

GENERAL
INFORMATION,
LOG TAPES

ADMINISTRATIVE REGULATION REVIEW COMMITTEE 1981-1982

Membership:

- Rep. John G. Fuller (Chairman) 1/12/81 - 6/22/81
- Rep. Richard L. Randolph (Chairman) 6/23/81 -
- Sen. Robert H. Ziegler, Sr. (Vice-Chairman)
- Sen. Mike J. Colletta
- Sen. George H. Hohman, Jr. - 2/82
- Rep. Mitchell E. Abood, Jr.
- Rep. Joseph Chuckwuk (1/12/81 - 6/22/81)
- Rep. Lt. Pappy Moss 6/23/81 -

FOLDERS - 4 TOTAL

- #1 GENERAL INFORMATION
- #2 FISHERIES ISSUES
- #3 10/16-17/81 FBX HEARING
- #4 AHFC - 11/19/81 - ANC

0684 Start

Ron Lind Deputy Commissioner, D.O.T.

A. Outline of D.O.T.

0760 B. Functions of D.O.T.

0772 Q. Kathy "Auto Bay Port Construction?"

0782 Q. Kathy "Split costs with Army Corps of Engineers?"

0800 Q. Kathy C. Public facilities

0864 Q. Kathy "Where do requests for construction go?"

0880 Q. Kathy "How long after proposal is construction begun?"

0906 Q. Kathy "Competitive bidding?"

0912 Q. Ward "Does D.O.T. pay for operation of airports and old municipalities run their own airports."

0921 Q. Ward "How many buildings do D.O.T. own?"

0928 Q Linda "How does P. O. T. control
land?"

0937 Q Mary "Do all airlines pay landing
fees on municipal airports?"

0975 Q Kathy "Maintenance of State Vehicles?"

0995 Q ~~John~~ "John, who do you talk to
in P.O.T. for general information?"

1008 Q Kathy "Is P.O.T. involved with the
railroad?"

1034 End

1072 I. DOT, Pu. F.

Jim Eide

Merv Griggs

Doug Burton

A. Functions of Public Facilities

The Ferry Line

1110 Merv Griggs - Administration

1125 Q Kathy "Majority of expenses?"

1128 Q John "Savings in costs by slowing down
questions?"

1148 Q Waid "Fuel increases affecting
fare costs?"

1157 Q Waid "Meal service, increases & savings?"

1172 Q Waid "Who is responsible for public
service on the ferries?"

1185 Q Mary "Vehicles on ferry system?"

1193 Doug Burton

1225 Q Hal "Cost effective for another
vessel?"

1236 Q Waid "Borrow a ferry from South?"

1243 Q Waid "Seattle, Seward, Anchorage
route?"

1250 Q Waid "Economic feasibility of
extra routes, vessels?"

⁷⁰
1260 Q Linda "Alaska Hire, percentage
of present employees?"

1296 Q Linda "Ferry passes for personnel?"

1300 Q Mary "Status of Taku ferry?"

1306 Q Kathy "Move main dock from Seattle?"

1316 B. Facts on Marine Highway

1368 Q Waid "Any long range programs for
replacement of vessels?"

1411 End

1412, Charles Matlick - D.O.T.

A Highway Design + Construction
Construction in General

1475 B. Funding

1503 Q "Mary" "What about Egan Expressway?"

1509 Q Jake "Why no lights on Egan
expressway?"

1519 Q Sam "Why not with reflectors?"

1537 Q Kathy "Responsibility for reflectors and
lights?"

1552 Q Kathy "Public say?"

1557 Q Linda "Recent costs survey on lighting
Egan drive?"

1571 Q Linda "State settlement on claims as
opposed to costs of more signs, features?"

~~1575~~ Q Kathy "Who makes decisions on new
projects?"

1601 Q Linda "Can state obtain or condemn
public ~~retail~~ lands?"

1611 Q Linda "Can state obtain or condemn
federal lands?"

1615 Q Ward "Land acquisition for
railroad project?"

1623 Q Sam "How are projects considered?"

1643 Q Kathy "Juneau - Haines connection?"

1652 Q Ward "Fairbanks - Nome connection?"

1664 Q Ward "Roads through Monuments?"

1667 End

Holden-

DICK HOLDEN - CIVIL SERVICE P.O.T.

1672 - Institutions work on the reward system

1678 - Civil Service - merit raise approved by legis. 1 yr. tenure

1695 - Merit sys - raises on performance

1755 - Organization of Gov't division

1800 - Responsibility for work / define problems

1810 - Functional Organization

end side 1 1840
start side 2 0000

0030 - FRED Fish. Rehab Enhance Development

0150 - Structure, Sm. Mang. Personnel, Mgt. System, Reward to achieve a goal

0190 EPA - 1969 Environmental Protection Act.

414 - They set public hearing before spending money on a project

470 - 1978 - Transportation System - The 1st.

19 workshop in ever town. 55 hearings.

to get public ~~opinion~~ opinions
it's important, so they can get a
feed back

~~1417~~ 1417 Gerald Mars - OSHA

l.a. Outline of OSHA

1523 Q Cheryl - Who makes inspections of
off shore drilling rigs?

1539 Q Paul - Does OSHA give forward notice
of inspections.

1547

Workman's Comp.

l.a. Outline of Workman's Comp.

b. Claims

1630 Q Edward Beck

1624 Art Zilling - Special Programs

Unemployment insurance

1718 Q Mary - Who pays tax for unemployment?
Which States?

- 1171 Comm. Ed Orbeck - Labor-Management
- Jim Soubee - Administrative Services
- Da - Wage-Hour division
- Cerald Nors - Occupational Safety & Health
- Paul Tro -
- Judy Du Bua - Workmans Comp.
- Arthur Zillig - Special Programs
- Rod Brown - Research & Analysis

- 1194 Ed Orbeck
- a. History LAM
- b. Outline LAM

1310 Da

1300 a Landa - Are Union employees ~~represented~~ represented by LAM in wage problems?

1404 a Landa - Would it be cheaper for the state for a union employee to go through the union?

0656 ~~0656~~^Q Sean - What is Coastal Energy Impact program?

0690 S. Local Government Assistance

0984^Q Mary - Does the state place a lean on the property? (Senior Citizens Special Assessment)

1084 Q - Mary - If capitol doesn't move, do house values go down? (Tuneau Indemnification Program)

1112 Q - Mary - If veterans were transferred to Anchorage, how did assessments change?

1170 End

0393^o Chris - How much state money goes into CETA?

0406 a Chris - Does the state monitor the CETA Programs?

0419 a Hali - How does CETA interface with other departments?

0444 a India - If underage and parents are out of work, can you apply for CETA or are there special programs?

0457 a Crystal - CETA working with local municipalities (how)? Difficulties with administration?

0530 3. Administrative Services

0545 4. Community Planning

0609 a Chris - How much lands involved in Municipal lands program?

1335 ~~Comm. C-RA Joe McArney~~

1354 Q What is Municipal Bond Bank?

1440 Q Why was community and rural development removed from C-RA?

Sack Chenoweth
& Bolognys

end of tape to
Tape 2 of 12

0072

Palmer Mc Carter

1 Commissioners office

0100 2 CETA

0946 Q Sean How are people selected for CETA?

0368 Q India Funding cut lately?

0385 Q India How many states have CETA?

1300 Women (cont.)

1192 Q: do 800 mil Gen. Appo. or from
the people (B. Huss)

1205 Q: DOT railroad - Alaska to cont. U.S.
(C. Johnson)

1315 Q: Current status of Susette Power
(P. Bennett)

1334- END OF LECTURE

Dick Molder - Civil Service DOT

536 - it's getting harder to do Govt. work.
Govt. is not performing well enough.
is spending money unwisely.

545 - The maximum Permits.

99 permits Aver. 23

it takes 5 yrs. before they ^{get} a
contract.

595. own all rds. in Arch. and control
them.

615. Revenue sharing - state money given to
municipalities for maintenance

700 - Words of advice asked by Eric
no gossip - be objective as possible to
what's going on

782 - Q. personal view on transportation (P. Bennett)

↓

987 - put in more freight airports

1012 - 800 mil over next 3 yrs. for trans. in
state

1025 Q: als planning & research Doing anything
in Telecommunication? (P. Block)

1741 Ed Orbeck

1751 Q Linda - What is the maximum an employer pays toward unemployment?

1764 Q Linda - Do you claim unemployment on your Income tax forms?

1791 Jim Souber - Administrative Services

1808 Rod Brown - Research + Analysis

1854 End of Tape

~~1854~~ 12/3/79
Labor + Management

Tape 9 of 10

0001 Rod Brown - Research + Analysis

0183 Judy De Buac

0201 End of presentation

Ken Showalter Intro

688 Steve Kettlekamp

702 Tax Policy

Q John. Set up overview of tax policies?

Q Berrie - Oil companies views of losses?

Q Ralph - Compare taxes to other states?

725 What is a tax

A. a transfer for public good

B. Economic theory

739 quote from Adam Smith re: taxation

740 quote from Govt. of Quebec re: criteria for taxation

785 Tax policy must consider burden, equity & taxes

A Impact; negatives (trade offs)

1 less capital for private sector

2 tax competition, horizontal & vertical

3 tax exportation or reciprocation

a constitutional mandates

4 the burden taken by consumers

5 "Gotcha" tax

860

a some discount rates

876 Equality - no answers

A Legislative determinations

1 quote from textbook on tax law

B Measure of allocation of taxation

903

1 consumption

2 wealth

3 income

921

Alaska specifics

1 yield

A what are the taxes

1 corporate income tax (not Oil & Gas)

2 Petroleum corporate income tax

3 individual income tax

5 Oil & Gas severance tax
Lama Q. % for Oil & Gas 9.4 %?

↳ Oil & Gas property tax

? Consumption Taxes (liquor, fuel & cigarettes)

Q. Benis, why raise taxes w/ Oil & Gas revenues? - figures?

1014

Policy considerations in future

net profit revenues

Q. John - Do you expect state budget revenues to raise at same rate

#

1055

How taxes work

A Property (?)

B Severance

C Property

Compare to other states

1091

Oil Company's views

A what does it ~~say~~ do to future investment

1118

Q Benis - what will happen later?

Q John: sliding scale severance tax?

1147

newspapers

Proponents of net profits system

1167

Investor's concerns

1190

Bob Swetnam

~~Article~~ Bidding Proposals in McKinnois article
in Anchorage Daily News

Q John: Discount rate?

1260

(still going through article paragraph by #)

Q Chris: Proportion of companies?

? Hali: why don't co's talk pricing?

1330

Q John - what problem if discount?

Q Paddy - what difference is there w/ Oil & Gas ...

