20, 1981 and January 6, 1982, copies of which are attached. The Division of Risk Management has determined that it is appropriate for the state to assume all liability for tortious conduct in excess of the liability coverage currently provided by placement agencies. For private, non-profit organizations and political subdivision of the state serving as placement agencies currently providing liability coverage, there will be no change. Assumption of placement will not cause an increase in coverage, as the state assumes the excess. Similarly, for those private, non-profits not currently providing liability coverage, the state will assume any liability resulting from placements. This alternative eliminates the possibility of increased costs to placement agencies for accepting referrals while allowing those agencies to directly benefit from the community work service performed. It has the added advantage, however, of retaining the responsibility of those agencies for their interaction with and supervision of offenders performing community work service. Lastly, it eliminates any necessity for the state to underwrite the complete cost of the community work service program.

IV. Conclusion

The questions posed by the implementation of the community work service program are not insoluble. For tort liability, a change in policy as evidenced by Mr. Haywood's memoranda is sufficient, and is an equitable manner in which to ensure the proper functioning of the community work service program. For injuries sustained by offenders themselves,

a legislative resolution is necessary. This legislation has been submitted and we are working with the appropriate committees on it.

PWC/gb
Attachments
cc: John Haywood
Director
Division of Risk Management
Department of Administration

2 1981

November 23, 1981

Mr. Victor A. Sheeran, II
Administrative Director
Alaska Court System
[illegible]

Dear Mr. Sheeran:

Re: Liability of State for Court Security Guards

[illegible] liability of the State for the [illegible] of claims which arise out of [illegible] a contractual agreement, the liability of the State would be [illegible] the torts [illegible] or injury or death to property of others.

[illegible] would provide insurance coverage for [illegible] persons [illegible] only one for torts [illegible] property [illegible] liability [illegible] the persons will [illegible] court. The insurance would be primary to [illegible] the [illegible] insurance coverage. If the [illegible] or [illegible] [illegible] for [illegible] [illegible] general liability which applies to [illegible], then the [illegible] its [illegible] coverage on [illegible] basis only.

[illegible]

[illegible]

Very truly yours,

[illegible]
Director

[illegible]
cc: [illegible]
[illegible]
[illegible]

MEMORANDUM State of Alaska

SB 648

TO Patrick W. Conheady
Assistant Attorney General
Pretrial Intervention Program

DATE January 6, 1982

FILE NO

TELEPHONE NO

FROM John Haywood, Director
Division of Risk Management
Department of Administration

SUBJECT Community Work Service

This memo is to further clarify my letter of November 20, 1981 to Arthur H. Snowden regarding liability of the State for community work service. It is the intention of the Division that the coverage provided will extend likewise to community work service arranged by the Department of Law, Criminal Division, Pretrial Intervention Program.

I trust this clarifies this matter.

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

Office Copy
File Copy

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House CS for CS for Senate Bill No. 648 (L & C)

Title "An Act relating to workers' compensation, and providing for an effective "

Requested by House Labor and Commerce Committee Date 4/8/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Worker Protection

BRU, Program, or Subprogram(s) Affected Workers' Compensation

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100	PERSONAL SERVICES		161.8	178.0	195.8	215.4	236.9
200	TRAVEL		20.0	22.0	24.2	26.6	29.3
300	CONTRACTUAL		122.3	71.3	78.4	86.2	94.9
400	COMMODITIES		3.4	3.7	4.1	4.5	4.9
500	EQUIPMENT		10.4	0	0	0	0
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	0	317.9	275.0	302.5	332.7	366.0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	(132.3)	(197.2)	(216.9)	(238.6)	(262.5)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
**Second Injury Fund		450.2	472.2	519.4	571.3	628.5

POSITIONS

FULL TIME	0	4	4	4	4	4
PART TIME						
TEMPORARY						

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

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

This fiscal note provides that the state administrative costs for rehabilitation under the proposed AS 23.30.041 be paid from the Second Injury Fund. This includes the costs of four new positions, plus the cost of four existing positions which entails a transfer in funding source from General Funds to Second Injury Funds.
(Continued page 2)

IV. DATE April 8, 1982 PREPARED BY Nico Bus.

AGENCY Labor

PHONE 465-2720

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

33-001 (Rev. 12/81)

1. Assumes an inflation rate of 10% per annum after FY '83.

2. Assumes an effective date of July 1, 1982.

3. The total cost for FY'83 for the four new positions is detailed on attached forms 13. In addition the following items are included in the FY '83 costs.

A Workers' Compensation Officer I reclassification to a Workers' Compensation Officer II with related travel and contractual services. Cost $16.6

100 Personal Services	$ 5.5
200 Travel	5.0
300 Auto, Lease, Indirect, etc.	6.1
	$16.6

The data processing operations cost will increase by $14.0 because of enhancements for a tickler system, running two systems parallel and the files expansion to retain the addresses of all claimants.

The printing of 10,000 Workers' Compensation Acts and 25,000 Employer Information booklets. $35.0

The design and printing of new forms. $2.5

Computer program modifications to implement the changes introduced by the bill. $20.0

Equipment expense for computer terminals, panelling, cabinets, and files. $6.0

Included one-time items in FY '83

Equipment	$10.4
Booklets and Acts	35.0
Design and printing of new forms	2.5
Computer programs	20.0
	$67.9

Funding Change

Items included in the FY 83 Governor's budget that will change funding sources from General Fund to the Second Injury Fund.

4 positions (including benefits)	$141.3
Non-personal service costs relating to these 4 existing positions	
200: travel	9.9
300: contractual	25.8
400: commodities	2.3
	179.3

FY'83 Component Breakdown:

	Workers' Compensation Administration	Second Injury Fund
PS		$161.8
Travel		20.0
Contract*	$47.0	75.3
Commodities		3.4
Equipment		10.4
TOTAL	$47.0	$270.9

Funding	General Fund	Second Injury
Funding transfer	(179.3)	179.3
Rehabilitation Services/ delivery system	47.0	270.9
	132.3	450.2

*$35,000 Workers Compensation Acts and Information Booklets; $12,000 Data Processing

**Second Injury Fund is currently being reviewed to determine whether revenues are sufficient to cover the cost of rehabilitation. It may be necessary to amend AS 23.30.040 to increase the maximum percentage contribution rate.

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION	GOV.	APPROV.	DISAPP.
1	Rehabilitation Administrator			22A		EBA			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		
2	PFT	12	N/A	New Position		N/A			

3	TYPE OF EXPENDITURE	1	2	AMOUNT 3
4	PERSONAL SERVICES: SALARY 3714 x 12		44,568	
5	BENEFITS .1592		7,095	
6	SBS .0613		2,138	
7	FIXED BENEFITS 183 x 12		2,196	
8	TOTAL PERSONAL SERVICES	01		56,047
9	TRAVEL	02		10,000
10	CONTRACTUAL	03		15,607
11	COMMODITIES	04		850
12	EQUIPMENT	05		1,600
13	OTHER			
14	TOTAL COST			84,104

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH 1003	
17	100	GEN. FUND 1004	84,104
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The rehabilitation administrator is necessary to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

Extensive travel within the state is necessary to provide assistance to approximately 12,000 employers in developing programs for re-employment of injured workers and coordinating counselor services with workers, insurers/employers, labor unions, and rehabilitation providers.

9. Travel: $10,000 (20 trips @ $500 per trip)
10. Contractual: Space $3,100 (to be transferred to DOA)
    Auto Lease & Operating Costs $5,600
    Indirect (11.46% x 44,568 = $5,107)
    Other costs which include communications, equipment rental, etc., $1,800
11. Commodities: Cost per position
12. Equipment: Desk, desk chair, side chairs, bookcase, file - $1,600

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE ____

FY 83

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Workers Compensation Officer II			18A	GBU	JBA	GOV.		
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		
2	PFT	12	N/A	New Position		N/A			

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
3	PERSONAL SERVICES:		
4	SALARY 3249 x 12	38,988	
5	BENEFITS .1592	6,207	
6	SBS .0613	2,180	
7	FIXED BENEFITS 183 x 12	2,196	
8	TOTAL PERSONAL SERVICES 01		49,579
9	TRAVEL 02		5,000
10	CONTRACTUAL 03		14,968
11	COMMODITIES 04		850
12	EQUIPMENT 05		1,395
13	OTHER		0
14	TOTAL COST		71,792

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH 1003	
17	100	GEN. FUND 1004	71,792
18		I-A RCPTS 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER ..... COLUMN NO. .....

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The workers' compensation officer is necessary to coordinate with workers, employers, insurers and rehabilation providers to expedite the retraining and reemployment of injured workers. Travel within the Fairbanks and Northern regions will be necessary to coordinate this effort.

9. Travel: $5,000 (10 trips @ $500 per trip)

10. Contractual: Space $3,100 (to be transferred to DOA)
Auto Lease, Maintenance Agreement & Operating Costs $5,600
Indirect Costs (11.46% x 38,988 = $4,468)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair, side chair, file, worktable, bookcase $1,395

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

REVISED DATE

FY 83

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Clerk Typist III			8B	GBU	AWA	GOV.		
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE			
2	PFT	12	N/A	New Position		N/A	LEG.		

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 1530 x 12	18,360	
5	BENEFITS .1592	2,923	
6	SBS .0613	1,125	
7	FIXED BENEFITS 183 x 12	2,196	
8	TOTAL PERSONAL SERVICES 01		24,604
9	TRAVEL 02		
10	CONTRACTUAL 03		7,004
11	COMMODITIES 04		850
12	EQUIPMENT 05		700
13	OTHER		
14	TOTAL COST		33,158

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	33,158
18		I-A RCPTS 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER ..... COLUMN NO. .....

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk III position will provide clerical assistance to the Workers' Compensation Officer in the Juneau Second Injury Fund office and will be responsible for providing and coordinating distribution of information from the claim files to the other regions.

10. Contractual: Space $3,100 (to be transferred to DOA)
Indirect (11.46% x 18,360 = $2,104)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair $700

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

REVISED DATE

FY 83

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Clerk IV			9B	GBU	EBA	GOV.		
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		
2	PFT	12	N/A	New Position		N/A			

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES:		
4	SALARY 1627 x 12	19,524	
5	BENEFITS .1592	3,108	
6	SBS .0613	1,197	
7	FIXED BENEFITS 183 x 12	2,196	
8	TOTAL PERSONAL SERVICES 01		26,025
9	TRAVEL 02		0
10	CONTRACTUAL 03		7,137
11	COMMODITIES 04		850
12	EQUIPMENT 05		700
13	OTHER		
14	TOTAL COST		34,712

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	34,712
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER ..... COLUMN NO. .....

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk IV position will provide clerical assistance to the Rehabilitation Administrator and Workers' Compensation Officer and will be responsible for maintaining follow-up on all rehabilitation files.

10. Contractual: Space $3,100 (to be transferred to DOA)
Indirect (11.46% x $19,524 = $2,237)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk and desk chair $700

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

REVISED DATE

FY 83

SB
746

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

Date: 4-6-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had CSSB 746(Fin)

"An Act making a special appropriation to the Department of Commerce and Economic Development, office of mineral development, for production of a documentary film on Alaska's mining history and potential; making a special appropriation to the Office of the Governor for participation of the Alaska game unit in the Arctic Winter Games; and providing for an effective date."

under consideration and reports it back as follows:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

H 60 (Rev. 3/81)

PROPOSAL FOR A DOCUMENTARY ON
ALASKA'S MINING HISTORY AND POTENTIAL

The American Mining Congress recently sponsored a survey of citizen attitudes towards mining. While only 16% of those polled felt at all familiar with mining, 43% believed it was damaging to the environment, 62% felt it was dangerous and unhealthy, and an incredible 96-97% felt mining was unnecessary to the national economy, unnecessary for the national defense and unnecessary to the quality of life.

As suggested by many industry spokesmen, such shockingly erroneous attitudes stem from the profound failure of America's educational system to teach its students the singular and immutable fact that modern civilization is made possible by, and remains dependent upon, the production and utilization of mineral resources. The resultant ignorance has fostered the misconception that mining is a dangerous and destructive enterprise that should be generally discouraged and locally forbidden. It is this ignorance which has allowed the piecemeal but cumulatively devastating withdrawal of public lands from mineral entry. It is this ignorance that has delivered to the country the specter of a national resource crisis.

The proposed documentary, which will be an accurate portrayal of historical and present mining activity in Alaska, will contribute to redressing this pervasive ignorance. It will show mines to people who have never seen a mine. It will take people underground. It will show them what a billion dollar orebody looks like in its natural disguise. They will be fascinated by a subject of which their only previous experience has been through souvenir shops and tourist displays. For the viewer, mining in Alaska will cease to be a cliched recitation of sourdough sagas and will begin to assume its true dimension and importance. The educational process will have begun.

The documentary will debut in October 1982 to the delegates of the American Mining Congress Convention, the foremost assembly of public and private industry personnel. At the most obvious level, the delegates will be as interested as anyone in the historical content of the film. Additionally, they will be professionally interested in the contemporary segments which will serve, without explicit overtures needed, a promotional function. And finally, the delegates will recognize and appreciate the value of the film as a much needed educational tool. The presentation to this forum of a stimulating and professional quality film will generate interest in the state's resources and create industry wide respect for the state as a good place to do business.

The documentary will be promoted and distributed for both statewide and national television broadcast. It will also be available for extensive use in schools, colleges, conferences and speaking presentations.

As it is felt that the highest and best purpose of this documentary will be for its educational value, two guidelines will be strictly followed to insure the acceptance of the film by the widest possible audience.

1. Within the documentary narrative, subjective opinions on highly controversial issues will not be endorsed.

2. To avoid the stigma of being a public relations "flak film", the promotional message of the documentary will be implicit in its accurate informational content, rather than be an explicit "pitch".

The following outline describes how the goals discussed above will be achieved.

1. OBJECTIVES

The documentary will accurately portray Alaska's mining history, will

examine its present mines and visit the sites of its future mines. It will be, firstly and foremost, educational, but by virtue of its informational and tonal content, promotional.

2. THEME

The film, by content and tone, will portray mining in Alaska as the positive and essential enterprise it has been and can be, and by inference will be supportive of the mining industry in general.

3. DESCRIPTION OF THE FILM

Using archival photographs, interviews, existing film footage and other materials, Alaska's mining history will be documented. While the salient events will all be at least briefly covered, several of the more unique and fascinating aspects of the history will be explored in some detail. Site visits to existing and future mines as well as the use of existing film footage will be used in the balance of the film. A soundtrack will be recorded and incorporated with a narrative.