1365 Q. Paddy - you will still make money!?

1375 Economics in bid factor
Q. Bernie - one hole covers all others

1385 Opposition for net profits
1400 Speculative bidding
1416 Conclusion of talk about article
1453 Split hearing
1472 Checkboard hearing (Withholding trusts)
1495 Speaker re: Legislation in the office

1505 GENE WILDE - oil spills

ECONOMY VS ENVIRONMENT

1536 Trans Alaska Pipeline Act } Oil spill clean ups
Fed. Contingency Plan }
Cooperatives }
Private agreement }
Conventions }
Various laws }

1568 Fed
State
Burden on Industries & Consumers
Duplication of existing laws

1668 Q Chris Should Oil cos pay for spills?
Does the industry know implications of spills?

Q John Sant the idea prevention

Q Hal's Industries' spills vs. Military spills liability?

1690 new speaker Ken Shoykhet
Incentives against Oil Spills

Ed Hilliard w/ Chevron
State & Local Solutions
D. P. L. P.

1700

Local this

Q John - What is a non-attainment area?

Marine Sanctuaries

Local Ordinances & Policies

Conflicts w/ State & Local Policies

1730

Office of Coastal Mgmt. regulations & guidelines

N.S. Borough

Deffered Development Areas

Q John - Depth of Deffered Development?

Geophysical

1815

Problems w/ development before leasing

1845

Western Alaska Energy Crisis

Proposals for leasing

Mobile emissions w/ air quality

1865

end of tape

000

cont. Ed Hillyard (tape #2

25

Valdey ordinance re. hunting

Ken Showalter - conclusion.

10-24-79

Guest Tom Williams, Commissioner of Revenue, Oil & Gas Revenues

0020 Tax System + Oil Revenues

0038 I Current Tax Structure + Sources of Revenues

A. Sovereign Power of Taxation
1. Corporate Tax
2. Property Tax
3. Severance Tax

0080 B. State ownership of land + Power to Lease

↳ wellhead value goes to state (4) Royalty
Deposited in permanent fund + general fund
↳ Native Claims Settlement fund (7.5) → \$20 million

0160 II Types of Statewide tax in Oil & Gas Industry

A. Ad valorem tax (Appraisal, Inflation, Depreciation) (Exploration Equip, Production Equip, Pipeline)

0135 B. Property tax (Covered its combined taxes) 70 mill total of

0149 Issuing of tax-exempt bonds (General obligation bonds)
Valuing of property on basis of income it will produce.
Discounting of net income stream yields cash stream value.

0170 C. John's - Pipeline revenues

A. Tom: Formula for determining discount value of pipeline production

0184 C. John: ...

A. Tom: ...

0192 C. Tom: ...

A. Tom: ...

0200 C. John: ...

A. Tom: ...

0208 C. John: ...

A. Tom: ...

0216 C. John: ...

A. Tom: ...

0224 C. John: ...

A. Tom: ...

0232 C. John: ...

A. Tom: ...

0240 C. John: ...

A. Tom: ...

0248 C. John: ...

10-24-79

0531

C. Production Tax

1. Rates determined in field 12% of value or by barrel rate ^{now fixed} whichever is higher
2. Federal price controls
3. "Old Oil" In production before 1973 when OPEC pricing was developed.

0570

Q Puffy: Nature of tax + raising oil to new market price.

0575

A Tom: Only way for them to make a profit

0580

Q Frida: Have they earned the profits?

0581

A Tom: I'm not sure! Cost exceeds price, supply ^{necessary} demand - Even with equal resources

0602

Q Frida: If one can create a unique commodity, have you earned right to charge more?

0608

A Tom: To reach equilibrium everyone will sell oil at "monopolist" OPEC prices - Buyer no longer holds monopolist position. Now seller holds this power OPEC when demand exceed supply, only alternative sources will be explored.

0660

Q Frida: Federal restrictions on price less + supply - ~~equilibrium~~

0667

A Tom: Incline used in production to increase use of imported oil. - A failure of the federal system

0680

Q Frida: We've used resources more quickly than we can - loss of existing production more its economic margin

0700

Q Bernie: Were used more gas been inefficient
A Tom: Absolutely!

Unit: for reaction met - become lost in met

Gas prices on basis of BTU rather than met they being the measure.

10 24 79

Do Income Tax

0791

Special oil & gas income tax takes out loopholes.

This is in litigation right now - as a form of discrimination

0808

Q Chris - Can you discuss this at all? How do you determine

A Tom - [Indexes for determining value] ^{value of production}

Multi-state tax compact

0848

Q John - Judge want look at different methods?

A Tom - No

In light of surplus shall we shift ~~policy~~
on production?

0877

Q Bernie - what stage is lawsuit in?

A Tom: Inve^{stigation} litigation of ^{disputes} respects, however it is mostly a legal question

0900

Q Bernie: will changes in legislation this session be retroactive?

A Tom: No

0915

Q Dan: ... as a new tax ... in 4

A Tom: ... bill ...

0936

Q Bernie - Tax rates compared other states?

A Tom - Relative to state rank some are the highest

0958

Q John - heard that Governor ... ' like

decides on ... system

A Tom - Comm. DNR

0971

Q Chris - what about legislative recommendation

0980

A Tom - Comm the cannot compel adoption, however their recommendations must be discussed.

0990

Q Eric - what issues this session

A Tom - Corporate income tax, income deductions factor issues

10-24-79

D. cont.

- 1019 Q Paddy: Is this also to corporations.
- 1019 A Tom: Individuals not corporations. It would go to men + wealthy men + people outside.
- Q Paddy: But you have to distribute the money to them as well.
- A Tom: Only residents.
- Q Paddy: What do personal income taxes yield?
- A Tom: 135 million! The oil reserves, however, will run out.
- 1042 Q Paddy: The money is worth more to the people now.
- A Tom: This is the governor's plan.
- 1019 Q Eric: If tax is eliminated people will feel less responsible for the state's government.
- Q Paddy: In a sense they have earned it.
- 4 Eric
- 1061 Q Paddy: What does this mean with respect to Alaska?
- A Tom: ~~It~~ Only in terms of the attractiveness of something like "strike zone" psychological rather than an economic impact.

1090
108

Key Issues - Leasing
I. Leasing Policy AS 35.

Assistant to
Bob Lelesche

Amended 1/28/79

Change in emphasis from taxation to leasing

§ 475 attention turned to leasing policy

Goals of state & MICHIGAN ECONOMIC REVENUE AUTHORITY

AMERICAN

USE OF ITUPA 11/1/79

Key Business - cont.

AS 35-180 f

10-24-79

1175

Statute requires - 5 year leasing term with few exceptions. Statute lists 5 methods for leasing, 2 more added in 1979.

- 1) Cash bonus bid (^{fixed} 12% royalty)
- 2) " " " " (not less than net profit share) 30%
- 3) Fixed cash bonus (royalty > 12% as bid variable)
- 4) Fixed " " (Net profit share as bid variable)

[C] Chris - Classification

- 5) Fixed cash bonus (fixed royalty > 12% + net profit bidding)
- 6) Cash bonus w/ fixed sliding royalty > 12%
- 7) Fixed cash bonus w/ sliding royalty as bid variable + net profit bidding

1190

Q Berni - Classification

Q Paul - Which were amendments?

A Kay [unclear]

1208

Added provisions - work under lease. Added 5 term of lease, & exploration incentive credits were developed.

CIL SIA LEASE, term not covered. SIA lease will not have 10 years, renewal for five years in addition may be allowed. Sec'y of Interior has requested these terms. Unit agreements may extend the lease. One subtraction ^{min} of AS 35-150.

Rental fees must be paid.

1256

Unitization as an operating session issue, 1980: no distinction now between production & exploration units.

1270

Q Paul - ...

... limit ...

A Kay ...

... date ...

... developed ...

Key cont.

10 24 79

1311

II Discussion of the Lease Form

"10 years or as long as you produce oil from the lease."

Provisions for extension, "Shut-in production"

1336

Q
A

Chris - How long is an extension?

Key - It varies - some are automatic.

1355

Definitions of "in-kind" & "royalty"

1370

Q
A

Frank - Who defines "reasonable contract"?

Key - Frank doesn't want to set w/ judge

III Alternative Learning Systems to establish including

1. Not profit sharing learning XXXX

2. Loyalty, education

1414

1442

Q

Kathryn - Where are the economists? The bid

The oil company economists? They prefer not to share the net profit share (leasing)

1452

A

Key - They want to get to it all at once

Several factors having to do with timing & the

states.

discovery rate has impact on the long term value of net profit share leasing.

1510

Seasonal limit on drilling dispute

maximum rate of production

1530

Q Kathryn - who prepared seasonal limit?

NOAA decisions & recommendations

Endangered Species Act

1553

Q Kathryn - has suit been brought w: this limit?

Q John - Can they propose their own plan?

1575

Locals Coastal zone plan

Q John - Would the bids be discounted?

Q Chris - What do you mean, sink it in to bonuses

1600

Dual Bonuses

10/14-04/51

10/24/79

70/17

1615

Q Bernie - The industry said they wouldn't go for it
 Q Chuo - Under dual leasing, if after the govt. decides that
 production is not good, who pays for the exploration?

1642

The State's Fuel Schedule

State schedule
 Federal schedule

1679

3 State acts to 1950.
 Q Bernie - Do that Open from Cook's Act?

Q Kaufman - Who decides that schedule?
 Q Ralph - What is the schedule called?
 Q Mary J. - Who gets copies of the schedule?
 Q Kaufman - Who sits on the committee?

Do you mean the representative
 Q Ralph - When will you be looking
 Q Chuo - Are you office regarding legislation

1705

1711 and

Rob Johnson - Director of Petroleum Revenue

1716

1744

Under the Dept of Revenue, based in Anchorage
Division consists of 3 sections: Audit, ^{Assessors + Appraisers} Oil & Gas Prop Tax, Economic
+ administers The four taxes (Property, production, conserva-
tion tax) + ^{Audit of} Administers Royalties.

892 million dollars worth of taxes from oil & gas, 72% of all
department's receipts

1790

OPEC's effect on State economy + state assessment of
value of oil (tariffs + transportation costs must figure in).
Federal regulations of wellhead ceiling price prevents
Alaska from getting the best going price for its oil -
as OPEC prices increase Alaska prices will too, eventually.

1844

- Tape side changed - loss of about 2 minutes
tape time regarding income taxes due to SNAFU

0000

- Tape 79-04/52 -

0055

Income taxes levied on oil & gas companies
+ the implementation of the Severance Tax Act
The concepts of prevailing value in production tax
regulation.

0128

Q Kathryn is it insured [the oil] in transit?

A. They are "self-insured"

Q Kathryn - They ask to see information about financial things
of the corporation?

0180

A. It's usually a request met with compliance, but they
may be "spooned."

Discussion of dispute resolution.

Types of

Audits 1. Desk audit 2. Field audit 3. ^{Property tax} 4.

0280

Q Linda How do the oil companies work their bookkeeping?