4. AUDIENCE

While the first audience to view the documentary will be the foremost gathering of mining industry personnel, the American Mining Congress Convention in 1982, the film will subsequently be heavily used as an educational tool for the spectrum of the population.

5. STYLE

The film will be an educational documentary but should be dynamic and

innovative. It will avoid highly technical or esoteric material but will not be intellectually condescending.

Within the narrative, subjective opinions concerning such highly controversial issues as environmental protection and land use philosphy will not be endorsed. The film will, however, make use of interviews, where appropriate, to address these issues.

6. BUDGET

The estimated budget for all phases of production, from planning through post production, is $150,000.

7. DISTRIBUTION

The film will be distributed for extensive use in schools, colleges, conventions, conferences, and speaking engagements as well as for television broadcast.

Alaska State Legislature

SENATE
Resources Committee

POUCH V
STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Offical Business

BETTYE FAHRENKAMP, Chairman
VIC FISCHER, Vice-Chairman
BRAD BRADLEY
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BOB MULCAHY
ARLISS STURGULEWSKI

TO: Representative Martin, Chairman
House Labor and Commerce Committee

FROM: Senator Bettye Fahrenkamp, Chairman
Senate Resources Committee

RE: SB 746

DATE: March 22, 1982

Please find attached backgro information, as requested, on SB 746, An Act making a special appropriation to the Department of Commerce and Economic Development, office of mineral development, for production of a documentary film on Alaska's mining history and potential.

LEGISLATION SUMMARY

SB 746: "An Act making a special appropriation to the Department of Commerce and Economic Development, office of mineral development, for production of a documentary film on Alaska's mining history and potential; and providing for an effective date."

Sec. 1: Appropriates $150,000 from the general fund to the office of mineral development within the Department of Commerce and Economic Development for the production of a documentary film on Alaska's mining history and potential.

Sec. 2: Immediate effective date.

PRIME SPONSOR: Resources

CO-SPONSOR(S): None

Funding Information	
General Fund	$150,000
Other Funds	-0-
	$150,000

Prop

IN THE SENATE BY THE RESOURCES COMMITTEE

SENATE BILL NO. 746

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Commerce and Economic Development, office of mineral development, for production of a documentary film on Alaska's mining history and potential; and providing for an effective date."

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

* Section 1. The sum of $150,000 is appropriated from the general fund to the Department of Commerce and Economic Development, office of mineral development, for the production of a documentary film on Alaska's mining history and potential.

* Sec. 2. The unexpended and unobligated portion of the appropriation made by this Act lapses into the general fund June 30, 1984.

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

October

AMERICAN MINING CONGRESS - LAS VEGAS PROGRAM

ALASKA SESSION

Need to move aggressively to secure:

1) Committment from Program Committee

2) Committment from key participants in proposed program

3) Funding committment for film and subsequent proposal/bid process

Refer Item 1) above:

We need to insert an Alaskan - Dave Heatwole - onto the Program Committee.

Also, support from the A.M.C. executive should be directed to our advantage.

(Action - John Sims will contact Dave Heatwole 1/31/82.
E. B. will contact A.M.C. executive in Washington, D.C. and appraise them of developments and reassert our strong support and interest in the Vegas program)

Refer Item 2) above:

The concept of the Alaska session should be discussed with members of of Alaska's congressional delegates. Ideally, we should aim to have two out of the three (Murkowski and Young?) co-chair the session.

Preliminary approaches could be initiated to obtain provisional committments.

A top ranking Federal spokesman should be lined up to address the topic "Federal Perspectives and Policies in Relation to Mineral Development in Alaska". One suggestion would be Bill Horn from Interior Department, but others will no doubt come to mind. Suggestions.

Other speakers on the formal program can be lined up following dialogue between J.S., E.B. and D.H.

Refer to Item 3) above:

The Alaska Department of Commerce and Economic Development (Office of Mineral Development) has a contract with MediAlaska to generate conceptual ideas, script, preliminary budget and overall feasibility for film which ideally would have its premier showing at the A.M.C.

Although the Alaska program could proceed without the film, it is patently obvious that a top-rank production premiering at the A.M.C. would have great merit in stimulating interest in Alaska as well as adding to the session itself.

Procurement of funding for the film may pose problems. It is hoped to access some funds from the Alaska Economic Development Forum but this source could not possibly come up with the $125,000 to $150,000 estimate of total cost.

Legislative action may secure the entire fundingfor the film via a special appropriation bill and given the time constraints this is probably the way to go.

There could be rapid developments on this however if funding for a film by the legislature is linked to the A.M.C. convention we need to have assurance that the Alaska program will fly.

PROPOSAL FOR A DOCUMENTARY ON
ALASKA'S MINING HISTORY AND POTENTIAL

The American Mining Congress recently sponsored a survey of citizen attitudes towards mining. While only 16% of those polled felt at all familiar with mining, 43% believed it was damaging to the environment, 62% felt it was dangerous and unhealthy, and an incredible 96-97% felt mining was unnecessary to the national economy, unnecessary for the national defense and unnecessary to the quality of life.

As suggested by many industry spokesmen, such shockingly erroneous attitudes stem from the profound failure of America's educational system to teach its students the singular and immutable fact that modern civilization is made possible by, and remains dependent upon, the production and utilization of mineral resources. The resultant ignorance has fostered the misconception that mining is a dangerous and destructive enterprise that should be generally discouraged and locally forbidden. It is this ignorance which has allowed the piecemeal but cumulatively devastating withdrawal of public lands from mineral entry. It is this ignorance that has delivered to the country the specter of a national resource crisis.

The proposed documentary, which will be an accurate portrayal of historical and present mining activity in Alaska, will contribute to redressing this pervasive ignorance. It will show mines to people who have never seen a mine. It will take people underground. It will show them what a billion dollar orebody looks like in its natural disguise. They will be fascinated by a subject of which their only previous experience has been through souvenir shops and tourist displays. For the viewer, mining in Alaska will cease to be a cliched recitation of sourdough sagas and will begin to assume its true dimension and importance. The educational process will have begun.

The documentary will debut in October 1982 to the delegates of the American Mining Congress Convention, the foremost assembly of public and private industry personnel. At the most obvious level, the delegates will be as interested as anyone in the historical content of the film. Additionally, they will be professionally interested in the contemporary segments which will serve, without explicit overtures needed, a promotional function. And finally, the delegates will recognize and appreciate the value of the film as a much needed educational tool. The presentation to this forum of a stimulating and professional quality film will generate interest in the state's resources and create industry wide respect for the state as a good place to do business.

The documentary will be promoted and distributed for both statewide and national television broadcast. It will also be available for extensive use in schools, colleges, conferences and speaking presentations.

As it is felt that the highest and best purpose of this documentary will be for its educational value, two guidelines will be strictly followed to insure the acceptance of the film by the widest possible audience.

1. Within the documentary narrative, subjective opinions on highly controversial issues will not be endorsed.

2. To avoid the stigma of being a public relations "flak film", the promotional message of the documentary will be implicit in its accurate informational content, rather than be an explicit "pitch".

The following outline describes how the goals discussed above will be achieved.

1. OBJECTIVES

The documentary will accurately portray Alaska's mining history, will

examine its present mines and visit the sites of its future mines. It will be, firstly and foremost, educational, but by virtue of its informational and tonal content, promotional.

2. THEME

The film, by content and tone, will portray mining in Alaska as the positive and essential enterprise it has been and can be, and by inference will be supportive of the mining industry in general.

3. DESCRIPTION OF THE FILM

Using archival photographs, interviews, existing film footage and other materials, Alaska's mining history will be documented. While the salient events will all be at least briefly covered, several of the more unique and fascinating aspects of the history will be explored in some detail. Site visits to existing and future mines as well as the use of existing film footage will be used in the balance of the film. A soundtrack will be recorded and incorporated with a narrative.

4. AUDIENCE

While the first audience to view the documentary will be the foremost gathering of mining industry personnel, the American Mining Congress Convention in 1982, the film will subsequently be heavily used as an educational tool for the spectrum of the population.

5. STYLE

The film will be an educational documentary but should be dynamic and

innovative. It will avoid highly technical or esoteric material but will not be intellectually condescending.

Within the narrative, subjective opinions concerning such highly controversial issues as environmental protection and land use philosphy will not be endorsed. The film will, however, make use of interviews, where appropriate, to address these issues.

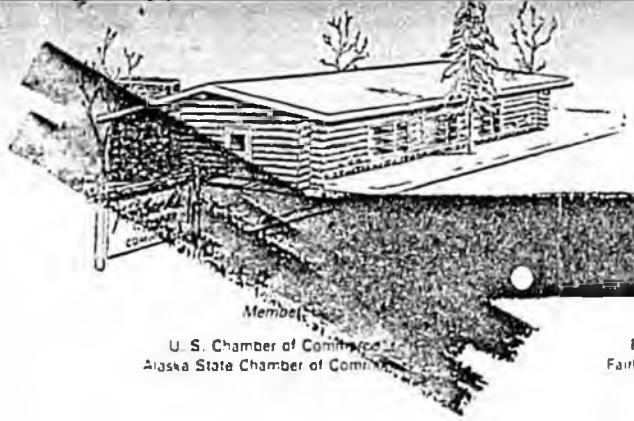
6. BUDGET

The estimated budget for all phases of production, from planning through post production, is $150,000.

7. DISTRIBUTION

The film will be distributed for extensive use in schools, colleges, conventions, conferences, and speaking engagements as well as for television broadcast.

CG:nw:2/4/82



Greater Fairbanks
CHAMBER OF COMMERCE

Member
U. S. Chamber of Commerce
Alaska State Chamber of Commerce

In Association With
Fairbanks Visitor & Convention Bureau
Fairbanks Industrial Development Corporation

(907) 452-1105 550 First Avenue
FAIRBANKS
ALASKA 99701

February 24, 1982

Senate Resource Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Committee Members:

With reference to Senate Bill #746, "An Act making a special appropriation to the Department of Commerce and Economic Development, office of mineral development for production of a documentary film on Alaska's mining history and potential and providing for effective date".

It is no big mystery to anyone and in particular those of us living in the Fairbanks area, that Alaska offers great possiblities and potential for mineral and mining activity within our area as well as many other areas throughout the State of Alaska.

In an attempt to improve the economic climate of the State's mining and mineral potential, we would encourage the passage of Senate Bill #746 appropriating $150,000 from the general fund to the Department of Commerce and Economic Development's office of mineral development for the production of this documentary film on Alaska's mining history and potential.

Our State needs more of this type thing to be used by both the State Department of Economic Development as well as other economic development committees and groups throughout the State in the promotion of mining and mineral activity within the State to show why Alaska is a good place to do business, how private enterprise can profit from the development of our natural resources and to create a positive image of Alaska's business climate.

Sincerely,

Ron Davis
President

RD/rmm

MSG 02-00011413 PRTY 1 03/03/82 11:55:15 ORIG: LF01 IN= 0004 OUT= 004

FROM: MAXINE/FBX TO: JUNO INFO

TARGET: LJH2 SUBJ: POM PAGE 000

TO: REP'S BETTISWORTH, BROWN, FANNING, RANDOLPH, ROGERS, SMITH
SEN'S BENNETT, FAHRENKAMP, PARR

FR: ROGER C BURGGRAF, SR 20086, FBX 99701 PH. 479-2596

RE: SB 746

MSG: PLEASE SUPPORT SB 746. AK NEEDS TO HAVE DOCUMENTARY FILM ON AK MINING HISTORY AND POTENTIAL. THE 150,000 TO BE APPROPRIATED FOR THE FILM WOULD BE WELL SPENT AND HELPFUL AS AN EDUCATIONAL TOOL IN INFORMING THE PUBLIC IN AK AND OUTSIDE OF THE STATE OF AK'S MINING HISTORY AND MINERAL POTENTIAL IN PROVIDING JOBS, INDUSTRY AND RESOURCES WHICH THIS NATION NEEDS SO BADLY.

---EOM

MSG 82-00009785 PRTY 1 02/23/82 15:59:04 ORIG: LF00 IN= 0004 OUT= 009
FROM: DEBBIE/FBX TO: JUNO LTN
TARGET: LJH2 SUBJ: POMS
PAGE 000

TO: SENATE LABOR AND COMMERCE
SENS. MULCAHY, FAHRENKAMP, RODEY, ZIEGLER

FR: EARL BEISTLINE
BOX 80148
FAIRBANKS, AK 99708

RE: SB 746

MSG. TODAY INFO. HAS BEEN RECEIVED THAT AN ALASKA SESSION ON MINING WILL BE INCLUDED IN THE '82 AMERICAN MINING CONGRESS MEETING TO BE HELD IN LAS VEGAS, NEV., ON OCT. -14, 1982. AN ALASKAN, DAVE HEATWOLE, PRES., ALASKA MINERS ASS. WILL PARTICIPATE ON THE AMC PROGRAM COMT. AND SEVERAL ALASKANS WILL PARTICIPATE LOCALLY TO ARRANGE A MEANINGFUL, DYNAMIC SESSION PROGRAM. ACCORDINGLY, I ENCOURAGE PASSAGE OF SB 746 "MINING DOCUMENTARY FILM" FOR THE JUSTIFICATION STATED IN THE BILL. SUCH A CONFERENCE PROVIDES AN EXCELLENT

MSG 82-00009785 PRTY 1 02/23/82 15:59:04 ORIG: LF00 IN= 0004 OUT= 009
FROM: DEBBIE/FBX TO: JUNO LTN
TARGET: LJH2 SUBJ: POMS
PAGE 000

BEISTLINE CON'T

LARGE AUDIENCE, NATIONAL AND INTERNATIONAL FOR A PREMIER SHOWING OF THE FILM THAT WILL DO MUCH TO STIMULATE AND DIVERSIFY THE MINERAL INDUSTRY IN ALASKA FOR THE BENEFIT OF THE STATE'S AND NATION'S ECONOMY.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 746
Title An Act making a special appropriation to DCED-Office of Mineral Development-
Requested by _____ Date _____ for documenting files on Alaska's mining history and potential and providing for an effective date.