A. Frequently the records are in several places
by sector or subsidiary, however the taxpayer has some
responsibility to assemble the appropriate paperwork.

0310

Q Kathy "Are you required by law to give notice
of an audit."

Rob. cont.

Expiration + production equipment is assessed + inventoried every 3 years. Assessment, appraisal + research.

Administration + Audit + Review

0375

Review function - Resolution of disputes + the handling of litigation.

0392

Documents - "Statement of Licenses + Taxes Collected" quarterly - "Revenue Sources, quarterly update" " " "Petroleum Production Revenue Forecast"

Q Chris - Describe conservation tax + its purpose

A Quoted amount - purpose - is anys of a cent additional to.

0450

Q Yvonne - Could oil be subject to property tax?

A - No. That's subject to production tax.

Q Kathy - Do the forecasts come from economists -

A - Yes, + systems analysts.

0515

Q Kathy - Is there a research division here?

A YES: Wide range of research conducted by ~~econ~~ Bureau staff. Forecasting is a guideline.

Q Christal - Who is in charge of Bureau office

A Vincent Wright

0530

Q Frida - In assessing taxes of multinational corporations how does their out-of-state activity affect taxes levied by Alaska.

0541

A. Currently being litigated, done on multi-state compact basis however this apportionment method is not adequate. Oil companies now have to separately account for Alaska operation: production + pipeline transport, formula developed to account for other operations in Alaska as part of numerator, world wide operation as denominator.

0573

Prior to enactment of oil + gas income tax act there was no provision for multinational interests + separate accounting

0586 Property Tax & Problems

1. How does one assess value of rigs which may have been transported?
2. What about the "life" of a pipeline (60 or 70 years is engineering life, however use may extend for only 25 years or life of reservoir).

Income Tax

1. It has been said by oil companies that it is unconstitutional

Q Frida - Are the oil & gas co's the only ones that must account separately?

A - Under the corporate income tax law, yes.

2. Report operating income consistent with report to FERC, & deductions must also be made consistent with FERC allowances

0641

0662 Production Tax

1. length of contracts & changing values
- 2.

0680

Q Kathryn - Different sorts of bidding - what about net profits bidding?

0699

A - A matter of more money now or more money later.
 QK: Do you (your Dept) have anything to do with leasing?

0711

A - Only with regard to returns signed under a joint system. (Proposals & suggestions rendered)

0717

Q Chris - Net profits system as more costly to state as seen by oil men. What about this?

A - Accounting responsibility is currently w/ OIR & only legislative action will determine if this responsibility is turned over to Revenue. It will be more difficult to administer

0755

Q Frida - May we see copy of contract for sale on North slope?

A - No! Sensitive information.

- 0768 Q - John - Re: property tax is hard on smaller companies & "driving them out of the state."
- 0775 A - Essentially true that the tax is the same; the guy w/ the lower income is hit harder. Also - smaller companies have less equipment.
- 0785 Q - John - Do you see evidence of oil companies being driven out of state?
- 0795 A - More, that companies are prevented from coming in by lack of leases, etc. Legislature seems to think it in the best interests of the state.

0800 Greg Erickson - former Head of Legislative Research
 Background & Areas of expertise.
 Anchorage born & raised, attended college in East, worked from '63-'66 on pipeline, attended U of A & worked for research institutes. Joined Leg. staff in 1971 & in 1972 Directed Joint Pipeline Impact Committee - worked on leasing legislation for 1972, went to D.C. & was staff associate for Resources of the Future Foundation & then worked from '73-'75 for Scoop Jackson. 1975 - Directed Legis. Research. Now a policy consultant (Prudhoe Bay/State Policy, Susitna Hydroelectric Project vs. Natural Gas, Fish & Game Issues etc.)

- 0856 Q - Kathryn - Your opinion on net profits leasing.
 A: I think it's a good deal for many of the parcels but there is an advantage to the state in diversity of leasing systems. Risks are not eliminated by bonus bid system so let's balance the risks by a balance of bidding systems.

From 0800
 Prior to
 0902
 was lost
 due to

0914 Q: Chris - What about discount rate?
A: A dollar today is worth more than a dollar tomorrow - how much more is the discount rate. How much will it cost us to forego revenues

Q John: What about a diversity of leasing techniques?
A. [Clarification sought and achieved]

Q Bernie: Re Joe McKinnon's opinion that sticking with the best ~~the~~ system will produce the best returns in the long run - do you disagree?

A Yes

1000 Hedging - "putting bets on both sides" Model: Currency & rates of exchange & risk situations. "Forward" contracts for buying currency at a stable rate are a form of hedging. If one is on both sides of an exchange or a probability, it reduces risk of loss and constitutes hedging.

1056 Risk aversion (people would rather come up with a surplus than to overestimate & run short) & probability distribution.

1097 Q Ralph - What about financing of the gas line?

1109 A - If Alaska wants that gas line built it will have to participate in some way. Option for postponement (revenue straging)

Q Bernie - Can the gas be retrieved after oil is gone

Q Ralph - "

1140 A - All but about 5% - if one takes the gas out first one ~~loses~~ loses oil (possibly 200 million barrels).

1175 Q Frida - Ought the government to become involved in the business?

1178 A - I don't have any philosophical hangups about the government getting into [non monopoly] business, or becoming an investor (not a manager).

1193 Q Paddy Re. transportation costs for oil + what about

1197 A: Federally imposed ceilings + restrictions prevent shipping oil to Japan from Alaska.

1213 Q. Ralph - When these federal regulations were imposed what rationale prevented changes in strategy to keep pace with changing face of situation

A: The "little old ladies in tennis shoes" who are constituents will not comprehend or appreciate such swaps. This is one argument. Also the Midwest has an interest in accessing the product

1235 Q. John - What about gasoline financing proposals surfacing here next session?

A - Don't know much about it. (Reference to J. McMillen's proposal.) Do we have 2 1/2 billion dollars to invest in the pipeline? I doubt it. Perhaps we could assume some of the risks + some of the benefits.

1263 Q. Chrystal - Advice for staff members of A Committees B. Legis

1280 A: "Keep another job in the wings." Integrity Don't be afraid to quit - the worst that can happen is that the staff member becomes fearful + impotent.

1300 Q. Erick: Recommendations for surplus funds

A Options 1. Reduce income tax or eliminate it.
2. Low interest loans
3.

The outsiders benefit/60% only by would benefit Alaska's state Fed. taxes.

Q. Frida - Problem w/ eliminating tax now + reinstating it later?

1350 A - Much easier to take a tax off than to reimpose it, but it would not be a major problem.

Must serious issue confronting state now: To what extent will we continue to subsidize urban life styles in rural Alaska?

- The responsibility for providing equal educational opportunity.
- The cost of schooling is 30,000 per pupil per year.
- Health - to what extent is society as a whole obligated

1374 - Water supplies, electricity, TV, sanitation, etc.

Handwritten scribbles and signatures at the bottom right of the page.

- 1387 The withdrawal of services is more critical than a situation without the services. Capital investments in durables become worthless or impossibly costly. Dislocations result when surplus runs out, & a social crisis ensues.
- 1419 The solution: Determining the needs & ideal allocations of the rural/residents.
- 1430 Q Ralph (statement) Rural areas have undergone tremendous social change as a result of things like T.V.
A Not a good argument for ^{not} giving them T.V. but let them allocate funds.
- 1449 S Eric - culture broke down as a result of outside role models prior to advent of TV which at least allowed students to remain in villages.
A Social disruptions reduced by variety of options.
- 1461 S Eric - rural areas a microcosm of Alaska as a whole - when the surplus runs out the whole state will be facing a problem.
- 1469 Closing statement: This issue is not being addressed in a holistic way.
A feeling of urgency on part of legislators to accomplish goals before reapportionment & elections.
The life-cycle cost of improvements must be explored & addressed.

1445 - Stop

000-

CHIP TOWA: TIMBER IN ALASKA

HISTORICAL OVERVIEW

I. PATTERNS OF DEVELOPMENT

A. EARLY USE OF TIMBER

B. ROLE OF LOCAL & SAWMILLS

085-

C. NATIVE USE OF TIMBER

107-

~~Q:~~ Q: JAPANESE USE OF DRIFTWOOD ON WESTERN COAST

Q: WHY DO BOROUGHs REQUIRE KILN DRIED LUMBER

140

Q: WHY NO KILNS? ARE THEY EXPENSIVE?

165

II. FOREST SERVICE PULP CONTRACTS

A. KETCHIKAN / SITKA SELECTION

1. JAPANESE PARTICIPATION

Q: SIZE OF CONTRACTS? TERM OF CONTRACTS?

B. FEDERAL TIMBER REGIONS / DIVISIONS.

III

STATE SALES OF TIMBER CONCESSIONS

A. HAINES

247

B. OTHER SALES

Q: OIL CO. RESPONSIBILITY IN BEETLE PESTICIDE (TYONEX)

270

IV. NATIVE LAND CLAIMS IMPACT

A. DISTRIBUTION OF CORPUS

B. KENAIACE DISPUTE

C. SOUTHWEST ALASKA ADVANTAGES

300

V. INTERIOR ALASKA TIMBER POTENTIAL

A. RIVER VALLEY CONCENTRATION

Q: WHAT KIND OF TIMBER?

B. TANANA DISTRICT POTENTIAL / FBES MILL

Q: HOW MUCH PROCESSED IN FAI

Q: HOW DOES LUMBER COMPARE, COST-WISE, WITH ^{PRODUCT} ON-SIDE

Q: DOES IT COUNT AS KILN DRIED LUMBER?

360 VI HISTORICAL USES -

A. RUSSIANS - SHIP BUILDING

B. GOLD FIELD USE

C. RAILROAD TIES

D. HOUSING

E. CORDROY ROADS

VII QUALITY OF TIMBER

A. USES OF SPRUCE

Q: AIRCRAFT USE?

B. HEMLOCK

C. CEDAR

Q: WHAT % FOREST IS CEDAR?

445 - REED STOOPS - ONR

I - HAINES LAND USE PLAN

A. REVIEW OF LAND CLASSIFICATION SYSTEMS.

485 -

B. HISTORY OF STATE SELECTION NEAR HAINES.

C. HAINES MILL CLOSURE

- 531 D. OPPOSITION TO MAINE'S TIMBER SALE
 E. APPROVAL BY LEGIS. FOR NEGOTIATED SALE / CRITERIA
 555 F. 2nd AREA LAND USE PLAN. CONTROVERSY AROSE.
 580 G. DESCRIPTION OF FINAL LAND USE PLAN.

1. TIMBER / FOREST LAND
2. EAGLE HABITAT
3. PUBLIC RECREATION AREAS
4. FISH & WILDLIFE ZONES
5. RESOURCE ASSESSMENT AREAS.
6. WATERSHED

Q: WHAT WERE OBJECTIONS TO PLAN?

1. EAGLES HABITAT
2. IMPACT ON FISHERIES
3. FEEL STATE WOULD SELL TOO MUCH.

H. SUMMARY OF REACTION TO PLAN

650 II. MAINE'S TIMBER SALE

- A. PUBLIC INTEREST / SUSPICION RE: PROCESS
- B. DESCRIPTION OF CONTRACT
 1. 10 million pounds ft.
 2. 15 year span
 3. appraisal methods
 4. ENVIRONMENTAL CONSIDERATIONS
- C. UNIQUE PROVISIONS
 1. REFORESTATION CLAUSE

Q: WHERE DOES STATE GET SEEDLINGS?

Q: WHAT KIND ARE PLANTED? 50/50?

Q: ALWAYS RE PLANT SAME KIND?

Q: ANY PLAN FOR REFOREST PINE OR FIR?

2. ENVIRONMENTAL PROVISION - GIVES STATE MORE VOICE
IN OPERATION OF CONTRACTOR.

750

3. ARBITRATION SYSTEM -

301N SCHNABL - LUMBER CO. (HAINES)

770. I. BACKGROUND - LUMBER/EACH ALASKA

II. ENVIRONMENTALISTS IMPACT ON TIMBER IN TONGASS

A. CRIMPED STYLE OF LOGGERS

B. LACK OF LOGS FOR MILL CAUSED ~~BY~~ CLOSURE

C. SEVERE IMPACT ON COMMUNITY.

1. ECONOMIC

2. SOCIAL

D. LEGISLATURE MOVED, DIRECTED SALE BY DNR

E. LAND USE PLAN PREREQUISITE FOR SALE

F. ENVIRONMENTAL ACTION DELAYED SALE

AND IMPLEMENTATION - STILL NOT CUTTING LOGS.

826

III. Description of HAINES ECONOMY

A. 1,600,000 ACRES

B. 440K STATE LAND.

C. SALE IS 54K ACRES.

79-01/51

pg. 5 of —

D. SALE REPRESENTS ONLY SMALL AREA OF
TIMBER IN AREA.

E. HUMAN IMPACT, CURRENTLY, IN HAINES
AREA NOT ~~HUMAN~~ ENDANGERING EAGLES

IV. ~~NO~~ HUMAN CONFLICT IN PROGRESS

A. ENVIRONMENTALISTS VS. DEVELOPERS

B. NEED FOR PROGRESS IN ECONOMY

V. FACTORS IN SALE.

A. DURATION OF SALE IMPORTANT

1. STABLE ECONOMY FOR MILL DEVELOPMENT

2. FUTURE CONFIDENCE OF COMMUNITY

B. PROVISIONS

1. 50% SALES MUST BE DOMESTIC

2. MUST EMPLOY 400 PEOPLE ANNUALLY
(EXPECT 120).

3. REQUIREMENT TO BUILD POWER SYSTEM
FOR COMMUNITY AND MILL

a. Company ~~now~~ doesn't have \$ money
to complete

b. have done preliminary work.

c. asking \$ 3 million from ^{planned} Forest Fund.

991- Q: WHAT ARE YOU DOING WITH BY-PRODUCTS?

1010 Q: WHAT SUCCESS IN RESEEDING

1024 Q: WHY NO DRY XLIMS?

1053

Q: HOW MUCH WILL A KILN COST?

Q: HOW LONG TILL A KILN COMES ON?

Q: WHAT HAPPENS IF INSURANCE HOLDS TILL
LOGS RUN OUT AGAIN?

Q: WHAT WILL YOUR COMPANY DO?

1080

Q: DURING PIPELINE PERIOD DID YOU SELL A
LOT OF TIMBER? WILL GASLINE GIVE YOU
A BOOST?

Q: WHAT KINDS OF TRANSPORTATION PROBLEMS DO YOU
HAVE?

1106

Q: WHEN WILL BE IN COAL MARKET?

1127 PAUL MAKI - STATE FOREST LANDS MGT.
DIST FORESTER DNR

INTRODUCTIONS -

1147-

I. OVERVIEW / FOREST PRACTICES LEGISLATION

A. ONLY 17 STATES HAVE FOREST PRACTICES ACT.

B SILVICK (SILVEX) (SILVIC) ?? ~~DEFINED~~

- BIOLOGICAL SIDE OF PRACTICES OTHER IS
ECONOMICS.

1175

C. LEGISLATION HISTORY.

*

II. FOREST PRACTICE ACT FOR ALASKA

A. COMPOSITION OF BOARD OF FORESTRY

B. NOTIFICATION VS. PERMIT / PRIOR APPROVAL SYSTEMS

C. REQUIRED DNR / DEC INTERFACE

1. DEC RESPONSIBILITY FOR WATER QUALITY
2. DNR REGULATIONS HAVE TO BE CONSISTENT

D. "BEST PRACTICES", WHICH WILL BE DEVELOPED, ARE GUIDELINES, NOT PRESCRIPTIONS. GIVES OPERATORS MORE FLEXIBILITY.

Q: WHY IS A MINER ON FORESTRY BOARD?

Q: HOW MUCH LEGWAY DOES OPERATOR HAVE IN COMPLYING WITH THE LAW?

E FORESTRY PERSONNEL ADDED E TO ~~DEPT~~ IMPLEMENT ACT. MUST BE SPREAD THROUGHOUT STATE, NOT CONCENTRATED -

DESCRIPTION OF ORGANIZATION

F REFORESTATION PROVISIONS.

1354

G. EXCLUSION OF PERSONAL USE / PRIVATELY OWNED AREAS

H EXCLUSION OF SMALL OPERATORS

I DNR WILL COORDINATE / ASSIST IN PERMIT PROCESS.

1370

J. EMPHASIS ON EDUCATION / ASSISTANCE RATHER THAN REGULATION.

Q. ANY REGULATIONS ON FIRE PREVENTION?

1401 Q. WHAT IS OPEN BURNING?

1410 Q. IS THIS 3rd STEP OVER LOCAL GOVT & BLM PERMITS?

1416- ROSS, I SOBOLEFF SEALASKA

I. SEALASKA LAND PICTURE

A. LAND SELECTION CRITERIA

B. PRIMARY EMPHASIS ON ~~THE~~ ^{TIMBER} IN LAND PROCESS
D. "INVENTORY" UNDERWAY AT PRESENT

1. Value of Land (Tax, Investors etc).
2. PLAN TIMBER HARVEST STRATEGY
3. FINANCIAL INFORMATION,
4. Calculate Needs for "sustained yield" Development

Q: WHAT IS ADVANTAGE OF SATELLITE PHOTOS OVER AIRCRAFT PHOTOS?

II. PRESENT ACTIVITY

- A. EXTENSIVE PHOTO MAPPING & ANALYSIS
- B. DETERMINING ROLE OF CORPORATION.

1965 Q: ??
C. LIST OF VILAGE HOLDINGS



1608 D. ADMIRALTY ISLAND SELECTIONS (CONTROVERSY)

III. CHANGING ROLE OF NATIVE CORPORATIONS
DEMANDS w/ LEAD TO BANK IN BUSINESS.

IV. SECTION 7I OF NATIVE LAND CLAIMS ACT
70% OF RESOURCES INFORMED MAPS BY SENASKA
LEADS TO ALL REGIONAL CORPORATIONS

1609 Q: WHAT ARE REASONS FOR SELECTIONS?

Q: SEE 14-111, SENASKA TAKE ITS OWN INVENTORY OF HISTORIC SITES.

Q: IF SEALASKA MARKETS TIMBER, WILL IT
BE NAT'L OR INTERNATIONAL?

79-03/51

2 of 3

10/23/79

A O G A Workshop Day #2

George Day Manager of Kenai Refinery (Chevron)

00 Details Cook inlet production

20 3 kinds of Crude:
Light, heavy, S&H

35 Sulphur content - important.
Sweet - not much Sulphur
Sour - lots

Every barrel of U.S. crude
has 1 lb of Sulphur

0125 1% gas NS
2% gas Cook inlet

0136 Asphalt - Suson River Crude

0162 Boiling Pt.
methane - 260°F
Components - 250°F to 1000°F

194 - 400°F - Light gas boiled off
(25% of crude)
then increase temp. then
kerosene boils

224 - Fractionating Column is
how it's done today.
explains diagram

79-03/51

2 of 3

300 - explains photo

403 crude/floatng root tanks explanation

498 other types of tank

520 combination unit distilling

569 integrated refinery

579 pictures of kinetic facilities

696 a. production rates, aromatic.

change of marketer

790 phenol content - carb

796 add oil, phenol, acid to central Bh -
D halast water - in ships compartment - needs
treating - opt oil out -

810 NPPS permits working - EPA permit - st. added
aromatics

BREAK TIME - THEN MOVIE

832 Linda Dwyer

872 Ed Hillard (slide presentation)

Consumption of oil products

Q Kathryn Estimated ~~what~~ consumption?

925 in ak, percentage of consumption by product

955 Division of self-service stations in ak
wholesale sale of pet. products

970 bush consumption

1002 oil industry consumption

1012 storage terminals

1025 pipelines

1030 transportation via RR, tankers

Q Colin H. compare w/ ferry size

K Kathryn How big is tanker?

200,000 - 250,000 dwt ton

79-03/51

3 of 3

- 1050 operation of bulk plants
- 1066 sales to new customers need fed. authorization
- 1070 use of charge cards for oil purchases
- 1100 Q Kath ^{consumption} comparisons w/ other states
- 1118 Distribution methods throughout AK
- 1130 barges, tankers
- 1147 rail
- 1152 interior barging
- 1157 truck
- ~~1160~~
- 1165 Western AK transportation
- 1170 Q Kathryn how many trips in W. AK?
- 1178 Q Freda costs of barging near Fbx?
- 1202 price differences between AK locations
- 1210 Q Bernie what is wholesale price in Kenai?
- 1223 Storage & transportation costs account for location price differentials
- Q Kathryn what is lightering, why necessary
- 1245 gasoline price v. consumer price index
- Q John CPI includes gasoline price? (yes)
- 1261 breakdown of Juneau gasoline costs
- 1280 Mr Ralph (ordiment) AK in better shape than lower 48
- 1318 Commodity price comparisons
- 1357 1919 v 1979 Cordova prices on gasoline & fuel
- Q John H.
- 1390 Q Kathryn price controls during depression? (NO)
- 1413 Crude prices
- 1445 Q Kathryn your price are diff from ARCO?
- 1453 end

AOGA WORKSHOP, DAY #2

000- Joe McKinnon

P. Background on Beaufort Sea.

032- A. Round-Bay" Bonus
B. STATE FAIR SHARE
C. TAX METHODS
D. LEASE LANDS

II: COMMITTEES oil & Gas Leasing

077- A. OIL AND GAS TO OILSEED BEAUFORT LEASE
B. ENVIRONMENT QUESTION
C. OWNERSHIP of AREA

102- III- FED/STATS & JOINT SALE.