II. FISCAL DETAIL
Agency Affected Department of Commerce and Economic Development
Program Category Affected Office of Mineral Development
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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	Ø	Ø	Ø			
200 TRAVEL	Ø	Ø	Ø			
300 CONTRACTUAL	150.0	Ø	Ø			
400 COMMODITIES	Ø	Ø	Ø			
500 EQUIPMENT	Ø	Ø	Ø			
600 LAND & STRUCTURES	Ø	Ø	Ø			
700 GRANTS,CLAIMS,ETC.	Ø	Ø	Ø			
TOTAL	150.0	Ø	Ø			

FUNDING (Thousands of Dollars)

GENERAL FUND	150.0	Ø	Ø			
FEDERAL FUNDS	Ø	Ø	Ø			
OTHER (Specify Source)	Ø	Ø	Ø			

POSITIONS

FULL TIME	Ø	Ø	Ø			
PART TIME	Ø	Ø	Ø			
TEMPORARY	Ø	Ø	Ø			

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

Special appropriation bill for $150,000 to the Office of Minerals Development. All departmental involvement with R.F.P. process, selection of contractors (Alaskans) and production liaison, etc., are covered by departmental funding. No additional cost envisaged.

IV. DATE _____ PREPARED BY John Sims
AGENCY Department of Commerce & Economic Development
PHONE 452-7464 Office of Minerals Development
or 465-2021

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

33-001 (Rev. 12/81)

PHIL. R. HOLDSWORTH, P.E.
CONSULTING ENGINEER & LEGISLATIVE COUNSEL
MINING — GEOLOGY — LANDS

PHONE 907-586-1383

326 FOURTH STREET, No. 1009
JUNEAU, ALASKA 99801

April 5, 1982

Rep. Terry Martin, Chairman
House Labor & Commerce Committee
Alaska State Legislature

Re: CSSB 746(fin)

Dear Rep. Martin:

The undersigned wishes to testify in support of the subject legislation on behalf of the Alaska Miners Association, but must be in Anchorage at the time of your scheduled hearing.

Section 1. of the bill is an appropriation for production of a documentary film on Alaska's mining history and potential. The program committee of the American Mining Congress has, for the first time in its long history, agreed to a full half-day section on Alaska at the next annual (international) convention to be held in Las Vegas on October 11-14, 1982. The proposed film would be ideal as a "kick-off" for this session, and would stimulate international interest in Alaska's mineral resources on the part of those who have not yet been exposed to this potential.

Section 2. covers support of the Arctic Winter Games which have already been held.

In light of the time restraints involved with both projects, and if legislative support is anticipated, passage of this legislation should certainly be expedited.

Respectfully submitted,

Phil R. Holdsworth

Phil R. Holdsworth

SB
752

COMMITTEE REPORT

HOUSE

(5) FURTHER:

3/26/82

Date: 4-19-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had CSSB 752(L&C)am

"An Act relating to savings associations; and providing for an effective date."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] same title

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

and recommends _____

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

NONE

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Terry Martin

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martin
CHAIRMAN

H 60 (Rev. 12/78)

Draft of title OK. by Atty Gen

move to accept House Comm Sub.

HCS for CS FOR SENATE BILL NO. 752 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL RELATING TO

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

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

* Section 1. AS 06.30.115 is amended to read:

Sec. 06.30.115. ACCESS TO BOOKS AND RECORDS OF ASSOCIATION. (a) Every member or stockholder may inspect the books and records of an association which pertain to his loan, [OR] savings account, or voting rights.

(b) Except as provided in (a) [AND (c)] of this section, the right of inspection and examination of the books and records is limited to (1) the commissioner or his authorized representatives as provided in this chapter, (2) persons authorized to act for the association, and (3) any federal instrumentality or agency authorized to inspect or examine the books and records of an insured association.

[(c) IN STOCK ASSOCIATIONS EVERY STOCKHOLDER MAY INSPECT THE GENERAL BOOKS AND RECORDS OF THE ASSOCIATION EXCEPT A STOCKHOLDER MAY NOT HAVE ACCESS TO THE LOAN AND SAVINGS RECORDS OF OTHER MEMBERS.]

* Sec. 2. AS 06.30.120 is amended to read:

Sec. 06.30.120. BOOKS AND RECORDS [PERTAINING TO MEMBERS' ACCOUNTS] TO BE KEPT CONFIDENTIAL. Except as provided in AS 06.30.115, the [THE] books and records pertaining to the accounts, [AND] loans, and voting rights of members, stockholders, savers, and borrowers shall be kept confidential by the association, its directors, officers and employees, and by the commissioner, his examiners and representatives, except where disclosure is compelled by a court of competent jurisdiction. Except as provided in AS 06.30.115, no [NO] person, including a member or stockholder may

[SHALL] have access to the books and records or [SHALL] be furnished [OR SHALL POSSESS] a partial or complete list of the members or stockholders except upon express action and authority of the board of directors.

* Sec. 3. AS 06.30.145(b) is amended to read:

amend.

(b) In a stock association each director shall own individually or jointly with his or her spouse [IN HIS OWN RIGHT] free of any encumbrance capital stock of the association in an amount equal to at least $1,000 in par value.

* Sec. 4. AS 06.30.500(3) is amended to read:

(3) Except for participation loans authorized under AS 06.30.530, no [NO] investment may be made in a conventional loan secured by a mortgage on a one-to-four family residence unless the mortgaged property is located inside the state.

* Sec. 5. AS 06.30.520 is amended to read:

Sec. 06.30.520. PROPERTY IMPROVEMENT AND CONSUMER LOANS. An association may make property improvement loans to property owners for maintenance, repair, modernization, improvement, and equipment of their properties. In addition, an association may make consumer loans. A property improvement or consumer loan may be made with or without security and may be secured by liens on real estate and mobile homes. An association may not make property improvement loans exceeding 25 percent of its assets or consumer loans exceeding 40 percent of its assets.

* Section 6. AS 06.05.235(a) is amended to read:

(a) Except as provided in (b) or (e) of this section it [IT] is unlawful for a company to own, control or hold with power to vote 25 percent or more of a class of voting securities or other [THE] capital stock of one or more state banks or domestic [STATE] bank holding companies subject to regulation under this chapter. [NOTHING IN THIS SUBSECTION PROHIBITS A COMPANY FROM QUALIFYING AS A BANK HOLDING COMPANY UNDER (b) OF THIS SECTION.] However, when it becomes a bona fide necessity to avoid loss for a creditor to accept shares of stock in one or more state banks or domestic bank

holding companies constituting more than 25 percent of the ownership or control of a state bank or domestic bank holding company in payment of indebtedness owing to the creditor, shares of stock may be accepted, but the shares of the one or more state banks or domestic bank holding companies exceeding that 25 percent shall be promptly disposed of under the supervision of the department.

* Sec. 7. AS 06.05.235(b) is amended to read:

(b) A domestic bank holding company, as defined in AS 06.05.540 and organized under AS 10.05, which maintains its principal office and place of business in the state and conducts its principal operations in the state, may acquire and own all or any portion of the voting securities [SHARES] or other capital stock of, or all or substantially all of the assets of, one or more banks or bank holding companies unless the bank is a recently formed bank. The department may require a domestic bank holding company to post a bond with the department in an amount equal to the paid-in capital and paid-in surplus represented by the proportion of state bank stock directly or indirectly owned, held, or controlled by it, under conditions the department may prescribe, to assure full protection of the public. The domestic bank holding company is subject to an examination by the department or a competent person designated by the department when the department considers it necessary, but not less than once each year. The domestic bank holding company shall pay an examination fee in accordance with AS 06.01.010.

* Sec. 8. AS 06.05.235(c) is amended to read:

(c) The department may adopt regulations for [BANK HOLDING] companies qualifying as domestic bank holding companies or out-of-state bank holding companies under (b) or (e) of this section to assure financially sound banking organization and practice.

* Sec. 9. AS 06.05.235 is amended by adding new subsections to read:

(e) An out-of-state bank holding company as defined in (h) of this section may acquire and own all or any portion of the

voting securities or other capital stock of, or all or substantially all of the assets of, one or more state banks, domestic bank holding companies, or national banks conducting a banking business in the state unless the state bank or national bank is a recently formed bank. To assure full protection of the public the department may require an out-of-state bank holding company that directly or indirectly owns, holds, or controls stock in a state bank or domestic bank holding company to post a bond with the department, under conditions the department may prescribe. The amount of the bond shall be equal to the product obtained by multiplying the amount of paid-in capital and paid-in surplus of the state bank or domestic bank holding company by the percentage of state bank or domestic bank holding company stock directly or indirectly owned, held, or controlled by the out-of-state bank holding company.

(f) When the department considers it necessary, an out-of-state bank holding company directly or indirectly owning, holding, or controlling state bank stock or domestic bank holding company stock is subject to an examination by the department or a competent person designated by the department. The out-of-state bank holding company shall pay an examination fee in accordance with AS 06.01.010.

(g) As used in this section a "recently formed bank" is a state bank or national bank conducting a banking business in the state that commenced that banking business in the state on or after July 1, 1982, and that has not been in existence and continuously operating in the state for a period of three years or more. However, the term "recently formed bank" does not include

(1) a bank organized solely for the purpose of facilitating acquisition of a bank that either has been in existence and continuously operating in the state as a bank for a three-year period, or was conducting a banking business in the state on or before June 30, 1[illegible] ;

(2) a state bank that the department determines was not chartered directly or indirectly by an acquiring out-of-state bank holding company, and that does not have the capacity to

continue to conduct its business independently in a fashion consistent with the public interest and the interest of depositors, creditors, and shareholders; or

(3) a national bank that the Board of Governors of the Federal Reserve System, or their designee, determines was not chartered directly or indirectly by an acquiring out-of-state bank holding company, and that does not have the capacity to conduct its business independently in a fashion consistent with the public interest of depositors, creditors, and shareholders.

(h) As used in this section "out-of-state bank holding company" means a company that

(1) is a bank holding company as defined in the U.S.C. 1841, et seq.);

(2) is registered as a bank holding company with the Board of Governors of the Federal Reserve System, with the Federal Reserve Bank of the Federal Reserve District in which the operations of the bank holding company are principally conducted, or with a Federal Reserve Bank that the Board of Governors may designate;

(3) maintains its principal office and place of business outside the state; and

(4) principally conducts its banking operations through out-of-state banking subsidiaries, as measured by total deposits held or controlled by it on the date on which it becomes an out-of-state bank holding company;

(i) For the purpose of this section, a trust company organized under the laws of this state which is conducting a banking business shall be deemed to be a state bank.

* Sec. 10. This Act takes effect July 1, 1982.

~~Renumber Sec 10 etc 11~~

[New Sec. 10. Repeal A 506.30,555(b)(4)

SB752 BILL NUMBER

SB0752CS(L&C)a- SPECIAL INFO

Original sponsor: Special

Committee on Banking Offered: 3/9/82

Referred:

Rules SPONSOR BY THE

LABOR AND

IN THE SENATE COMMERCE

COMMITTEE BILL HEADING

CS FOR SENATE BILL NO. 752 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL RELATING TO

For an Act entitled: "An Act relating to savings associations;

and providing for an effective date."

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

* Section 1. AS 06.30.115 is amended to read:

Sec. 06.30.115. ACCESS TO BOOKS AND RECORDS OF ASSOCIATION. (a) Every member or stockholder may inspect the books and records of an association which pertain to his loan, :OR: savings account, or voting rights.

(b) Except as provided in (a) :AND (c): of this section, the right of inspection and examination of the books and records is limited to (1) the commissioner or his authorized representatives as provided in this chapter, (2) persons authorized to act for the association, and (3) any federal instrumentality or agency authorized to inspect or examine the books and records of an insured association.

:(c) IN STOCK ASSOCIATIONS EVERY STOCKHOLDER MAY INSPECT THE GENERAL BOOKS AND RECORDS OF THE ASSOCIATION EXCEPT A STOCKHOLDER MAY NOT HAVE ACCESS TO THE LOAN AND SAVINGS RECORDS OF OTHER MEMBERS.:

* Sec. 2. AS 06.30.120 is amended to read:

Sec. 06.30.120. BOOKS AND RECORDS :PERTAINING TO MEMBERS' ACCOUNTS: TO BE KEPT CONFIDENTIAL. Except as provided in AS 06.30.115, the :THE: books and records pertaining to the accounts, :AND: loans, and voting rights of members, stockholders, savers, and borrowers shall be kept confidential by the association, its directors, officers and employees, and by the commissioner, his examiners and representatives, except where disclosure is compelled by a court of competent jurisdiction. Except as provided in AS 06.30.115, no :NO: person, including a member or stockholder may :SHALL: have access to the books and records or :SHALL: be furnished :OR SHALL POSSESS: a partial or complete list of the members or stockholders except upon express action and authority of the board of directors.

* Sec. 3. AS 06.30.145(b) is amended to read:

(b) In a stock association each director shall own individually or jointly with his or her spouse :IN HIS OWN RIGHT: free of any encumbrance capital stock of the association in an amount equal to at least $1,000 in par value.

* Sec. 4. AS 06.30 is amended by adding a new section to read:

Sec. AS 06.30.900. Ownership of bank securities, stocks and assets. Federal savings and loan associations, associations as defined in AS 06.30.910(1), and other thrift and home-financing organizations subject to this chapter may acquire and own all or any portion of the voting securities or other capital stock of, or all or substantially all of the assets of, one or more state banks, domestic bank holding companies, or national banks conducting a banking business in the state unless the state bank or national bank is a recently formed bank.

* Section 5. AS 06.05.235(a) is amended to read:

(a) Except as provided in (b) or (e) of this section it :IT: is unlawful for a company to own, control or hold with power to vote 25 percent or more of a class of voting securities or other :THE: capital stock of one or more state banks or domestic :STATE: bank holding companies subject to regulation under this chapter. :NOTHING IN THIS SUBSECTION PROHIBITS A COMPANY FROM QUALIFYING AS

A BANK HOLDING COMPANY UNDER (b) OF THIS SECTION.: However, when it becomes a bona fide necessity to avoid loss for a creditor to accept shares of stock in one or more state banks or domestic bank holding companies constituting more than 25 percent of the ownership or control of a state bank or domestic bank holding company in payment of indebtedness owing to the creditor, shares of stock may be accepted, but the shares of the one or more state banks or domestic bank holding companies exceeding that 25 percent shall be promptly disposed of under the supervision of the department.

* Sec. 6. AS 06.05.235(b) is amended to read:

(b) A domestic bank holding company, as defined in AS 06.05.540 and organized under AS 10.05, which maintains its principal office and place of business in the state and conducts its principal operations in the state, may acquire and own all or any portion of the voting securities :SHARES: or other capital stock of, or all or substantially all of the assets of, one or more banks or bank holding companies unless the bank is a recently formed bank. The department may require a domestic bank holding company to post a bond with the department in an amount equal to the paid-in capital and paid-in surplus represented by the proportion of state bank stock directly or indirectly owned, held, or controlled by it, under conditions the department may prescribe, to assure full protection of the public. The domestic bank holding company is subject to an examination by the department or a competent person designated by the department when the department considers it necessary, but not less than once each year. The domestic bank holding company shall pay an examination fee in accordance with AS 06.01.010.

* Sec. 7. AS 06.05.235(c) is amended to read:

(c) The department may adopt regulations for :BANK HOLDING: companies qualifying as domestic bank holding companies or out-of-state bank holding companies under (b) or (e) of this section to assure financially sound banking organization and practice.

* Sec. 8. AS 06.05.235 is amended by adding new subsections to read:

(e) An out-of-state bank holding company as defined in (h) of this section may acquire and own all or any portion of the voting securities or other capital stock of, or all or substantially all of the assets of, one or more state banks, domestic bank holding companies, or national banks conducting a banking business in the state unless the state bank or national bank is a recently formed bank. To assure full protection of the public the department may require an out-of-state bank holding company that directly or indirectly owns, holds, or controls stock in a state bank or domestic bank holding company to post a bond with the department, under conditions the department may prescribe. The amount of the bond shall be equal to the product obtained by multiplying the amount of paid-in capital and paid-in surplus of the state bank or domestic bank holding company by the percentage of state bank or domestic bank holding company stock directly or indirectly owned, held, or controlled by the out-of-state bank holding company.

(f) When the department considers it necessary, an out-of-state bank holding company directly or indirectly owning, holding, or controlling state bank stock or domestic bank holding company stock is subject to an examination by the department or a competent person designated by the department. The out-of-state bank holding company shall pay an examination fee in accordance with AS 06.01.010.

(g) As used in this section a "recently formed bank" is a state bank or national bank conducting a banking business in the state that commenced that banking business in the state on or after July 1, 1982, and that has not been in existence and continuously operating in the state for a period of three years or more. However, the term "recently formed bank" does not include

(1) a bank organized solely for the purpose of facilitating acquisition of a bank that either has been in existence and continuously operating in the state as a bank for a

three-year period, or was conducting a banking business in the state on or before June 30, 1982;

(2) a state bank that the department determines was not chartered directly or indirectly by an acquiring out-of-state bank holding company, and that does not have the capacity to continue to conduct its business independently in a fashion consistent with the public interest and the interest of depositors, creditors, and shareholders; or

(3) a national bank that the Board of Governors of the Federal Reserve System, or their designee, determines was not chartered directly or indirectly by an acquiring out-of-state bank holding company, and that does not have the capacity to conduct its business independently in a fashion consistent with the public interest of depositors, creditors, and shareholders.

(h) As used in this section "out-of-state bank holding company" means a company that

(1) is a bank holding company as defined in the U.S.C. 1841, et seq.);

(2) is registered as a bank holding company with the Board of Governors of the Federal Reserve System, with the Federal Reserve Bank of the Federal Reserve District in which the operations of the bank holding company are principally conducted, or with a Federal Reserve Bank that the Board of Governors may designate;

(3) maintains its principal office and place of business outside the state; and

(4) principally conducts its banking operations through out-of-state banking subsidiaries, as measured by total deposits held or controlled by it on the date on which it becomes an out-of-state bank holding company;

(i) For the purpose of this section, a trust company organized under the laws of this state which is conducting a banking business shall be deemed to be a state bank.

* Sec. 9. This Act takes effect July 1, 1982.

Done for committee

SB752 BILL NUMBER

SB0752CS(L&C)am SPECIAL INFO

Original sponsor: Special

Committee on Banking Offered: 3/9/82

Referred:

Rules SPONSOR BY THE

LABOR AND

IN THE SENATE COMMERCE

COMMITTEE BILL HEADING

CS FOR SENATE BILL NO. 752 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL RELATING TO

For an Act entitled: "An Act relating to [savings associations;] Financial institutions and providing for an effective date."

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

* Section 1. AS 06.30.115 is amended to read:

Sec. 06.30.115 ACCESS TO BOOKS AND RECORDS OF ASSOCIATION. (a) Every member or stockholder may inspect the books and records of an association which pertain to his loan, :OR: savings account, or voting rights.

(b) Except as provided in (a) :AND (c): of this section, the right of inspection and examination of the books and records is limited to (1) the commissioner or his authorized representatives as provided in this chapter, (2) persons authorized to act for the association, and (3) any federal instrumentality or agency authorized to inspect or examine the books and records of an insured association.

:(c) IN STOCK ASSOCIATIONS EVERY STOCKHOLDER MAY INSPECT THE GENERAL BOOKS AND RECORDS OF THE ASSOCIATION EXCEPT A STOCKHOLDER MAY NOT HAVE ACCESS TO THE LOAN AND SAVINGS RECORDS OF OTHER MEMBERS.:

* Sec. 2. AS 06.30.120 is amended to read:

Sec. 06.30.120. BOOKS AND RECORDS :PERTAINING TO MEMBERS' ACCOUNTS: TO BE KEPT CONFIDENTIAL. Except as provided in AS 06.30.115, the :THE: books and records pertaining to the accounts, :AND: loans, and voting rights of members, stockholders, savers, and borrowers shall be kept confidential by the association, its directors, officers and employees, and by the commissioner, his examiners and representatives, except where disclosure is compelled by a court of competent jurisdiction. Except as provided in AS 06.30.115, no :NO: person, including a member or stockholder may :SHALL: have access to the books and records or :SHALL: be furnished :OR SHALL POSSESS: a partial or complete list of the members or stockholders except upon express action and authority of the board of directors.

* Sec. 3. AS 06.30.145(b) is amended to read:

(b) In a stock association each director shall own individually or jointly with his spouse :IN HIS OWN RIGHT: free of any encumbrance capital stock of the association in an amount equal to at least $1,000 in par value.

NEW

* Sec. 4. AS 06.30 is amended by adding a new section to read:

Sec. AS 06.30.900. Ownership of bank securities, stocks and assets. Federal savings and loan associations, associations as defined in AS 06.30.910(1), and other thrift and home-financing organizations subject to this chapter may acquire and own all or any portion of the voting securities or other capital stock of, or all or substantially all of the assets of, one or more state banks, domestic bank holding companies, or national banks conducting a banking business in the state unless the state bank or national bank is a recently formed bank.

SB-756

* Section 5. AS 06.05.235(a) is amended to read:

(a) Except as provided in (b) or (e) of this section it :IT: is unlawful for a company to own, control or hold with power to vote 25 percent or more of a class of voting securities or other :THE: capital stock of one or more state banks or domestic :STATE: bank holding companies subject to regulation under this chapter. :NOTHING IN THIS SUBSECTION PROHIBITS A COMPANY FROM QUALIFYING AS

A BANK HOLDING COMPANY UNDER (b) OF THIS SECTION.: However, when it becomes a bona fide necessity to avoid loss for a creditor to accept shares of stock in one or more state banks or domestic bank holding companies constituting more than 25 percent of the ownership or control of a state bank or domestic bank holding company in payment of indebtedness owing to the creditor, shares of stock may be accepted, but the shares of the one or more state banks or domestic bank holding companies exceeding that 25 percent shall be promptly disposed of under the supervision of the department.

* Sec. 6. AS 06.05.235(b) is amended to read:

(b) A domestic bank holding company, as defined in AS 06.05.540 and organized under AS 10.05, which maintains its principal office and place of business in the state and conducts its principal operations in the state, may acquire and own all or any portion of the voting securities :SHARES: or other capital stock of, or all or substantially all of the assets of, one or more banks or bank holding companies unless the bank is a recently formed bank. The department may require a domestic bank holding company to post a bond with the department in an amount equal to the paid-in capital and paid-in surplus represented by the proportion of state bank stock directly or indirectly owned, held, or controlled by it, under conditions the department may prescribe, to assure full protection of the public. The domestic bank holding company is subject to an examination by the department or a competent person designated by the department when the department considers it necessary, but not less than once each year. The domestic bank holding company shall pay an examination fee in accordance with AS 06.01.010.

* Sec. 7. AS 06.05.235(c) is amended to read:

(c) The department may adopt regulations for :BANK HOLDING: companies qualifying as domestic bank holding companies or out-of-state bank holding companies under (b) or (e) of this section to assure financially sound banking organization and practice.

* Sec. 8. AS 06.05.235 is amended by adding new subsections to read:

(e) An out-of-state bank holding company as defined in (h) of this section may acquire and own all or any portion of the voting securities or other capital stock of, or all or substantially all of the assets of, one or more state banks, domestic bank holding companies, or national banks conducting a banking business in the state unless the state bank or national bank is a recently formed bank. To assure full protection of the public the department may require an out-of-state bank holding company that directly or indirectly owns, holds, or controls stock in a state bank or domestic bank holding company to post a bond with the department, under conditions the department may prescribe. The amount of the bond shall be equal to the product obtained by multiplying the amount of paid-in capital and paid-in surplus of the state bank or domestic bank holding company by the percentage of state bank or domestic bank holding company stock directly or indirectly owned, held, or controlled by the out-of-state bank holding company.

(f) When the department considers it necessary, an out-of-state bank holding company directly or indirectly owning, holding, or controlling state bank stock or domestic bank holding company stock is subject to an examination by the department or a competent person designated by the department. The out-of-state bank holding company shall pay an examination fee in accordance with AS 06.01.010.

(g) As used in this section a "recently formed bank" is a state bank or national bank conducting a banking business in the state that commenced that banking business in the state on or after July 1, 1982, and that has not been in existence and continuously operating in the state for a period of three years or more. However, the term "recently formed bank" does not include

(1) a bank organized solely for the purpose of facilitating acquisition of a bank that either has been in existence and continuously operating in the state as a bank for a

three-year period, or was conducting a banking business in the state on or before June 30, 1982;

(2) a state bank that the department determines was not chartered directly or indirectly by an acquiring out-of-state bank holding company, and that does not have the capacity to continue to conduct its business independently in a fashion consistent with the public interest and the interest of depositors, creditors, and shareholders; or

(3) a national bank that the Board of Governors of the Federal Reserve System, or their designee, determines was not chartered directly or indirectly by an acquiring out-of-state bank holding company, and that does not have the capacity to conduct its business independently in a fashion consistent with the public interest of depositors, creditors, and shareholders.

(h) As used in this section "out-of-state bank holding company" means a company that

(1) is a bank holding company as defined in the U.S.C. 1841, et seq.);

(2) is registered as a bank holding company with the Board of Governors of the Federal Reserve System, with the Federal Reserve Bank of the Federal Reserve District in which the operations of the bank holding company are principally conducted, or with a Federal Reserve Bank that the Board of Governors may designate;

(3) maintains its principal office and place of business outside the state; and

(4) principally conducts its banking operations through out-of-state banking subsidiaries, as measured by total deposits held or controlled by it on the date on which it becomes an out-of-state bank holding company;

(i) For the purpose of this section, a trust company organized under the laws of this state which is conducting a banking business shall be deemed to be a state bank.

* Sec. 9. Secs 4-8 This Act takes effect July 1, 1982.

* Sec 10. Secs 1-3 plus addt'l from original

announced on APA
this morning on Andy.

Announce meeting - Tomorrow
SB - Real Estate annm.
SB - Continuance of Electrical Examiner

Mr. Turner - Solicitor

Mr. Dave Draus - Some Sections may need deleting.
Pf - 5 + 6 + Sec. 7 - should be removed
~~now in regulation~~

Mr. Lusk —

Leonis Section

Rec

SB

771

COMMITTEE REPORT

HOUSE

FURTHER:

(5)

3/15/82

Date: 3-15-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had CSSB 771(L&C)am

"An Act exempting restaurants, grocery stores, and established fish markets from the labor bond required of fish processors and primary fish buyers; and providing for an effective date."

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Ben Rogers
[illegible]
[illegible]
Terry Martin

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Martin
CHAIRMAN

H 60 (Rev. 12/78)

Behrendt

From the Office of

SENATOR DICK ELIASON

Attn: Mary Isaacs
House Labor & Commerce

Here is some information on SB771. The memo to Sen. Mukelby speaks to the original SB771 but all information also pertains to the CS. The CS simply expanded the bond exemption to include grocery stores as well as restaurants. This change was made at Sen. Eliason's own suggestion.

Also attached is a brief one page summary of the intent of the bill.

The Labor Dept. is in favor of the bill and testified for it in the Senate Labor and Commerce hearing.

If we can provide anythin further please let me know.

Mary Sevan, A.A.

465-4916
4917

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for Senate Bill 771 (L & C) am

Title "An Act exempting restaurants . . . from the labor bond required of fish . . . ."

Requested by Senator Eliason Date March 24, 1982

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Labor Standards and Safety

(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
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	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

This bill has no fiscal impact on the operations of the Department of Labor.

IV. DATE 3/24/82 PREPARED BY Nico Bus

AGENCY Department of Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON
P.O. BOX 143
SITKA, ALASKA 99835

POUCH V
JUNEAU, ALASKA 99811

COMMITTEES
FINANCE
RESOURCES
STATE AFFAIRS

February 23, 1982

M E M O R A N D U M

To: Senator Bob Mulcahy, Chairman
Senate Labor and Commerce Committee

From: Senator Dick Eliason

Re: Senate Bill 771

I recently introduced S.B. 771 which would exclude restaurants from obtaining the labor bond which is required of fish processors and primary fish buyers. The bill has been referred to the Labor and Commerce Committee and I would appreciate you scheduling a hearing for it.

Under current statute a restaurant is classified as a primary fish buyer and as a fisheries business as it is the entity "who first actually and physically processes the fishery resource" (AS 43.75.015 (c)) by cooking it. Therefore restaurants must go through all of the procedures to meet requirements for processors. These include filing an "intent to operate" statement with the Fish and Game Department, filing fish tickets with the Fish and Game Department each week, posting a $10,000 labor bond with the Labor Department, obtaining a "fisheries business license" from the Revenue Department, filing a surety bond or prove lienable property or prepay the tax to the Revenue Department, and must file and pay this raw fish tax to the Revenue Department.

Obviously these are a lot of "hoops to jump through" for a restaurant which simply wants to include fresh seafood on its menu. It is evident to anyone who dines at Alaskan restaurants that it is often difficult to find fresh Alaskan seafood offered. My goal with S.B. 771 is to encourage the availability of good fresh seafood to Alaskans and to visitors to our state.