A. 3 mile BASE LINE THEORY
B. " " AEL THEORY
C. COURT DECISION
D. DIKRUH SANDS/ISLAND

160- IV SALE PROCEDURES
A. STATE LAND/ STATE LAND
B. FED LAND/FED REGS.
C. DISPUTED AOGA, NEW JOINT SYSTEM
E. SUNDING SCARS ROYALTY
F. COMMITTEE WORK ON STATE PROCEDURES

203- A. ECONOMIC ANALYSIS
B. COMMITTEE SUGGESTION
C. DRY HOLE PROBLEM

224- V. DNR- A. ECONOMIC ANALYSIS
B. COMMITTEE SUGGESTION
C. DRY HOLE PROBLEM

VI Billing systems Analysis

A. TROUBLE SHOOTING SYSTEM
1. Bonus Bid, Fixed Royalty
2. Oil CO's. EVASIVE -> CASH BONUS. GIVE UP.
3. ADVANTAGES - SIMPLE, NO RISK.
4. DISADVANTAGES.
A. Lessen competition
b. Cash cash in on oil price increases

280

304

B. NET PROFIT SYSTEM

1. ~~the~~ Auction system
2. low cash bonus (TOKEN)
3. high ROYALTY SHARE
4. disadvantage

360-

- a. ~~encourage~~ encourage speculation
- b. idle leases
- c. "gold plating" wasting money on leases.

428-

C. ROYALTY BIDDING

1. Bid is on ROYALTY %
2. disadvantage
 - a. company pays too much off top.
 - b. wells may shut down early
3. Sliding scale royalty.
 - a. gives old wells a break.
 - b. tied to value of production

460

VII - MIX OF SYSTEM MOST LIKELY.

Q: WHAT WILL FEOS USE?

478

Q: WILL THAT GIVE FEOS ADVANTAGE?

★ Q: WHAT IF ^{STATE LAND} ~~THE~~ HAD BEEN INVOLVED IN GULF OF ALASKA?

520-

★ Q: WHAT IF THERE HAD BEEN NO OIL? PRODUCTION.

Q: WHAT IF THERE IS NO COMMERCIAL ~~BIDDING~~ ^{PRODUCTION.}

564

★ Q: WHY WOULDN'T STATE DO SAME THING?

★ Q: IF STATE GOES NOT PART - AREN'T THEY CUTTING INTO RISKS

★ Q: YOUR SAMPLE ISN'T BIG ENOUGH - STATE SHOULDN'T BE IN RISK BUSINESS.

★ Q: OIL COMPANY BULLSHIT

658 - MCKINNON (END) -

000 — CHIP TOMA — MINING IN ALASKA

I. INTRO —

A. ALASKA OPERATIONS

1. NOME

2. FAIRBANKS (USIBELLI)

Q: DROGE MOVEMENTS IN INTERIOR?

3. SMALL SEASONAL OPERATIONS

B. COAL POLICY TASK FORCE

II. HISTORY OF MINING

A. WINDHAM BAY GOLD DISCOVERY

1. JOHN MUIR

2. JUNEAU/HARRIS

B. AJ MINE & TREADWELL

C. INTERIOR GOLD RUSH (1898)

1. IMPACT ON ECOLOGY

2. " " POPULATION DISTRIBUTION

D. * PERSONAL FEELINGS ON 'UNDISCOVERED'

MINERAL RESOURCES'

III. ORGANIZATION OF MINING

A. LAISE FAIRE

1. 1872 MINING LAW

B. OIL NO 1

C. GRAVEL # 2

D. BELUKA-CAPPIS GLACIER COAL FIELD.

077 -

1:41 -

200 IV - Beluga/CAPPs - IN depth description of development plans.

291 Q: what's a BTU?

Q: ANY ~~AMOUNT~~ AMOUNT OF OIL TO JAPANESE?

350 V. DNR MEMO ON MINERAL EXPLORATION

A. COAL - TAX STRUCTURE

B. ADMIN INITIATIVE VS. LEGIS INITIATIVE

VI. DAVE ROGERS REPORT

A. NW ALASKA OIL / COPPER

B. CONICAL BROOKS Rny. - SILVER, ZINC, LEAD, OIL

C. EASTERN BROOKS -

D. SEWARD PENN. - GOLD (Dredge), OIL, TIN,

E. UPPER RIV. - COPPER, OIL, ZINC, GOLD

F. SWIST - ~~20~~ NO OPERATIONS

G. SE - MOLYBDENUM(?)

VII. DETAIL ON BORAX & IMPACT OF D-Z ON MINING.

A. GOU'S REQUIREMENTS

B. LOBBYING EFFORT

C. TAILINGS PROBLEM

1. Channel dumping

2. ROAD (15 THOUSAND MILES)

3. FOREST SERVICE LOBBY. 4.

D. CONGRESSIONAL REACTION.

Q: ANY ALTERNATE PLAN FOR TAILINGS?

Q: WHAT DO TAILINGS DO IN WATER?

Q

Q: DO YOU HEAR ABOUT COMET MINE?

561 Q: ACTIVITY IN INTERIOR

VIII, INTRO OF TED SMITH'S TALK.

Q: FISH RESOURCE VALUE, WHY JUMP IN 73/74?

J.P. TAIKENT - AK. MINERS ASSOC.

626 Map - mine & min. deposits locations -

636 Let's have Q & A -

641 - hypothetical economics - a lot's of realties of mining
has some samples -658 - hardrock mining - definition - 2 kinds - diff from energy
mining also not placer mining - gold, silver, tin, copper, etc
found in separate materials - eg stream beds - gold comes in
diff sizes -691 - hardrock find data for AK - map - trends - Let's follow
conts - coastal, etc - no operating mines - virtually
none in state - those that did were abandoned due to
D-2, gold demand, etc. -map also shows econ min deposits - SR. Chumley, Glover
Bay, etc -

732 - all world class deposits - top 2 or 3 in world.

736 - economic situation - look at table in book - Table 6 -
rows 2 & 3 - copper, lead, zinc & silver - lots of books -

- 760 gross profit margins for, at times ^{class} - 39 1/2 mil profit on annual operation
- 270 mil investment return 39 1/2 mil profit -
- rate of return when inflation is at now - 20, no margin in case 2
- no case 3 margin in Ok 11.6 rate of ret. not profitable
- 763 Case 5 - this is a piece of rock w/ gold in it - ~~the~~ 31% rate of return - makes it attractive - gold price ~~is~~ changing thing -
- 802 Case 4 - no profit at all in underground copper ops. Coal - low, high, other ops - not adequate fuel ret.
- 811 no development work - only exploration by co's tied to large oil co's. - generally - 1500 to 1 odds it won't become a mine -
- 831 high - rock 54 - Ok seen - it had fairly good - but stability is a ? - exploration & leaving Ok -
- 846 1990 - would Mar. be not applying cause of unstable oil demand - increase in OPEC oil output around -
- Q from Chap -
- 876 potential. Prob. invested but no profit back there yet - plus reasons, only one that's profitable now - small ops in creek - few people - no ~~not~~ measure of cause things provide people - security of motivation -
- 901 Montebello, Better, Interior better operation, quality - spending oil represents premium

Q - rate of return?

915 - lots of factors - some required - like taxes - ENDS requirements - technology etc - some operations in progress eg. Inglehart river open - salmon spawning stream - fish just keep spawning - has ops not bothering fish - costs can significantly cut into profits -

913 profits up this yr cover gold price up -

967 Q - ~~hand rods covering~~ how what price? to make profit -

973 - Target - in 67 more of EPA acts - over ANCSA - Occidental minerals working w/ President in Douglas - target to put that together now - 11/5/02 still profitable

996 private land owners have advantage - State also landowner - also Feds -

1016 records - St owned lands - St thinks its a landlord - w/ St. makes bad deal, it just changes the deal -

1021 - John D. - Q -

1029 - Target - no, not just open access, mine - cases 203 -

about etc - taxes on corp & st mining tax - plus workers income tax - Total 32% is just in tax - not the greatest return -

add in royalty cost - no longer economical - w/ cut off at 14.6 mil plus tax burden - they'd shut out to operate - steps between discovery & production

1158 - T - world market museum -

TED SMITH - Dir. Lands -

- 1208 - explanation of role of land + water management, Timber responsibilities of fire + water + land disposal
evolution of land disposal programs
Municipal Selection Act / Land Disposal
- 1228 - Statehood to present land disposal sales + leases
Mental Health lands }
Agricultural lands - preference rights } First state legislature
- 1258 - Open to entry lands - 1968
residency requirements - suspended in 1973
- 1272 - 1977 - new programs added - 'amendment to lease'
lease adjusted rates of increase / 2% a year
Court case w. university on leases + sale of school lands
- 1288 - Homesite program - live on and build habitable structure
for 21 of 36 month (5/36 if 20 yr. residence)
- 1305 - 78 programs / problems of 'side-by-side' parcels
amended to 3 yr. residency req. / 5 yr. to construct
- 1325 - Lottery program, 1 yr. resident, land discount, 5%
have to be registered voter
agricultural lands / not to subdivide for industrial
Farm conservation Plan / Farm development
- 1349 - Open to entry repealed in 1979
must build habitable structure
40 acre maximum

1) INDEX - INTERVIEW

Audio/Video

2) Develops Production Policy DRAFT

there, Budget

3) "How to ACCESS URS. PROCESS" Plan
proposal by JAN. 14

4) Future Features

5)



PM

Dick MADDOX et. Future Features

POW WHITECAP

CYNTHIA PERLINS & Audio

SIOMK - VIDEO T/C Budget? INTERFACE

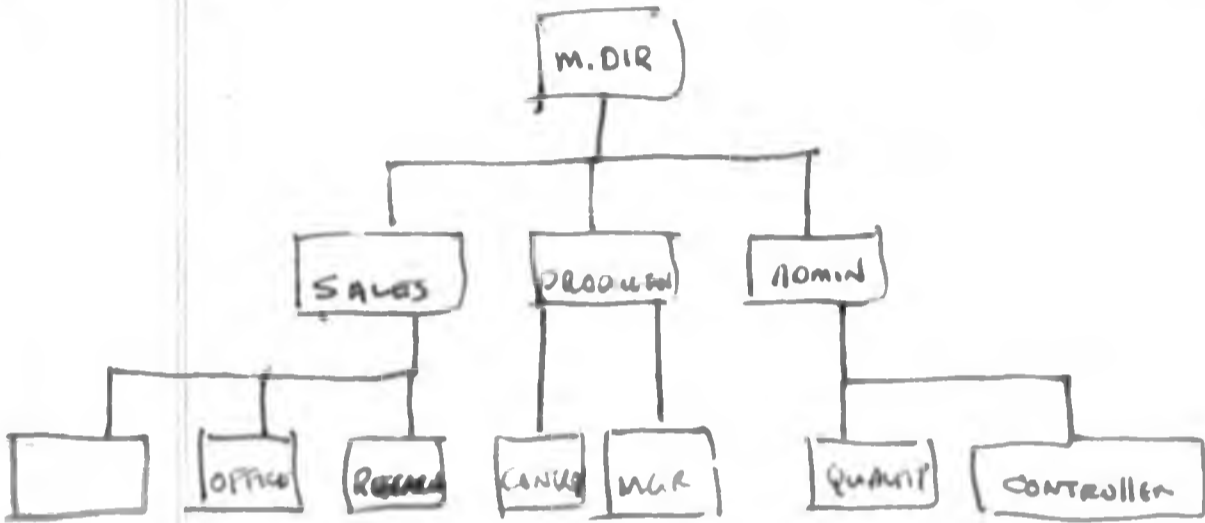
2-3

MATRIX ORGANIZATION

1. Objectives ⇐

2.