It is apparent when studying the various requirements for restaurants that the one which is the least necessary and by far the most costly and difficult is the labor bond. The other steps have some justification (management data from fish tickets, payment of the raw fish tax as these fish would go untaxed otherwise, and so on). However, the labor bond is meant to protect fishermen and cannery workers from fly-by-night fish buyers and seasonal operators who might buy fish or hire labor and leave without paying them. This is unnecessary for restaurants and is made even more ridiculous as restaurants already must meet labor protection requirements whether they buy fish or not. The labor bond is also very expensive to obtain, particularly for a small operation.

Currently the Department of Labor does not even bother to enforce the labor bond requirement for restaurants as they feel restaurants buy only small quantities of raw fish and are not likely to default to fishermen. The risk involved with breaking the law, however, may be enough to make some restaurants avoid offering fresh fish. Others, because they can't afford to buy the labor bond, may buy and serve fish but fail to do any of the required steps including paying the rawfish tax. Therefore, the State loses the revenue on the fish which are sold in restaurants.

I believe that the cost of the raw fish tax to a restaurant is so minimal that most would not mind remaining in compliance with all of the tax and paperwork requirements if the one which is the big financial burden, the labor bond, were removed.

Again, my goal is to encourage the availability of fresh Alaskan seafood to the consumer and provide a market alternative to fishermen. I believe we can meet our goals of encouraging availability of seafood, improving compliance with the necessary and purposeful paperwork and tax requirements and simplifying the permitting process by eliminating the labor bond requirement for restaurants.

Under current statute restaurants and grocery stores are classified as primary fish buyers and fisheries businesses when they buy and sell fresh fish.

The current statute <u>requires them to:</u>

(1) Filing an "intent to operate" statement with the Fish and Game Department
(2) Filing fish tickets with the Fish and Game Department each week
(3) Obtaining a "fisheries business license" from the the Revenue Department
(4) Filing a surety bond or prove lienable property or prepay the tax to the Revenue Department
(5) Must file and pay this raw fish tax to the Revenue Department
(6) AND THE BIGGEST HARDSHIP - Posting a $10,000 labor bond with the Labor Department

Labor bond law for fish buyers was put on the books to protect fishermen and workers from fly-by-night fish buyers and seasonal operators who may default them.

There is no need for labor bond for retailers as covered by other labor protection laws.

GOAL of this bill is to encourage availability of good fresh seafood to Alaskans and visitors to our State.

SB

798

COMMITTEE REPORT

HOUSE

(5) FURTHER:

3/17/82

Date: 3-18-82

Mr. Speaker:

The Committee on LABOR & COMMERCE has had CSSB 798(L&C)

"An Act relating to title insurance rating organizations; and providing for an effective date."

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for _____ [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:

VICE CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CSSB 798(L&C)
Title An Act relating to title insurance rating organizations
Requested by Senate Labor & Commerce Comm Date 3/15/82

II. FISCAL DETAIL
Agency Affected Division of Insurance
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Division of Insurance
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS,CLAIMS,ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

IV. DATE March 18, 1982 PREPARED BY Kenneth C. Moore, Div of Insurance
AGENCY Commerce & Economic Development
PHONE 465-2515

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

#
AK TOURISM JNU

ALASCOMMGM JNU
ANU
  030039 ANCHORAGE ALASKA 53 03-10 1043A AST
PMS ALASKA DIVISION OF INSURANCE ATTN DON KOCH
VIA DIV OF TOURISM TLX 54-331
JUNEAU AK
THE ALASKA LAND TITLE ASSOCIATION, A NON-PROFIT CORPORATION OF TITLE COMPANIES WITH THE STATE, STRONGLY SUPPORTS SB 798. THIS BILL IS DRAFTED FROM A MODEL ACT AND IS SIMILAR TO STATUTUES IN THE GREAT MAJORITY OF WESTERN STATES. WE DO NOT OPPOSE AMENDING SECTION 400 AS RECOMMENDED BY DIRECTOR IF INSURANCE.
  MICHAEL W PRICE
  LOBBYIST, ALTA

#
AK TOURISM JNU
N NNNN

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

MEMORANDUM

16 March, 1982

TO: Representative Martin
Chairman
House Labor and Commerce

FROM: Michael Thill, A.A.
Senate Labor and Commerce

SB 798 (title insurance rating organizations) was heard in committee, and a Senate L&C CS was adopted at the behest of the Division of Insurance. They had submitted a proposal which required the deletion of section 5 in the original bill, the insertion of a new section 5, and the appropriate renumbering of sections following. Inadvertantly, a drafting error was not noticed until after the bill had passed the Senate, and CS SB 798 (L&C) requires an additional change. Section 6 of the bill is contained in the new language in section 5, and therefore section 6 should be deleted, and the following sections should be renumbered appropriately.

From Speaker Hayes' office 3-18-82

Additionally, Mulcahy's office has informed me that Section 6 of this bill is a duplicate of portions of Section 5 and the bill will have to be referred back to the Senate after it makes it through to the House Floor.

CSSB 798 (L&C)

Passed out of House L&C 3-19-82 with HCS.

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

16 March, 1982

TO: Representative Martin
Chairman
House Labor and Commerce

FROM: Michael Thill, A.A.
Senate Labor and Commerce

SB 798 (title insurance rating organizations) was heard in committee, and a Senate L&C CS was adopted at the behest of the Division of Insurance. They had submitted a proposal which required the deletion of section 5 in the original bill, the insertion of a new section 5, and the appropriate renumbering of sections following. Inadvertantly, a drafting error was not noticed until after the bill had passed the Senate, and CS SB 798 (L&C) requires an additional change. Section 6 of the bill is contained in the new language in section 5, and therefore section 6 should be deleted, and the following sections should be renumbered appropriately.

From Speaker Hayes office 3-18-82.

Additionally, Mulcahy's office has informed me that Section 6 of this bill is a duplicate of portions of Section 5 and the bill will have to be referred back to the Senate after it makes it through to the House Floor.

Office copy

Offered: 3/15/82
Referred: Rules

Original sponsor: Kelly

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR SENATE BILL NO. 798 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

See Section 6; A BILL

For an Act entitled: "An Act relating to title insurance rating organizations; and providing for an effective date."

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

* Section 1. AS 21.66.370(a) is amended to read:

(a) A title insurance company shall file with the director its schedules of rates, manuals of classifications, rules and plans relating to schedules of rates or manuals of classification, and every modification of the schedules or manuals which it proposes to use in this state. A filing under this section shall contain the effective dates of the documents filed, and indicate the character and extent of the coverage contemplated. A title insurance company may satisfy its obligations to make these filings by becoming a member of, or a subscriber to, a licensed title insurance rating organization that makes such filings, and by authorizing the commissioner to accept the filings on its behalf.

* Sec. 2. AS 21.66.370(c) is amended to read:

(c) Subject to the provisions of (e) of this section, each filing shall be on file for a period of 30 days before it becomes effective. The director may, upon written notice given within the 30-day period to the person making the filing, extend the waiting period for an additional period, not to exceed 30 days, in order to complete the review of the filing. Additional extensions of the waiting period may also be made with the consent of the title insurance company or rating organization. Upon written application by the title insurance company or rating organization, the director, after review of the application, may authorize a

filing or any part of it to become effective upon the expiration of the waiting period or its extension.

* Sec. 3. AS 21.66.380(a) is amended to read:

(a) A rate filing shall be accompanied by a statement of the title insurance company or title insurance rating organization making the filing, setting out the basis on which the rate was determined, with the rates computed. A filing of rates may be justified by the following:

(1) the experience or judgment of the title insurance company or title insurance rating organization making the filing; [,]

(2) its interpretation of any statistical data relied upon; [,]

(3) the experience of other title insurance companies or title insurance rating organizations making the filings; [,] or

(4) any other factors which the title insurance company or title insurance rating organization considers relevant.

* Sec. 4. AS 21.66.390 is amended to read:

Sec. 21.66.390. MAKING OF RATES. (a) A title insurance company that makes its own rates and each title insurance rating organization shall make rates that are not excessive or inadequate and which do not unfairly discriminate between risks in this state which involve essentially the same exposure to loss and expense elements, and which give due consideration to the following matters:

(1) the desirability for stability of rate structures;

(2) the necessity of assuring the financial solvency of title insurance companies in period of economic depression by encouraging growth in assets of title insurance companies in periods of high business activity; and

(3) the necessity for assuring a reasonable margin of underwriting and operating profit.

(b) A title insurance company that makes its own rates and each title insurance rating organization shall adopt basic classifications of policies or contracts of title insurance which shall be used as the basis for rate-making.

* Sec. 5. AS 21.66.400 is repealed and reenacted to read:

Sec. 21.66.400. DISAPPROVAL OF FILINGS. (a) If within the waiting period provided for in AS 21.66.370(c) the director finds that a filing does not meet the requirements of this chapter, he shall send to the title insurance company or title insurance rating organization that made the filing, written notice of disapproval of the filing specifying in what respects he finds the filing fails to meet the requirements of this chapter and stating that the filing may not become effective.

(b) If at any time after the applicable review period provided for in AS 21.66.370(c) the director finds that a filing does not meet the requirements of this chapter, he shall, before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice, specifying in reasonable detail the matters to be considered at the hearing. Notice of hearing shall be given to each title insurance company or title insurance rating organization that made the filing, and if, after the hearing, the director finds that the filing or a part of the filing does not meet the requirements of this chapter, he shall issue an order specifying how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is considered no longer effective. A title insurance company or title insurance rating organization has the right to withdraw a filing or a part of a filing. Copies of the order issued under this section shall be sent to every title insurance company and title insurance rating organization affected. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.

(c) A person or organization aggrieved with respect to a filing that is in effect may make a written application to the director for a hearing on the filing. The title insurance company or title insurance rating organization that made the filing may not proceed under this subsection. The application shall specify in reasonable detail the grounds to be relied on by the applicant. If the director finds that the application is made in good faith, that the applicant would be aggrieved if the applicant's grounds are established, and that the applicant's grounds otherwise justify holding a hearing, the director shall, within 60 days after receipt of the application, hold a hearing upon not less than 10 days written notice to the applicant and to each title insurance company or title insurance rating organization that made such a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the requirements of this chapter he shall issue an order specifying how the filing or a part of it fails to meet the requirements of this chapter, stating when, within a reasonable period after the order is issued, the filing or a part of it is considered no longer effective. Copies of the order shall be sent to the applicant and to every affected title insurance company or title insurance rating organization. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.

(d) A title insurance company or title insurance rating organization to which the director has issued an order made without a hearing may, within 30 days after notice to it of the order, make a written request to the director for a hearing. The director shall hear the party or parties within 60 days after receipt of the request and shall give not less than 10 days written notice of the time and place of the hearing. Within 15 days after the hearing the director shall affirm, reverse, or modify his previous action, specifying his reasons. Pending

the hearing and decision the director may suspend or postpone the effective date of his previous action.

(e) A hearing under this section is not required to observe formal rules of pleading or evidence.

(f) A filing or modification of a filing may not be disapproved if the rates in connection with the filing meet the requirements of this chapter.

Should be deleted; 400(B) now contained in Section 5; CSSB 798

* Sec. 6. AS 21.66.400(b) is amended to read:

(b) A person or organization aggrieved with respect to a filing which is in effect [,] may make written application to the director for a hearing on the filing. The title insurance company or title insurance rating organization that made the filing may not proceed under this subsection. The application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, and that the applicant would be aggrieved if his grounds are established, and that his grounds otherwise justify holding a hearing, he shall, within 30 days after receipt of the application, hold a hearing upon not less than 10 days written notice to the applicant and to each title insurance company or title insurance rating organization which made such a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the requirements of this chapter, he shall issue an order specifying how the filing or a part of it fails to meet the requirements of this chapter, stating when, within a reasonable period after the order is issued, the filing or a part of it is considered no longer effective. Copies of the order shall be sent to the applicant and to every such title insurance company or title insurance rating organization. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.

* Sec. 7. AS 21.66 is amended by adding new sections to read:

Sec. 21.66.401. TITLE INSURANCE RATING ORGANIZATIONS. (a) a person located in or out of the state may apply to the director for licensing as a title insurance rating organization and shall file as part of the application

(1) a copy of its constitution, its articles of agreement or association, or its certificate of incorporation and a copy of its bylaws and rules governing the conduct of its business;

(2) a list of its members and subscribers;

(3) the name and address of a resident of the state upon whom notices or orders of the director or process affecting the rating organization may be served; and

(4) a statement of its qualifications as a title insurance rating organization.

(b) If the director finds that the applicant is competent, trustworthy, and otherwise qualified to act as a title insurance rating organization, and that its constitution, articles of agreement or association, or certificate of incorporation and its bylaws and rules governing the conduct of its business conform to the requirements of law, the director shall issue a license authorizing the applicant to act as a title insurance rating organization. Each application shall be granted or denied in whole or in part by the director within 60 days after the date of its filing with him.

(c) A license issued under this section is in effect for three years unless sooner suspended or revoked by the director or withdrawn by the licensee. The fee for the license is $100.

(d) A license issued under this section may be suspended or revoked by the director, after hearing upon notice, if the title insurance rating organization ceases to meet the requirements of this subsection.

Each title insurance rating organization shall notify the director promptly of a change in

(1) its constitution, its articles of agreement or association or its certificate of incorporation and its bylaws and rules governing the conduct of its business;

(2) its list of members and subscribers; and

(3) the name and address of the resident of this state designated by it upon whom notices or orders of the director or process affecting the rating organization may be served.

(e) Subject to rules that have been approved by the director as reasonable, each title insurance rating organization shall permit any title insurance company to be a member or a subscriber to its rating services at a reasonable cost and without discrimination or to withdraw as a member or subscriber.

(f) Notice of a proposed change in rules of the title insurance rating organization must be given to members and subscribers. The reasonableness of a rule in its application to subscribers, or the refusal of a rating organization to admit a title insurance company as a subscriber, shall, at the request of a subscriber or a title insurance company, be reviewed by the director at a hearing held upon at least 10 days written notice to the rating organization and to the subscriber. If the director finds that a rule is unreasonable in its application to subscribers, he shall order that the rule may not apply to subscribers. If the title insurance rating organization fails to grant or reject an application of a title insurance company for subscribership within 30 days after it was made, the title insurance company may request a review by the director as if the application had been rejected. If the director finds that the title insurance company has been refused admittance to the title insurance rating organization as a subscriber without justi-

fication, he shall order the rating organization to admit the title insurance company as a subscriber. If he finds that the action of the title insurance rating organization was justified, he shall make an order affirming its action.