3. level



SEAL

DATA A Hammock
Title and Signature Area

YEAR

1188 - T - world market measure -

TED SMITH - Dir. Lands -

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evolution of land disposal programs

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agricultural lands / not to subdivide for industrial

Farm conservation Plan / Farm development

1349 - Open to entry repealed in 1979

must build habitable structure

40 acre maximum

B60 - Requirements of '79 land laws
2-5 acres residential / 35-48ac. for non-residential
cultivation, airstrips

1384 - no credits for ~~the~~ improvement of agricultural lands
discounts for veterans, \$37,000 maximum
assignable clauses

1402 - hot springs rights
180° subsurface reversion

1420 - Land policy act, Chap 4, title 38
evaluation program for uses, incl. residential
3-year program to do the survey + sale
legislative mandates for disposal, 50,000 ac.
last year, 100,000 this year

1440 Q After the fact eval evaluation?

A. Difficult to assess impacts
Necessity for field presence

1454 - Q agricultural land classifications

Questions



Alaska State Legislature

House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business MEMORANDUM

TO: Rep. Jack Fuller
FROM: Cheryl Frasca *CF*
DATE: February 5, 1981

ADMINISTRATIVE REGULATION REVIEW COMMITTEE (According to
the Statutes)

The Administrative Regulation Review Committee is established by statute as opposed to most other committees which are established in the Uniform Rules. Other committees similarly established are Legislative Budget and Audit and Legislative Council. Regulation Review is a permanent interim committee established "to provide prompt legislative review of administrative regulations and to determine if annulment is appropriate".

From its six members, the committee elects a chair. It has the power to:

- 1) organize and adopt rules for conducting business;
- 2) hold public hearings;
- 3) require state officials, agencies to cooperate;
- 4) examine regulations to determine if they comply with legislative intent; and

5) . recommend legislative annulment of administrative regulation.

In addition, the committee has the power during the interim to suspend, by a two-thirds vote, the effectiveness of any regulation adopted or amended after adjournment of the regular session. Suspension is effective until 30 days after the legislature reconvenes. Before the committee can take such action, a hearing must be held within 15 days notice.

This power does not apply to emergency regulations.

Chapter 7 of Title 44 provides that the legislature can annul a regulation by concurrent resolution. This is the provision which was struck down by the Supreme Court in State of Alaska vs. A.L.I.V.E. Voluntary. As a result, regulations can only be annuled through a bill.



Alaska State Legislature

House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

MEMORANDUM

TC: Rep. Jack Fuller
FROM: Cheryl Frasca *CF*
DATE: February 5, 1981

HOW REGULATIONS ARE ADOPTED (According to the Statutes)

The Administrative Procedures Act (Chapter 62) establishes the procedures for adopting regulations. The process is basically as follows with a few exceptions spelled out in the statutes.

An agency submits its proposed regulations to the Lt. Governor. At that time, he sends a copy to the Regulation Review Committee. The regulations will become effective within 30 days after filing with the Lt. Governor unless another time is specified. Thirty days public notice of intended action must be given. The agency shall provide for a public hearing on the proposed regulations.

If the adoption, amendment or repeal of the proposed regulations will result in an increased appropriation, the department shall prepare a fiscal note for that fiscal year as well as for at least the next two fiscal years. This information shall also be sent to the committee. (It's interesting to note that if the regulations will result in a decreased appropriation, the department does not have to establish that fact).

If an individual, as opposed to an agency, wants to adopt, amend or repeal a regulation, he or she has the right to petition the agency (except in specified instances). Upon receipt of a petition, the agency shall, within 30 days, either deny the petition or schedule a hearing.

Emergency regulations are adopted when the agency submits in writing that the action "is necessary for the immediate preservation of the public peace, health, safety or general welfare". Emergency regulations cannot remain in effect more than 120 days unless the agency meets the same minimum procedural requirements as other regulations either before submission to the Lt. Governor or during the 120 days.

Section 44.62.030 requires that no regulation is valid unless it is consistent with the statute.

ADMINISTRATIVE REGULATION REVIEW COMMITTEE

COMMITTEE MEMBERS
REP. DICK RANDOLPH, CHAIRMAN
SEN. ROBERT H. ZIGLER, SR., VICE-CHAIRMAN
REP. MITCHELL ABOOD, JR.
REP. H. PAPPY MOSS
SEN. GEORGE H. HOHMAN, JR.
SEN. MIKE COLLETTA



ALASKA STATE LEGISLATURE
POLICH V. STATE CAPITOL
JUNEAU, AK 99811
(907) 485-3073

State Representative Randy Phillips
Box 142
Eagle River, Alaska 99577

Dear Randy:

Enclosed is a copy of a packet of information which the house leadership asked me to prepare for new members of the committee. I replaced Gail Thibedeau as secretary/aide for the committee in September of 1982.

Since the committee was only minimally funded during the interim, and since this was an election year, there has been minimum activity by the committee since adjournment of the legislature. The function of my present position has been to review mail and regulations proposed during the interim and report appropriate matters to the chairman of the committee. Funding was only allowed the committee during the interim to allow at least some presence of the committee function.

The only expenses of the committee during the interim has been for the range 15A salary and minimum telephone expenses.

Incidentally, your inquiry regarding the division of motor vehicles prompted a request to the division which has not been answered to this point in time.

Please let me know if you wish any further information.

Yours truly,

A handwritten signature in cursive script that reads "Robert Reed Shelley".

ROBERT REED SHELLEY
Secretary/Aide

on (6) gives audit division
 state agency records. —
 AS 23.30.110 (6) and 43.20.110
 confidentiality of records in the
 Department of Labor and Revenue.
 (6) of this section enables the
 of Audit to have access to the
 of every state agency whether
 or not 1979 Op. Atty Gen.
 confidential tax and wage records
 collected by Alaska Const., art I.
 A legislative auditor may not
 confidential records on file for
 come tax returns and wage
 statements submitted by employees and
 to the Department of Labor and
 with the administration of the
 Employment Security Act to
 if persons receiving assistance
 Department of Health and Social
 under their Adult Public
 and Aid to families with
 dependent children were eligible. Such data
 in the ambit of protection afforded
 afforded the right of privacy under
 Const., art. I § 22, 1972 Op. Atty

of the legislature may, in
 request that the budget and
 by state agency or department
 funds received by any political
 funds. Should a majority of
 the legislative audit division

The legislative auditor, the
 analyst and members of the
 divisions may not serve in
 except as authorized in § 24.20.301
 administrative agency of
 financial interest in transactions
 (§ 2 ch 95 SLA 1974)

legislative audit division shall keep
 other reports or releases issued
 audit work papers and other
 shall also keep a complete and
 involving the division.
 shall keep a complete file of all
 cases issued by the division and
 fiscal transactions involving the

~~Sec. 24.20.311. Reports. The committee shall file copies of its approved audit reports including any committee recommendations with the governor, the agency concerned and the legislature. An annual report summarizing the audit reports and committee recommendations made during the year shall be filed with the governor and with the legislature within the first five days of each regular session of the legislature. Reports shall be approved by a majority of the committee before their release and shall be open to public inspection after their release to the legislature. (S.C. ch 95 SLA 1971)~~

Article 3. Administrative Regulation Review Committee.

ALASKA
 Statute

Section	Section
01 Administrative Regulation Review Committee established	440. Meetings
02 Membership	445. Power of suspension
03 Term of membership	450. Staff
04 Vacancies	460. Powers

Sec. 24.20.400. Administrative Regulation Review Committee established. The Administrative Regulation Review Committee is established as a permanent interim committee of the legislature. The establishment of the committee recognizes the need for prompt legislative review of administrative regulations filed by the lieutenant governor to determine whether annulment under AS 44.62.920 is appropriate. (S.C. ch 27 SLA 1975)

Editor's note. — Section 6, ch. 84, SLA 1976 provides: "The Administrative Regulation Review Committee established by AS 24.20.400 — 24.20.460 shall review administrative regulations adopted by executive departments of the state government which affect the resources and use of the resources of the state's coastal area. The committee shall, not later than January 20, 1979, make formal recommendations with respect to annulment of regulations adopted which, in the opinion of the committee, fail to implement, interpret

or carry out the policies, objectives and standards of the Alaska coastal management program. The recommendations of the committee shall be transmitted to the first regular session of the Eleventh Alaska Legislature." As to the Alaska coastal management program, see AS 46.40.010 et seq. As to the Alaska Coastal Policy Council, see AS 44.19.891 et seq. As to planning assistance for development and maintenance of district coastal management programs, see AS 44.47.095.

Sec. 24.20.410. Membership. The Administrative Regulation Review Committee is composed of three members of the house appointed by the speaker of the house, and three members of the senate appointed by the president of the senate. The membership from each house shall include at least one member from each of the two major political parties. The committee elects a chairman from among its members. (S.C. ch 27 SLA 1975)

Sec. 24.20.420. Term of membership. The committee shall be organized within 15 days after the organization of each legislature.

Title 25
 Marital and Domestic
 Relations

Members serve for the duration of the legislature during which they are appointed. If they are reelected or their term of office extends into the next succeeding legislature, they continue to serve until reappointed or the appointment of their successor. (§ 1 ch 27 SLA 1975)

Sec. 24.20.430. Vacancies. When a vacancy occurs in the membership of the committee, the presiding officer of the house incurring the vacancy shall choose a successor. If the office of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy from the affected house occurs among the membership of the committee, the remaining committee members from the house incurring the vacancy shall appoint a new member. (§ 1 ch 27 SLA 1975)

Sec. 24.20.440. Meetings. The Administrative Regulation Review Committee may meet during sessions of the legislature and during the interim between sessions at such times and places in the state as the chairman may determine. Members may receive, for the minimum time required to get to and from meetings and for the period while attending meetings, the same travel and per diem allowances provided by law for members of the legislature when attending sessions, except that members of the committee receive no per diem during legislative sessions other than the per diem allowance paid to other members of the legislature. (§ 1 ch 27 SLA 1975)

Sec. 24.20.445. Power of suspension. (a) When the legislature is not in session, the Administrative Regulation Review Committee may by an affirmative vote of not less than two-thirds of the members of the committee suspend the effectiveness of the adoption of or amendment to a regulation adopted after adjournment of the previous regular session of the legislature, until 30 days after the legislature reconvenes.