(g) Cooperation among title insurance rating organizations, or among rating organizations and title insurance companies, and concert of action among title insurance companies under the same general management and control in rate making or in other matters within the scope of this section is authorized, if the resulting filing is subject to the provisions of this section that apply to filings generally.

(h) Two or more title insurance companies who are members of or subscribers to a title insurance rating organization may act in concert with each other with respect to the making of rates or rating systems, the preparation or making of insurance policy forms, underwriting rules, surveys, inspections and investigations, the furnishing of loss or expense statistics or other information and data, or carrying out research.

(i) The director may review the activities and practices under (g) and (h) of this section. If, after a hearing, the director finds that an activity or practice is unfair, unreasonable, or inconsistent with the provisions of this section, he may issue a written order specifying how the activity or practice is unfair, unreasonable, or inconsistent with the provisions of this section and require discontinuance of the activity or practice.

Sec. 21.66.402. DEVIATIONS FROM FILINGS OF RATING ORGANIZATION. Each member of or subscriber to a title insurance rating organization must adhere to the filings made on its behalf by that organization, except a title insurance company that is a member of or subscriber to a rating organization may file with the director a decrease or increase to

be applied to any elements of the rates produced by the rating system for a class of title insurance that is found by the director to be a proper rating unit for the application of the decrease or increase, or to be applied to the rates for a particular area. The filing must specify the basis for the deviation and be accompanied by the data or historical pattern upon which the applicant relies. A copy of the filing and data shall be sent simultaneously to the title insurance rating organization. Each deviation shall be effective for one year unless terminated sooner with the approval of the director, or in accordance with the provisions of AS 21.66.400.

Sec. 21.66.403. APPEAL FROM ACTION OF RATING ORGANIZATION. (a) A member of or subscriber to a title insurance rating organization may appeal to the director from an action or decision of the rating organization in approving or rejecting a proposed change in or addition to the filings of the rating organization. The failure of a title insurance rating organization to act within 30 days after submission to it of a proposal under this section is a rejection of the proposal.

(b) The director shall, after a hearing held upon not less than 10 days written notice to the appellant and the rating organization, issue an order approving the action or decision of the rating organization or directing it to give further consideration to the proposal and to take action or make a decision upon it within 30 days.

(c) If the appeal is from the action or decision of the title insurance rating organization in rejecting a proposed addition to its filings, the director may, if he finds that the action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filing on behalf of its members or subscribers, in a manner consistent with his findings, within a reasonable time after issuance of the order. If the appeal is from the action of the title

insurance rating organization with regard to a rate or a proposed change in or addition to its filings relating to the character and extent of coverage, the director shall approve the action of the rating organization or the modification as proposed by the appellant, if either is in accordance with this chapter.

(d) If the appeal is based on the failure of the rating organization to make a filing on behalf of the member or subscriber based on a system of expense allocation that differs, in accordance with the right granted in AS 21.66.390 from the system of expense allocation included in a filing made by the rating organization, the director shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding the appeal, the director shall apply the standards set out in AS 21.66.390.

* Sec. 8. AS 21.66.410(c) is amended to read:

(c) In order to more uniformly administer rate regulations, the director and each title insurance company or title insurance rating organization may exchange information and experience data with insurance supervisory officials, title insurance companies and title insurance rating organizations in other states, and may consult with them and with each other with respect to rate making and the application of rating systems.

* Sec. 9. AS 21.66.420 is amended to read:

Sec. 21.66.420. FALSE OR MISLEADING INFORMATION. No title insurance company or title insurance agent may wilfully withhold information from, or knowingly give false or misleading information to the director or to any title insurance rating organization of which the title insurance company is a member or subscriber which will affect the rates chargeable under this chapter.

* Sec. 10. AS 21.66.430(a) is amended to read:

(a) The director may, if he finds that a title insurance rating organization, a title insurance company, or title insurance agent has violated a provision of this chapter, impose a penalty of not more than $100 for each violation. However, if the violation is wilful, he shall impose a penalty of not more than $1,000 for each violation. Penalties imposed under this section are in addition to other penalties provided by law.

* Sec. 11. AS 21.66.430(b) is amended to read:

(b) In addition to the penalty provided in (a) of this section, the director may suspend the certificate of authority of a title insurance rating organization, title insurance company, or title insurance agent upon failure to comply with an order of the director within the time limit allowed by the order. No certificate of authority may be suspended for failure to comply with an order until the time prescribed for an appeal has expired, or, if an appeal has been taken, until the order has been affirmed.

* Sec. 12. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Offered: 3/15/82
Referred: Rules

Original sponsor: Kelly

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR SENATE BILL NO. 798 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to title insurance rating organizations; and providing for an effective date."

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

* Section 1. AS 21.66.370(a) is amended to read:

(a) A title insurance company shall file with the director its schedules of rates, manuals of classifications, rules and plans relating to schedules of rates or manuals of classification, and every modification of the schedules or manuals which it proposes to use in this state. A filing under this section shall contain the effective dates of documents filed, and indicate the character and extent of the coverage contemplated. A title insurance company may satisfy its obligations to make these filings by becoming a member of, or a subscriber to, a licensed title insurance rating organization that makes such filings, and by authorizing the commissioner to accept the filings on its behalf.

* Sec. 2. AS 21.66.370(c) is amended to read:

(c) Subject to the provisions of (e) of this section, each filing shall be on file for a period of 30 days before it becomes effective. The director may, upon written notice given within the 30-day period to the person making the filing, extend the waiting period for an additional period, not to exceed 30 days, in order to complete the review of the filing. Additional extensions of the waiting period may also be made with the consent of the title insurance company or rating organization. Upon written application by the title insurance company or rating organization, the director, after review of the application, may authorize a

filing or any part of it to become effective upon the expiration of the waiting period or its extension.

* Sec. 3. AS 21.66.380(a) is amended to read:

(a) A rate filing shall be accompanied by a statement of the title insurance company or title insurance rating organization making the filing, setting out the basis on which the rate was determined, with the rates computed. A filing of rates may be justified by the following:

(1) the experience or judgment of the title insurance company or title insurance rating organization making the filing; [,]

(2) its interpretation of any statistical data relied upon; [,]

(3) the experience of other title insurance companies or title insurance rating organizations making the filings; [,] or

(4) any other factors which the title insurance company or title insurance rating organization considers relevant.

* Sec. 4. AS 21.66.390 is amended to read:

Sec. 21.66.390. MAKING OF RATES. (a) A title insurance company that makes its own rates and each title insurance rating organization shall make rates that are not excessive or inadequate and which do not unfairly discriminate between risks in this state which involve essentially the same exposure to loss and expense elements, and which give due consideration to the following matters:

(1) the desirability for stability of rate structures;

(2) the necessity of assuring the financial solvency of title insurance companies in period of economic depression by encouraging growth in assets of title insurance companies in periods of high business activity; and

(3) the necessity for assuring a reasonable margin of underwriting and operating profit.

(b) A title insurance company that makes its own rates and each title insurance rating organization shall adopt basic classifications of policies or contracts of title insurance which shall be used as the basis for race-making.

* Sec. 5. AS 21.66.400 is repealed and reenacted to read:

Sec. 21.66.400. DISAPPROVAL OF FILINGS. (a) If within the waiting period provided for in AS 21.66.370(c) the director finds that a filing does not meet the requirements of this chapter, he shall send to the title insurance company or title insurance rating organization that made the filing, written notice of disapproval of the filing specifying in what respects he finds the filing fails to meet the requirements of this chapter and stating that the filing may not become effective.

(b) If at any time after the applicable review period provided for in AS 21.66.370(c) the director finds that a filing does not meet the requirements of this chapter, he shall, before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice, specifying in reasonable detail the matters to be considered at the hearing. Notice of hearing shall be given to each title insurance company or title insurance rating organization that made the filing, and if, after the hearing, the director finds that the filing or a part of the filing does not meet the requirements of this chapter, he shall issue an order specifying how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is considered no longer effective. A title insurance company or title insurance rating organization has the right to withdraw a filing or a part of a filing. Copies of the order issued under this section shall be sent to every title insurance company and title insurance rating organization affected. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.

(c) A person or organization aggrieved with respect to filing that is in effect may make a written application to the director for a hearing on the filing. The title insurance company or title insurance rating organization that made the filing may not proceed under this subsection. The application shall specify in reasonable detail the grounds to be relied on by the applicant. If the director finds that the application is made in good faith, that the applicant would be aggrieved if the applicant's grounds are established, and that the applicant's grounds otherwise justify holding a hearing, the director shall, within 60 days after receipt of the application, hold a hearing upon not less than 10 days written notice to the applicant and to each title insurance company or title insurance rating organization that made such a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the requirements of this chapter he shall issue an order specifying how the filing or a part of it fails to meet the requirements of this chapter, stating when, within a reasonable period after the order is issued, the filing or a part of it is considered no longer effective. Copies of the order shall be sent to the applicant and to every affected title insurance company or title insurance rating organization. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.

(d) A title insurance company or title insurance rating organization to which the director has issued an order made without a hearing may, within 30 days after notice to it of the order, make a written request to the director for a hearing. The director shall hear the party or parties within 60 days after receipt of the request and shall give not less than 10 days written notice of the time and place of the hearing. Within 15 days after the hearing the director shall affirm, reverse, or modify his previous action, specifying his reasons. Pending

ok

the hearing and decision the director may suspend or postpone the effective date of his previous action.

ok (e) A hearing under this section is not required to observe formal rules of pleading or evidence.

(f) A filing or modification of a filing may not be disapproved if the rates in connection with the filing meet the requirements of this chapter.

* Sec. 6. AS 21.66.400(b) is amended to read:

delete (b) A person or organization aggrieved with respect to a filing which is in effect [,] may make written application to the director for a hearing on the filing. The title insurance company or title insurance rating organization that made the filing may not proceed under this subsection. The application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, and that the applicant would be aggrieved if his grounds are established, and that his grounds otherwise justify holding a hearing, he shall, within 30 days after receipt of the application, hold a hearing upon not less than 10 days written notice to the applicant and to each title insurance company or title insurance rating organization which made such a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the requirements of this chapter, he shall issue an order specifying how the filing or a part of it fails to meet the requirements of this chapter, stating when, within a reasonable period after the order is issued, the filing or a part of it is considered no longer effective. Copies of the order shall be sent to the applicant and to every such title insurance company or title insurance rating organization. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.

OK remember

* Sec. 7. AS 21.66 is amended by adding new sections to read:

Sec. 21.66.401. TITLE INSURANCE RATING ORGANIZATIONS. (a) a person located in or out of the state may apply to the director for licensing as a title insurance rating organization and shall file as part of the application

(1) a copy of its constitution, its articles of agreement or association, or its certificate of incorporation and a copy of its bylaws and rules governing the conduct of its business;

(2) a list of its members and subscribers;

(3) the name and address of a resident of the state upon whom notices or orders of the director or process affecting the rating organization may be served; and

(4) a statement of its qualifications as a title insurance rating organization.

(b) If the director finds that the applicant is competent, trustworthy, and otherwise qualified to act as a title insurance rating organization, and that its constitution, articles of agreement or association, or certificate of incorporation and its bylaws and rules governing the conduct of its business conform to the requirements of law, the director shall issue a license authorizing the applicant to act as a title insurance rating organization. Each application shall be granted or denied in whole or in part by the director within 60 days after the date of its filing with him.

(c) A license issued under this section is in effect for three years unless sooner suspended or revoked by the director or withdrawn by the licensee. The fee for the license is $100.

(d) A license issued under this section may be suspended or revoked by the director, after hearing upon notice, if the title insurance rating organization ceases to meet the requirements of this subsection.

Each title insurance rating organization shall notify the director promptly of a change in

(1) its constitution, its articles of agreement or association or its certificate of incorporation and its bylaws and rules governing the conduct of its business;

(2) its list of members and subscribers; and

(3) the name and address of the resident of this state designated by it upon whom notices or orders of the director or process affecting the rating organization may be served.

(e) Subject to rules that have been approved by the director as reasonable, each title insurance rating organization shall permit any title insurance company to be a member or a subscriber to its rating services at a reasonable cost and without discrimination or to withdraw as a member or subscriber.

(f) Notice of a proposed change in rules of the title insurance rating organization must be given to members and subscribers. The reasonableness of a rule in its application to subscribers, or the refusal of a rating organization to admit a title insurance company as a subscriber, shall, at the request of a subscriber or a title insurance company, be reviewed by the director at a hearing held upon at least 10 days written notice to the rating organization and to the subscriber. If the director finds that a rule is unreasonable in its application to subscribers, he shall order that the rule may not apply to subscribers. If the title insurance rating organization fails to grant or reject an application of a title insurance company for subscribership within 30 days after it was made, the title insurance company may request a review by the director as if the application had been rejected. If the director finds that the title insurance company has been refused admittance to the title insurance rating organization as a subscriber without justi-

fication, he shall order the rating organization to admit the title insurance company as a subscriber. If he finds that the action of the title insurance rating organization was justified, he shall make an order affirming its action.

(g) Cooperation among title insurance rating organizations, or among rating organizations and title insurance companies, and concert of action among title insurance companies under the same general management and control in rate making or in other matters within the scope of this section is authorized, if the resulting filing is subject to the provisions of this section that apply to filings generally.

(h) Two or more title insurance companies who are members of or subscribers to a title insurance rating organization may act in concert with each other with respect to the making of rates or rating systems, the preparation or making of insurance policy forms, underwriting rules, surveys, inspections and investigations, the furnishing of loss or expense statistics or other information and data, or carrying out research.

(i) The director may review the activities and practices under (g) and (h) of this section. If, after a hearing, the director finds that an activity or practice is unfair, unreasonable, or inconsistent with the provisions of this section, he may issue a written order specifying how the activity or practice is unfair, unreasonable, or inconsistent with the provisions of this section and require discontinuance of the activity or practice.

Sec. 21.66.402. DEVIATIONS FROM FILINGS OF RATING ORGANIZATION. Each member of or subscriber to a title insurance rating organization must adhere to the filings made on its behalf by that organization, except a title insurance company that is a member of or subscriber to a rating organization may file with the director a decrease or increase to

be applied to any elements of the rates produced by the rating system for a class of title insurance that is found by the director to be a proper rating unit for the application of the decrease or increase, or to be applied to the rates for a particular area. The filing must specify the basis for the deviation and be accompanied by the data or historical pattern upon which the applicant relies. A copy of the filing and data shall be sent simultaneously to the title insurance rating organization. Each deviation shall be effective for one year unless terminated sooner with the approval of the director, or in accordance with the provisions of AS 21.66.400.

Sec. 21.66.403. APPEAL FROM ACTION OF RATING ORGANIZATION. (a) A member of or subscriber to a title insurance rating organization may appeal to the director from an action or decision of the rating organization in approving or rejecting a proposed change in or addition to the filings of the rating organization. The failure of a title insurance rating organization to act within 30 days after submission to it of a proposal under this section is a rejection of the proposal.

(b) The director shall, after a hearing held upon not less than 10 days written notice to the appellant and the rating organization, issue an order approving the action or decision of the rating organization or directing it to give further consideration to the proposal and to take action or make a decision upon it within 30 days.

(c) If the appeal is from the action or decision of the title insurance rating organization in rejecting a proposed addition to its filings, the director may, if he finds that the action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filing on behalf of its members or subscribers, in a manner consistent with his findings, within a reasonable time after issuance of the order. If the appeal is from the action of the title

insurance rating organization with regard to a rate or a proposed change in or addition to its filings relating to the character and extent of coverage, the director shall approve the action of the rating organization or the modification as proposed by the appellant, if either is in accordance with this chapter.

(d) If the appeal is based on the failure of the rating organization to make a filing on behalf of the member or subscriber based on a system of expense allocation that differs, in accordance with the right granted in AS 21.66.390 from the system of expense allocation included in a filing made by the rating organization, the director shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding the appeal, the director shall apply the standards set out in AS 21.66.390.

* Sec. 8. AS 21.66.410(c) is amended to read:

(c) In order to more uniformly administer rate regulations, the director and each title insurance company <u>or title insurance rating organization</u> may exchange information and experience data with insurance supervisory officials, title insurance companies and title insurance rating organizations in other states, and may consult with them and with each other with respect to rate making and the application of rating systems.

* Sec. 9 AS 21.66.420 is amended to read:

Sec. 21.66.420. FALSE OR MISLEADING INFORMATION. No title insurance company or title insurance agent may wilfully withhold information from, or knowingly give false or misleading information to the director <u>or to any title insurance rating organization of which the title insurance company is a member or subscriber which will affect the rates chargeable under this chapter</u>.

* Sec. 10. AS 21.66.430(a) is amended to read:

(a) The director may, if he finds that a title insurance rating organization, a title insurance company, or title insurance agent has violated a provision of this chapter, impose a penalty of not more than $100 for each violation. However, if the violation is wilful, he shall impose a penalty of not more than $1,000 for each violation. Penalties imposed under this section are in addition to any other penalties provided by law.

* Sec. 11. AS 21.66.430(b) is amended to read:

(b) In addition to the penalty provided in (a) of this section, the director may suspend the certificate of authority of a title insurance rating organization, title insurance company, or title insurance agent upon failure to comply with an order of the director within the time limit allowed by the order. No certificate of authority may be suspended for failure to comply with an order until the time prescribed for an appeal has expired, or, if an appeal has been taken, until the order has been affirmed.

* Sec. 12. This Act takes effect immediately in accordance with AS 01.10.-070(c).

SB
831

COMMITTEE REPORT

HOUSE

(5)

FURTHER:

3/22/82

Date: 4-2-81

Mr. Speaker:

The Committee on LABOR & COMMERCE has had SB 831

"An Act relating to insurance policies and contracts."

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 HCSSB 831 (L&C) [ ] same title [X] new title

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Dan Rogers
Terry Minter
Bill Burgess

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Terry Minter
CHAIRMAN

H 60 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 831
Title An act relating to Insurance Policies and Contracts
Requested by Labor and Commoerce Committee Date 3/4/82

II. FISCAL DETAIL
Agency Affected Division of Insurance
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Division Insurance
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS,CLAIMS,ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

IV. DATE March 15,1982 PREPARED BY Kenneth C. Moore, Div. of Insurance
AGENCY Commerce & Economic Development
PHONE 465-2515

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

Rec'd 4-5-82 12:05 P.m.

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

(906) 465-2600

JAY S. HAMMOND, GOVERNOR

POUCH O – JUNEAU 99811

April 5, 1982

The Honorable Terry Martin
Chairman, Labor & Commerce Committee
State House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Martin:

I was quite surprised at the hasty action taken by the House Labor and Commerce Committee in passing out CSSB 831(L&C) on Friday afternoon. As you know, there were a number of persons, including some from the private insurance industry, who wished to provide testimony, but were unable to do so. In essence, the only testimony received was from the Associated General Contractors, and a few State agencies.

The subject of insurance coverage on large construction projects, such as those undertaken by the Alaska Power Authority, deserves extremely careful scrutiny. It is quite possible that the use of so-called "wrap-up" insurance programs, which would be prohibited by CSSB 831(L&C), could save the State many hundreds of millions of dollars over the next two decades. As you know, the Alaska Power Authority has on the books over $15 billion (nominal) in projects, including the proposed two dams of the Susitna River project. This latter project alone is estimated to cost at least $13.6 billion (nominal). In projects of this size, consolidating project coverage into a single "wrap-up" program could potentially return to the State several percentage points of the total project costs. If we are forced to use conventional means, such as required by your bill, this cost-saving approach will be prohibited.

Projects on APA's drawing boards represent the largest, single capital investment the State of Alaska will probably ever make. Regardless of the source of funds for these projects, be it the State treasury or the bond market, it is absolutely essential that the APA Board of Directors and its staff examine rigorously every possible means of economizing. The amounts of funds involved is so enormous that each minute fraction of total project costs that can be saved represents millions, and perhaps hundreds of millions of dollars.

If the Board continues to be hamstrung in its attempts to seek innovative cost-saving approaches in this program, I fear that projects costs could well excalate in a manner similar to that experienced by the Washington Public Power Supply System. A review of that program indicates that its astronomical cost overruns are due, in large part, on poor construction management by the board and its staff, and misrepresentation and errors by its contractors, compounded by a lack of diligence in seeking cost efficiencies. It's bad enough to be less than diligent in programs of this magnitude, but to be prevented by law from being so is doubly dangerous.

Sincerely,

Ernst W. Mueller
Commissioner

cc: Sue Greene
John Haywood
Eric Yould

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HCS for S.B. 831 and S.B. 878
Title An Act relating to insurance.
Requested by Labor & Commerce Date 4/08/82

II. FISCAL DETAIL
Agency Affected Department of Commerce, Alaska Power Authority
Department of Administration, Division of Risk Management
Program Category Affected Alaska Power Authority, Division of Risk Management
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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0	50	53	56	60	65
200 TRAVEL						
300 CONTRACTUAL	881	4,455	8,509	10,058	20,833	20,766
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	881	4,505	8,562	10,114	20,893	20,831

FUNDING (Thousands of Dollars)

GENERAL FUND	881	4,505	8,562	10,114	20,893	20,831
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

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

Passage of HCSSB831 would elimiate the right of the State and it's agency, the Alaska Power Authority as owner and provider of funds for the hydro-electric projects, to protect itself with the best insurance coverage at the lowest price. "Wrap-up" insurance programs have been used on most major construction projects for the past forty years and substantial savings are well documented. Passage of HCSSB831 would increase costs to the State of Alaska in the following areas:

1) Increased insurance premiums ($36,645,000)
2) Loss of earnings on loss reserves not yet paid out ($9,288,000)
3) Necessity of purchasing "stop-gap" insurance ($13,087,000)
4) Increased litigation expense ($6,542,000)
5) Increased administrative expense ($284,000)

Total increase in state cost through FY 87 if "wrap-up" program prohibited = $65,786,000.

IV. DATE 4/08/82 PREPARED BY John Haywood
AGENCY Administration/Risk Management
PHONE 465-2180

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

rgw 5/0408-06/1RM

SB
841

COMMITTEE REPORT

HOUSE

FURTHER: Judiciary

(5)

4/20/82

Date: 4-22-82

Mr. Speaker:

The Committee on Labor & Commerce has had CSSB 841 (L&C)
"An Act relating to insurance policy provisions on policy loans and reinstatement of policies; and providing for an effective date."

under consideration and reports it back as follows:

[X] do pass with indiv. mem. [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends Ordinal

[ ] 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:

Tom Smith
CHAIRMAN

H 60 (Rev. 3/81)

Original sponsor: Labor and Commerce Committee

Offered: 4/8/82
Referred: Judiciary

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR SENATE BILL NO. 841 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to insurance policy provisions on policy loans and reinstatement of policies; and providing for an effective date."

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

* Section 1. AS 21.45.080(a) is amended to read:

(a) There shall be a provision that after three full years' premiums have been paid and after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment or pledge of the policy and on the sole security of the policy, at a specified rate of interest not exceeding eight percent a year, an amount equal to or, at the option of the party entitled to it, less than the loan value of the policy. The director may authorize rates of interest in excess of six percent only on a finding that the holders of policies will benefit from the increased earnings of the insurer resulting from the higher rates, through the use of higher dividends or lower premiums, or both. The loan value of the policy shall be at least equal to the cash surrender value at the end of the then current policy year, except that the insurer may deduct, either from the loan value or from the proceeds of the loan, an existing indebtedness not already deducted in determining the cash surrender value including interest then accrued but not due, the unpaid balance of the premium for the current policy year, and interest on the loan to the end of the current policy year. The policy may also provide that if interest on an indebtedness is not paid when

due it shall then be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value of the policy, the policy shall terminate and become void. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of a premium to the insurer, for six months after the date of the loan application. The policy, at the insurer's option, may provide for automatic premium loan, subject to an election of the party entitled to elect. Except as provided in (e) of this section, the required interest rates on policy loans set out in this section apply only to policies issued before July 1, 1982.

* Sec. 2. AS 21.45.080 is amended by adding new subsections to read:

(c) A policy issued on or after July 1, 1982, shall have a provision specifying an interest rate on a policy loan not to exceed eight percent a year, or a provision permitting an adjustable maximum interest rate established under this subsection. An adjustable maximum rate of interest on a policy loan determined under this subsection may not exceed the higher of the published monthly average for the calendar month ending two months before the date on which the rate is determined, or the rate used to compute cash surrender values under the policy during the applicable period plus one-twelfth of a percentage point multiplied by the number of months in the applicable period. If an adjustable maximum rate of interest is used in a policy under this subsection the policy shall contain a provision that states times for the adjustment of the interest rate for that policy. Adjustment shall occur at least once every 12 months, but not more often than once every three months. The interest rate being charged may be increased if the published monthly average increases by one-half percent or more and the

reciprical provision of interest
increase in earnings of policies.

interest rate being charged must be reduced if the published monthly average decreases by one half percent or more. A life insurer shall (1) notify the policyholder of the initial rate of interest on the loan at the time a cash loan is made; (2) notify a policyholder who obtains a premium loan of the initial rate of interest on the loan as soon as it is reasonably possible to do so after making an initial premium loan; except as provided in (3) of this subsection, notice does not have to be given to the policyholder when a second or subsequent premium loan is added; (3) send reasonable advance notice of any increase in the rate to a policyholder who has a policy loan; and (4) include other relevant information on adjustment of interest rates in a notice required under this subsection. The loan value of the policy shall be determined in accordance with (a) of this section. A policy may not be terminated in a policy year as the sole result of a change in the interest rate during that policy year. If an interest rate changes, the insurer shall maintain coverage during the policy year until the date on which the policy would have terminated if the interest rate had not changed.

(d) In (c) of this section

(1) "interest rate" includes a rate of interest charged for reinstatement of policy loans for the period during and after the lapse of a policy;

(2) "policy" includes certificates issued by a fraternal benefit society and annuity contracts that provide for policy loans;

(3) "policy loan" includes a premium loan made under a policy to pay a premium that was not paid to the life insurer as it became due;

(4) "policyholder" includes an owner of a policy or a person designated to pay policy premiums according to the records of the life insurer;

(5) "published monthly average" means the monthly average of

corporate bond yields as published by Moody's Investors Service, Inc., or its successor, or if Moody's corporate bond yield average-monthly average corporates is not published, a substantially similar average, established by regulation adopted by the director.

(e) The provisions of (c) of this section on interest rates apply to all policy loans made on or after July 1, 1982, except that if a policy holder agrees in writing to the applicability of (c) of this section to a policy issued before July 1, 1981, that subsection applies to the policy.

* Sec. 3. AS 21.45.110 is repealed and reenacted to read:

Sec. 21.45.110. REINSTATEMENT. Except as provided in AS 21.45.-230, there shall be a provision that unless (1) the policy has been surrendered for its cash surrender value, (2) its cash surrender value has been exhausted, or (3) the paid-up term insurance, if any, has expired, the policy will be reinstated at any time within three years (or two years in the case of industrial life insurance policies) from the date of premium default upon written application, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears with interest at a rate not exceeding six percent a year compounded annually, and the payment or reinstatement of interest due to the insurer on a loan on the policy with interest as provided in AS 21.45.080(c).

* Sec. 4. This Act takes effect July 1, 1982.

OF COUNSEL
M. E. MONAGLE

R. E. ROBERTSON (1885-1961)
F. G. EASTAUGH
J. B. BRADLEY
WILLIAM G. RUDDY
L. E. JACOBSON
MICHAEL T. THOMAS
JAMES F. CLARK
PAUL M. HOFFMAN
J. P. TANGEN
D. ELIZABETH CUADRA
HAROLD E. SNOW, JR.
PAMELA L. FINLEY
STEVEN W. SILVER

JUNEAU OFFICE
210 FERRY WAY, 2ND FLOOR
POST OFFICE BOX 1211
JUNEAU, ALASKA 99802
PHONE (907) 586-3340
CABLE: ROMEA
TELEX: 090-45-376

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
POST OFFICE BOX 1211
JUNEAU, ALASKA 99802

ROBERT B. BAKER
LEROY J. BARKER
L. G. BERRY
C. R. RICH
CARL W. WINNER

ANCHORAGE OFFICE
601 WEST FIFTH, SUITE 510
ALASKA MUTUAL BANK BLDG.
POST OFFICE BOX 679
ANCHORAGE, ALASKA 99510
PHONE (907) 277-6093
CABLE ROMEA
TELEX: 090-26-486

April 20, 1982

Terry - This answers the questions you asked.