Replaced by Sec 24.20.445

(b) The effectiveness of an adoption or amendment of a regulation is suspended on the date a committee report passing in favor of suspension is filed with the lieutenant governor. If an adoption of or amendment to a regulation is not effective on the date a report is filed with the lieutenant governor, the effectiveness of the adoption or amendment which is the subject of the committee's report is suspended from the date the adoption or amendment would otherwise become effective under AS 44.62.180.

(c) No action under (a) of this section may be undertaken unless all interested parties are afforded an opportunity to be heard at a hearing held upon 15 days' notice to those parties.

(d) The provisions of this section do not apply to emergency regulations. (§§ 1, 2 ch 3 SLA 1978)

Revisor's note (1978). — The language ch. 3, SLA 1978 and codified as part of AS 24.20.445(d) was drawn from sec. 2, 24.20.445.

Sec. 24.20.450. Staff. The Legislative Committee with professional and clerical assistance shall be under the auspices of the Legislative Council. (§ 1 ch 27 SLA 1975)

Sec. 24.20.460. Powers. The Administrative Regulation Review Committee has the following powers:

- (1) to organize and adopt rules for the committee;
- (2) to hold public hearings;
- (3) to require all state officials and agencies to give full cooperation to the committee in furnishing requested information;
- (4) to examine all administrative regulations to determine whether they properly implement legislative intent;
- (5) to make recommendations for the promulgation of administrative regulations under AS 44.62.180;
- (6) to prepare and distribute reports, recommendations and information. (§ 1 ch 27 SLA 1975)

Article 4. Legislative Board of Retirement

Section	Section
24.20.500. Legislative Board of Retirement	530
24.20.510. Benefits established	540
24.20.520. Membership	560
24.20.530. Selection of membership	570

Sec. 24.20.500. Legislative Board of Retirement. The Legislative Board of Retirement is a permanent advisory board of the legislature. The board is established in recognition of the need to study and analyze the retirement systems of the state and to recommend changes to the legislature. (§ 1 ch 400 SLA 1977)

Sec. 24.20.510. Membership. The Board of Retirement Benefits is composed of:

- (1) the commissioner of administration;
- (2) the director of the division of retirement systems;
- (3) an employee of the state employed under the state retirement system (AS 39.85);
- (4) an employee of the state or of the federal government employed under the teachers' retirement system;
- (5) a public member not employed by the state with a background in economics or public finance;
- (6) a retired member from the public retirement system;
- (7) a retired member from the teachers' retirement system. (§ 1 ch 401 SLA 1977; am § 1 ch 741 SLA 1978)

Sec. 24.20.450. Staff. The Legislative Affairs Agency shall provide the committee with professional and clerical assistance under the auspices of the Legislative Council. (§ 1 ch 27 SLA 1975)

Sec. 24.20.460. Powers. The Administrative Regulation Review Committee has the following powers:

- 1) to organize and adopt rules for the conduct of its business;
- 2) to hold public hearings;
- 3) to require all state officials and agencies of state government to give full cooperation to the committee or its staff in assembling and furnishing requested information;
- 4) to examine all administrative regulations to determine if they properly implement legislative intent;
- 5) to make recommendations for legislative annulment of administrative regulations under AS 44.62.320;
- 6) to prepare and distribute reports, memoranda, or other materials.

(§ 1 ch 27 SLA 1975)

(7) and (8) added as per ch 1 SLA 82 Sec 3.

Article 4. Legislative Board of Retirement Benefits.

	Section
1) Legislative Board of Retirement Benefits established	530. Compensation
2) Membership	540. Duties of the board
3) Functions of membership	560. Staff for the board
	570. Definitions

Sec. 24.20.500. Legislative Board of Retirement Benefits established. The Legislative Board of Retirement Benefits is established as a permanent advisory board of the legislature. The legislature establishes the board in recognition of its need for detailed expert fiscal analysis of the retirement systems of the state and recommendations to change them. (§ 1 ch 130 SLA 1977)

Sec. 24.20.510. Membership. The membership of the Legislative Board of Retirement Benefits is composed of seven members:

- (1) the commissioner of administration or his designee;
- (2) the director of the division of retirement;
- (3) an employee of the state employed under the public employees' retirement system (AS 39.95);
- (4) an employee of the state or of a school district who is employed under the teachers' retirement system (AS 14.25);
- (5) a public member not employed by the state who possesses a background in economics or public finance;
- (6) a retired member from the public employees' retirement system;

(7) a retired member from the teachers' retirement system. (§ 1 ch 121 SLA 1977; am § 1 ch 121 SLA 1978)

Supplement

Title 25
Marital and Domestic
Relations

1982 amendments to
By Bureau committee Chapter 1
statutes

AN ACT

Relating to administrative regulations; and providing
for an effective date.

• Section 1. STATEMENT OF INTENT CONCERNING AS 24.20.443(b). It is the intent of the Twelfth Alaska Legislature that the power to suspend the effectiveness of a regulation granted to the Administrative Regulation Review Committee by AS 24.20.443(b) as amended in sec. 2 of this Act is to prevent the public suffering harm before the full legislature has the opportunity to annul the regulation by law.

• Sec. 2. AS 24.20.443(b) is amended to read:

(b) The effectiveness of an adoption or amendment of a regulation is suspended on the date a resolution of the Administrative Regulation Review Committee resolving that the regulation be suspended (COMMITTEE REPORT PASSING IN FAVOR OF SUSPENSION) is filed with the lieutenant governor. If an adoption or amendment to a regulation is not effective on the date a resolution (REPORT) is filed with the lieutenant governor, the effectiveness of the adoption or amendment which is the subject of the committee's resolution (REPORT) is suspended from the date the adoption or amendment would otherwise become effective under AS 44.62.100.

• Sec. 3. AS 24.20.440 is amended by adding new paragraphs to read:

(7) to promote needed revision or repeal of regulations that have been adopted by state departments and agencies and, when the committee determines a regulation should be repealed or amended,

Chapter 1

to introduce a bill that would enact a statute that would supersede or nullify the regulation;

(8) to investigate findings that are transmitted to the committee by a standing committee in accordance with AS 24.99.001 and, as appropriate, to either introduce a bill annulling the regulation or exercise the committee's power to suspend the effectiveness of the regulation in accordance with AS 24.20.445.

• Sec. 4. A. 24 is amended by adding a new chapter to read:

CHAPTER 99. MISCELLANEOUS PROVISIONS.

Sec. 24.99.001. REVIEW OF REGULATIONS BY STANDING COMMITTEES.

(a) A standing committee of the legislature furnished notice of a proposed action under AS 44.62.190 shall review the proposed regulation, amendment of a regulation, or repeal of a regulation before the date the regulation is scheduled by the department or agency to be adopted, amended, or repealed.

(b) A standing committee conducting a review of a regulation under (a) of this section shall determine whether the regulation properly implements legislative intent.

(c) A standing committee shall conduct preliminary reviews under this section while the legislature is in session and during the intervals between legislative sessions.

(d) If a standing committee determines that a regulation, amendment to a regulation, or repeal of a regulation does not properly implement legislative intent, the standing committee's findings shall be transmitted to the Administrative Regulation Review Committee.

• Sec. 5. AS 44.62.19' (a) is amended by adding new paragraphs to read:

(7) furnished to the standing committee of each house of the legislature having legislative jurisdiction over the subject matter treated by the regulation under the Uniform Rules of the Alaska State

Chapter 1

Legislature, together with a copy of the proposed regulation, amendment, or order of repeal for the committee's use in conducting the review authorized by AS 24.99.001;

(8) furnished to the staff of the Administrative Regulation Review Committee.

• Sec. 6. This Act takes effect July 1, 1981.

The "unconstitutionality" of this statute

implies reduced authority of AARC.

Sec. 44.62.320. Legislative annulment of regulations and review. (a) The legislature, by a concurrent resolution adopted by a vote of both houses, may annul a regulation of an agency or department.

(b) At the same time a regulation is filed by the lieutenant governor the lieutenant governor shall submit the regulation to the chairman and all members of the Administrative Regulation Review Commission for review under AS 24.20.400 — 24.20.460 together with the financial information required to be prepared under AS 44.62.195. (c) 1 art. 12 (c): 1 ch 143 SLA 1959; am § 3 ch 149 SLA 1962; am § 2 ch 72 SLA 1963; am § 2 ch 27 SLA 1975; am § 5 ch 64 SLA 1978; am § 3 ch 14 SLA 1980)

Effect of amendments. — The 1978 amendment substituted "At the same time" for "Within 45 days after" at the beginning of subsection (b). The 1980 amendment inserted "and all members" following "chairman" near the middle of subsection (b), and added "together with the financial information required to be prepared under AS 44.62.195" at the end of subsection (b). Constitutionality of legislative veto. — The legislative veto contained in subsection (a), which provides that the legislature, by a concurrent resolution adopted by a vote of both houses, may

annul a regulation of an agency or department," violates art. II of the Alaska constitution. State v. A.L.I.V.E. Voluntary, Sup. Ct. Op. No. 2022 (File No. 3670), 608 P.2d 769 (1980). But see Alaska Const., art. II, § 22, which was proposed in the 11th legislature's Legislative Journal No. 5 and will be voted on at the next general election in November, 1980. No implied general power to regulate by informal legislation exists. State v. A.L.I.V.E. Voluntary, Sup. Ct. Op. No. 2022 (File No. 3670), 608 P.2d 769 (1980).

Article 8. Administrative Adjudication.