Honorable Terry Martin
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: CSSB 841

Dear Representative Martin:

The committee substitute introduced by the Senate Labor and Commerce Committee incorporated all of the changes recommended by the Division of Insurance. Their memo is attached. The explanation of the background and basic structure of the bill in my January letter to you remains accurate.

Thank you for taking this bill up. It passed the Senate 19 - 1 on April 20.

Sincerely,

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

Michael T. Thomas

MTT/ke
Enclosure

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

LEGISLATIVE POSITION PAPER
SB 841
March 15, 1982

The Department of Commerce and Economic Development favors SB 841 if amended and recommends its passage.

The proposed legislation is based on a model law of the National Association of Insurance Commissioners. It would allow the use of either a fixed rate of interest on life insurance policy loans not to exceed 8% or the use of a flexible rate of interest which would be adjusted at least once a year based on an external index.

The current approach is to use a fixed rate of interest capped at 8%. This rate is generally lower than the cost of such loans and results in an impact on policyholders dividends since those funds in life insurance policy loans are not available for investment in more lucrative markets thus reducing income available for distribution as dividends. This impacts the ultimate net cost of life insurance. It also creates a subsidy of policyholders using the policy loan feature of the policy by those policyholders who do not use the policy loan feature.

The current cap has an impact on insurer liquidity thus impacting the flexibility they have in their investment portfolic. Income cannot be maximized which would accrue to the advantage of policyholders if it could be maximized.

Attached to this paper is a list of proposed amentments. Also attached is a section by section analysis and in some cases, a line by line analysis of the bill. The effect of proposed amendments is also explained in those comments.

E.W. Eboch 3/15/82
Edward W. Eboch
Deputy Commissioner

38-H2LH

AMENDMENTS PROPOSED

On page 2, line 11
change "June 30" to read "July 1".

On page 2, line 13
following the word "issued" insert the words "on or".
change "June 30" to read "July 1".

On page 2, line 14
remove the words "permitting a maximum" and insert "specifying an".
remove the word "of" and insert "not to exceed".

On page 2, line 21
following the word "point" insert "a year".

On page 3, line 12
remove the word "because" and insert "as the sole result of the change in"
remove the words "has changed".

On page 3, line 13
following the word "year" insert "; the insurer shall maintain coverage during that policy year until the time at which the policy would have terminated if there had been no change during that policy year".

On page 4, line 2
following the word "made" insert "on or".
Change June 30" to read "July 1"

On page 4, line 18
following the word "AS 21.45.080" insert "(c)".

Introduced: 3/8/82
Referred: Labor & Commerce and Judiciary

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

SENATE BILL NO. 841

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to insurance policy provisions on policy loans and reinstatement of policies; and providing for an effective date."

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

* Section 1. AS 21.45.080(a) is amended to read:

(a) There shall be a provision that after three full years' premiums have been paid and after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment or pledge of the policy and on the sole security of the policy, at a specified rate of interest not exceeding eight percent a year, an amount equal to or, at the option of the party entitled to it, less than the loan value of the policy. The director may authorize rates of interest in excess of six percent only on a finding that the holders of policies will benefit from the increased earnings of the insurer resulting from the higher rates, through the use of higher dividends or lower premiums, or both. The loan value of the policy shall be at least equal to the cash surrender value at the end of the then current policy year, except that the insurer may deduct, either from the loan value or from the proceeds of the loan, an existing indebtedness not already deducted in determining the cash surrender value including interest then accrued but not due, the unpaid balance of the premium for the current policy year, and interest on the loan to the end of the current policy year. The policy may also provide that if interest on an indebtedness is not paid when due it shall then

COMMENTS

NO CHANGES THIS PAGE

be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value of the policy, the policy shall terminate and become void. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of a premium to the insurer, for six months after the date of the loan application. The policy, at the insurer's option, may provide for automatic premium loan, subject to an election of the party entitled to elect. Except as provided in (e) of this section, the required interest rates on policy loans set out in this section apply only to policies issued before June 30, 1982.

On line 11, change "June 30" to read "July 1". Since the proposed effective date of this proposal is July 1, 1982, we feel that the use of July 1, in the language would be more consistent.

* Sec. 2. AS 21.45.080 is amended by adding new subsections to read:

(c) A policy issued after June 30, 1982 shall have a provision permitting a maximum interest rate on a policy loan of eight percent a year.

On line 13, following the word "issued", insert the words "on or" and change "June 30" to read "July 1".

On line 14, remove the words "permitting a maximum" and insert "specifying an", also delete the word "of" and insert "not to exceed".

This language change allows a policy loan interest rate up to 8% rather than requiring exactly 8% with nothing less permitted. This comports with the way it is done now and has been done in the past. It retains the "traditional"method of computing policy loan interest.

COMMENTS

or a provision permitting an adjustable maximum interest rate established under this subsection.

The principal component of this proposal is that it allows a life insurance company to use a policy loan interest rate that is adjustable subject to conditions set out in the proposal. The Insurer would have the option of offering a fixed rate of interest not to exceed 8% or of offering the adjustable rate of interest or both. The adjustable rate is based on an external index described in this section of the bill. The option selected must be described in the policy itself.

An adjustable maximum rate of interest on a policy loan determined under this subsection may not exceed the higher of the published monthly average for the calendar month ending two months before the date on which the rate is determined,

A two month period has been established between the time that is used as the monthly base for establishing the indexed rate and the time the adjustable indexed rate is determined and becomes effective. This two month period is intended to give the insurer the necessary time in which to determine the actual rate as well as the time to notify policyholders with existing loans of any change in the rate reasonably in advance as required on page 3, lines 2 - 6. Thus, for example, the monthly average for October is published by Moody's during the early part of November. An insurer during the remainder of November could determine the rate that will be charged as of January 1 and take the administrative steps necessary to notify policyholders of any increase in the rate. Notices could be mailed on December 1 along with the premium notice or the policy loan or dividend statement. The rate would then become effective on January 1 as to all outstanding and new loans thereafter.

COMMENTS

or the rate used to compute cash surrender values under the policy during the applicable period plus one percentage point.

On line 21, following the word "point" insert the words "a year".

This clarification is needed since the period dealt with this provision could be as small as three months and as much as one year.

This provision provides for a floor under the indexed maximum rate approach, that is, a minimum on the maximum rate. Whenever the index falls below the specified rate, the floor would apply. A minimum is considered necessary to ensure that the maximum policy loan interest rate would never be lower than the interest rate used to compute the policy's nonforfeiture values. In effect, the life insurer should, as a minimum, be able to charge an interest rate that is equivalent to the rate of interest earned by the policyholder on his policy's cash surrender values. This protects the insurer's solvency. An additional 1% has been added to the rate used to compute the nonforfeiture value in order to cover administrative expenses.

If an adjustable maximum rate of interest is used in a policy under this subsection the policy shall contain a provision that states times for the adjustment of the interest rate for that policy.

A policy issued with the indexed maximum rate provision must state how often the interest rate on policy loans may be changed by the company. That is, it must state whether the rate is to be determined quarterly, semi-annually or annually.

Adjustment shall occur at least once every 12 months, but not more often than once every three months.

The rate of interest on policy loans under the indexed maximum rate provision may be

determined as often as every three months but must be determined by the insurer at least once a year. This permits flexibility so that each life insurer may choose a frequency of change compatible with the company's manner of doing business. The frequency with which the company intends to determine the interest rate is required to be included in the policy.

For example, if a company chose to determine interest rates once a year, it could do so by calendar or fiscalyears or by policy anniversary dates. If a company chose to determine interest rates on a calendar year basis, the new rate, based on the average for October, would apply to loans outstanding or taken out on or after January 1 and would be in effect for the entire year. If policy anniversary dates were chosen, the company could establish a new rate every month for policies with anniversaries in that month and the new rate would continue for such policies until the next anniversary date. Thus, for such a company, there could be twelve different rates set by reference to the indexed maximum but only one rate would apply to a particular policy from one anniversary to the next anniversary.

If a company chose to determine interest rates quarterly, it could do so on a calendar basis or by policy anniversary dates. Thus for example, a company could increase or decrease the interest rate as of January 1, April 1, July 1 and October 1 or at three month intervals during a policy year. The increase or decrease would be based on the

index for the month ending two months prior to the change. For the calendar quarter example, the base months would be October, January, April, and July respectively. Rate changes would apply to all outstanding loans and new loans made after the effective date of change but prior to the effective date of the next change.

The interest rate being charged may be increased if the published monthly average increases by one-half percent or more

Companies may increase their interest rate if the Moody's index is 1/2 of 1% or more above the rate actually being charged. Of course, a company is not required to increase the rate and may decide to keep the rate being charged well below the permissible rate. This provision will prevent companies from changing the interest rate for insignificant amounts.

and the interest rate being charged must be reduced if the published monthly average decreases by one-half percent or more.

Companies are required to decrease the interest rate at the same frequency interval as they can increase the rate under the provisions of the policy whenever the indexed maximum rate is 1/2 of 1% or more below the rate actually being charged at that time. Thus, this provision requires timely decreases in the rate as the index drops but is tempered by the 1/2 of 1% factor in order to avoid reducing the rate for an insignificant amount.

A life insurer shall (1) notify the policyholder of the initial rate of interest on the loan at the time a cash loan is made; (2) notify a policyholder who obtains a premium loan of the initial rate of interest on the loan as soon as it is reasonably possible to do so after making an initial premium loan; except as provided in (3) of this subsection, notice does not have to be given to the policyholder when a second or subsequent premium loan is added; (3) send reasonable advance notice of any increase in the rate to a policyholder who has a policy loan; and

COMMENTS

(4) include other relevant information on adjustment of interest rates in a notice required under this subsection.

Provisions for notice have been established in order to protect the policyholder. Notice of the currently effective interest rate, whether the 8% fixed maximum or indexed maximum is used, must be given at the time a cash loan is made. Advance notice of any increase in the policy loan interest rate must also be given to policyholders with outstanding loans affected by the increase. No advance notice is required of a decrease in the rate. Since it is not possible to provide advance notice with respect to automatic premium loans, notice should be given as soon as is reasonably practical after the rate is increased. Finally, all notices sent to policyholders must state the type of rate being used, that is, a maximum of 8% or the indexed maximum, and the frequency with which the company may change the variable rate.

The loan value of the policy shall be determined in accordance with (a) of this section.

This proposal does not act as a repealer of the current statutory provisions relating to the loan value of the policy which is found in AS 21.45.080(a) on page 1 and 2 of this proposal.

A policy may not be terminated in a policy year because the interest rate has changed during that policy year.

On line 12 delete the word "because" and insert the words "as the sole result of the change in" also remove the words "has changed"

On line 13, following the word "year" remove the period and add "; the insurer shall maintain coverage during that policy year until the time at which the policy would have terminated if there had been no change during that

(d) In (c) of this section

(1) "interest rate" includes a rate of interest charged for reinstatement of policy loans for the period during and after the lapse of a policy;

(2) "policy" includes certificates issued by a fraternal benefit society and annuity contracts that provide for policy loans;

(3) "policy loan" includes a premium loan made under a policy to pay a premium that was not paid to the life insurer as it became due;

(4) "policyholder" includes an owner of a policy or a person designated to pay policy premiums according to the records of the life insurer;

(5) "published monthly average" means the monthly average of corporate bond yields as published by Moody's Investors Service, Inc., or its successor, or if Moody's corporate bond yield average-monthly average corporates is not published, a substantially similar average, established by regulation adopted by the director.

policy year".

This provision lost something in the drafting which hopefully this correction will resolve. Since, in many instances, it is impossible to tell in advance the amount of interest to be paid on a loan because of the flexible nature of the interest rate, there is the possibility, in situations where a maximum loan is taken, that a policy might lapse because of an increase in the interest rates. In order to avoid this possibility, this provision prevents a policy from lapsing during the policy year solely as a result of an increase in the interest rate during that policy year. The insurer must maintain coverage during that policy year until the time the coverage would have terminated had the interest rate not been increased during that policy year.

See comments on Sec. 3 of the bill.

Automatic premium loans are to be treated in the same manner as cash loans on a policy and would be subject to the same interest rate.

Moody's Investors Service, Inc. has published the Corporate Bond Yield Average - Monthly Average Corporates for many years. It was chosen as the index because it generally corresponds to the rate available to insurers

on new long term investments and consequently, its use promotes equity between policyholders who borrow against their policy and policyholders who do not borrow. It is generally a smooth and stable long-term rate not subject to the volatile highs and lows from month to month of the various short-term rates. Nevertheless, it is responsive to the changing interest rates in the economy. Another factor in choosing this particular index is that it is the index adopted by the National Association of Insurance Commissioners for its Model Standard Valuation and Nonforfeiture Laws. Moreover, it is widely recognized and readily available. The monthly average is published within a few days of the close of the calendar month. Thus, a policyholder or regulator could readily determine the maximum policy loan interest rates at any given moment.

The provision permits a similar index to be substituted in the event that Moody's or any successor thereto no longer publishes this particular index.

(e) The provisions of (c) of this section on interest rates apply to all policy loans made after June 30, 1982 except that if a policy holder agrees in writing to the applicability of (c) of this section to a policy issued before July 1, 1981, that subsection applies to the policy.

On line 2, following the word "made" insert "on or". Also change"June 30" to read "July 1".

This section makes it clear that policies in existence prior to the effective date of this proposal could be amended, with the written agreement of the policyholder, to include the provisions of this proposal.

* Sec. 3. AS 21.45.110 is repealed and reenacted to read:

Sec. 21.45.110. REINSTATEMENT. Except as provided in AS 21.45.-230, there shall be a provision that unless (1) the policy has been surrendered for its cash surrender value, (2) its cash surrender value has been exhausted, or (3) the paid-up term insurance, if any, has expired, the policy will be reinstated at any time within three years (or two years in the case of industrial life insurance policies) from the date of premium default upon written application, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears with interest at a rate not exceeding six percent a year compounded annually, and the payment or reinstatement of interest due to the insurer on a loan on the policy with interest as provided in AS 21.45.080.

* Sec. 4. This Act takes effect July 1, 1982.

COMMENTS

On line 18, following "AS 21.45.080" add "(c)"

The interest rate permitted on the reinstatement of policy loans for the period during and after the lapse of the policy shall be the same interest rate applicable to policy loans. This avoids the administrative complications that would ensue if a different rate were applicable to reinstatements of policy loans. However, interest on past due premiums would not be affected.