Section	Section
330. Application of AS 44.62.330 — 44.62.330	490. Amendment of accusatory submission
340. Delegation of power by agencies	500. Decision in a contested case
350. Appointment of hearing officers	510. Term and effect of decision
360. Accusation	520. Effective date of decision
370. Statement of issues	530. Default
380. Service of accusation	540. Reconsideration
390. Notice of defense	550. Petition for reinstatement or reduction of penalty
400. Amended or supplemental accusation	560. Judicial review
410. Time and place of hearing	570. Scope of review
420. Form of notice of hearing	580. Continuances
430. Subpoena	590. Contempt
440. Depositions	600. Mail vote
450. Hearings	610. Charge
460. Evidence rules	620. Power to administer oaths
470. Evidence by affidavit	630. Impartiality
480. Official notice	

Sec. 44.62.330/ Application of AS 44.62.330 — 44.62.630. The procedure of the state boards, commissions, and officers listed in this subsection or of their successors by reorganization under the constitution shall be conducted under AS 44.62.330 — 44.62.630.

procedure, including, but not limited to, accusations and service, notice and time and place of hearing, depositions, matters concerning evidence and decision, judicial review and scope of judicial review, reconsideration, reinstatement or reduction of penalty, oaths, impartiality, and similar matters shall be governed, notwithstanding similar provisions in the statutes of the state boards, commissions, and officers listed, the procedure that shall be conducted under AS 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 Surveyors
 - (1) Repealed by § 13 ch 218 SLA 1976.
 - (2) Board of Examiners in Optometry
 - (3) Repealed by § 5 ch 159 SLA 1980.
 - (4) State Medical Board
 - (5) Division of Lands under Alaska Land Act where
 - (6) Board of Nursing
 - (7) Board of Pharmacy
 - (8) Board of Public Accountancy
 - (9) Department of Labor as to functions relating to security only as provided in (c) of this section
 - (10) Real Estate Commission
 - (11) Alaska Workers' Compensation Board, where not otherwise expressly provided by the Alaska Compensation Act
 - (12) Department of Transportation and Public Facilities as to functions relating to aeronautics and communications
 - (1) Repealed by § 12 ch 131 SLA 1980.
 - (2) Repealed by § 48 ch 94 SLA 1980.
 - (3) Repealed by § 54 ch 169 SLA 1978.
 - (13) Department of Revenue, under Cigarette Tax Act
 - (14) Repealed by § 54 ch 169 SLA 1978.
 - (15) Repealed by § 11 ch 181 SLA 1976.
 - (16) Department of Public Safety, as to suspension of security guard's license under AS 18.35.400 — 18.35.405
 - (17) Department of Health and Social Services, under AS 18.35.050 relating to boarding and foster homes for children
 - (18) Deleted by § 60 ch 98 SLA 1966
 - (19) Repealed by § 4 ch 120 SLA 1971.
 - (20) Department of Health and Social Services under the Hair Dressing and Cosmetic Act (AS 17.20), and in connection with licensing of embalmers under AS 08.44.010

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

Legal Services opinion of effect
of ALIVE decision on
the committee
function.

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3850

MEMORANDUM

February 28, 1980

SUBJECT: State of Alaska v. A.L.I.V.E. Voluntary
TO: Representative Nels A. Anderson, Jr.
House Majority Leader
FROM: Billy C. Berrier
Director
Division of Legal Services

You have asked my comments on the decision of the Supreme Court in the case of State of Alaska v. A.L.I.V.E. Voluntary, (File No. 3670). A copy of the decision is attached.

The case concerns a regulation relating to games of skill and chance annulled by the legislature. The authority for annulment was AS 44.62.320(a) which provides:

The legislature, by a concurrent resolution adopted by a vote of both houses, may annul a regulation of an agency or department.

The Administrative Procedure Act was adopted by the First State Legislature in 1959. This Act provided, among other things, for the procedure by which regulations of agencies or departments are promulgated and the section was enacted as part of that procedure.

The Court held, with a majority opinion of three justices and a strong dissent by two justices, that regulations could not constitutionally be annulled by concurrent resolution since a resolution is not enacted in accordance with the requirements in Article II of the Constitution for adoption of law. The result, of course, is a non sequitur since the majority opinion avoided addressing the difference between regulation and law and finding that despite the difference, the enactment procedure is applied. They, therefore, assumed the middle term of the syllogism and rambled widely to provide a substitute for the missing logic. Various cases were cited, only one of which was relevant and that one is no longer good law in its own jurisdiction.

For this reason, it is very difficult to determine the effect of the decision.

The holding is explicit that regulations may not be annulled by concurrent resolution. Although it is not explicitly stated, there is a clear implication that annulment by bill is constitutional.

Beyond that, the Court made several statements which do not appear necessary to the holding in this case. Much of this dicta is in sweeping terms. It casts doubt over substantial areas and, since the reasoning is essentially stream of consciousness rather than coherent, gives only minimal clues concerning the legal status of these areas.

Essentially the areas affected fall into two classes

- (1) regulations and legislative oversight of regulations; and
- (2) other areas of law where concurrent resolutions are used to provide legislative oversight.

On regulations the majority opinion states broadly:

"The express provision in the Alaska Constitution of two specific legislative veto mechanisms supports our view that no implied general power to veto agency regulations by informal legislative action exists.

* * *

"In our view, the specificity with which the constitution deals with the legislative veto powers it does grant leads logically to the conclusion that no other veto power is implied."

The case law on regulations which the majority opinion cited is not helpful. One of the cases is on point but is no longer good law in its own jurisdiction, the second is a trial court decision and the last is a federal case where the question of a one-house veto was present but not reached. The discussion of this last case illustrates the difficulty in following the reasoning in the majority opinion. The Court referring to the United States Circuit Court decision in Atkins v. United States, 556 F2d 1028 (1977) said:

The court implied that for one House to have the authority to make such a change would be unconstitutional: "Nor could one House do anything more than preserve existing law. . ." Id. at 1064. In contrast, the annulment provisions of AS 44.62.320(a) permit the legislature to void administrative regulations which are in effect. Such regulations are laws in every meaningful sense, and annulling any one of them effects a change in the law.

The connection and logic totally escape me.

In its discussion of delegation of power to annul regulations, an issue injected into the opinion since no delegation is involved in the case before the Court, the opinion is even less helpful. The majority opinion observes:

"While the power to void agency regulations could be exercised by either the legislature, or by an agency, when the legislature exercises such power it must do so while acting as a legislature. It may not grant itself the power to act as an agency.

"It might be supposed that if the legislature could condition the validity of a regulation upon the subsequent disapproval by both of its houses by concurrent resolution, it could condition the same upon disapproval by a committee, or a single legislator. Using the theory, propounded by the Amici, that a veto is merely a condition there is no principled distinction between these cases. It is therefore worth observing that most authorities have rejected the validity of laws conferring either affirmative or negatory legislative powers on individual legislators or legislative committees."

Perhaps the second point made by the majority opinion in discussing the desirability of legislative oversight of administrative regulations gives the best clue. The opinion stated:

- Second, at least according to a recent case study, the legis'ative veto has been unimpressive in practice. See Bruff & Cellhorn, Congressional Control of Administrative Regulation: A Study of Legislative Vetoes, 90 Harv. L. Rev., 1369 (1977). That study concludes, essentially, that the legislative veto encourages secretive, poorly

informed, and politically unaccountable legislative action. Id. at 1409-20. It is consequences such as these that the enactment provisions of our constitution are designed to guard against.

It should be pointed out that the facts concerning the annulment which was the subject matter of the case do not support a conclusion that the annulment resulted from "secretive, poorly informed and politically unaccountable legislative action" but that, of course, is not material.

It is my conclusion that any annulment of regulation other than by law would be unconstitutional under this case. Although the question is not discussed since it is not relevant to the case, it is very clear that regulations which have the effect of law require statutory authorization and the legislature can withdraw the authorization or establish standards in whatever degree of specificity the legislature desired. Since in case of conflict between statute and regulation the statute controls, it is also clearly permissible to make the substantive statutes detailed thereby leaving less or no areas which must be dealt with by regulations. This latter course, however, involves a loss of flexibility and administrative expertise.

It appears that any form of legislative oversight of administrative regulations would be regarded with suspicion by the court. However, devices such as providing that no regulation can become effective until it has been before the legislature in session for a set time or even a provision that no regulation may become effective unless approved by law are not clearly precluded.

In Plumley v. Hale, 594 P.2d 497 (Alaska 1979), our Court discussed the question of non-retroactive treatment in civil cases. The Court in that case stated:

In accord with United States Supreme Court precedent, we have previously identified four conditions indicating the propriety of non-retroactive treatment in civil cases: 1) the holding is one of first impression, or overrules prior law, and was not foreshadowed in earlier decisions; 2) there has been justifiable reliance on an alternative interpretation of the law; 3) undue hardship would result from retroactive application; and 4) the

purpose and intended effect of the holding is best accomplished by prospective application.

The case concerned approval of free conference committee reports without a recorded roll call vote. The Court held the criteria to be satisfied and the decision to be prospective only. In my opinion the facts here, while not as compelling as the facts in Plumley, would lead to a conclusion that annulment of regulations which occurred prior to this case are not affected by the case.

The second major problem area is legislative oversight exercised by concurrent resolution in other areas than regulation oversight. The majority opinion made a very broad statement saying:

The question presented by this case is whether the legislature can exercise its legislative power without following these enactment provisions. In our view the answer must be in the negative, for otherwise they would serve no purpose.

(The dissenting opinion quite correctly pointed out this is not the question at all. Justice Boochever said

In my opinion, the majority misstates the question presented as being whether the legislature can exercise its legislative power without the usual constitutional safeguards. The real question is whether, having exercised its legislative power, subject to all those safeguards, it may condition the delegation of regulatory power to an executive agency upon a provision for legislative oversight. I agree with our statement in Boehl that the legislature has that power.

This view will be significant in subsequent cases which concern the use of concurrent resolutions in context other than annulment of regulations placing as it does the issue before the Court in focus.)

The majority opinion went on to say:

Of course, when the legislature wishes to act in an advisory capacity it may act by resolution. However, when it means to take action having a binding effect on

those outside the legislature it may do so only by following the enactment procedures.

While the dissent noted that numerous other statutes provide some specific legislative review function by concurrent resolution, the majority opinion does not specifically address this. The sweeping generality of the majority opinion clouds, and on its face forbids, these other functions.

These include:

1. AS 18.45.025 -- Approval of facilities siting permit for nuclear facilities.
2. AS 18.65.060 -- Disapproval of regulations relating to compilation of criminal justice information and release of this information.
3. AS 23.05.021 -- Approval of compacts with other states relating to motor vehicle registration and driving licenses.
4. AS 28.15.141 -- Approval of regulations relating to classification of drivers licenses.
5. AS 28.15.081 -- Approval of regulations relating to drivers license examination.
6. AS 35.10.080 -- Approval of physical facility procurement and planning policy.
7. AS 37.05.280 -- Approval of leases by the state with a rental in excess of \$12,000. (While this has general application, it was adopted a part of and specifically relates to construction of public buildings by ASHA for lease to the state and is necessary for the validity of the revenue bonds issued by ASHA.)
8. AS 37.12.080 -- Approval of investments in a single project or to a single applicant by Alaska Renewable Resources Corporation if the investment exceeds \$1,500,000 or five percent of the resources of the corporation.
9. AS 38.05.037 -- Disapproval of zoning by the division of lands in the unorganized borough.

10. AS 38.05.182 -- Disapproval of a determination by the Commissioner of the Department of Natural Resources that the taking of royalty on natural resources in money rather than in kind is in the best interests of the state.
11. AS 38.05.065 -- Approval of disposition of oil and gas and contracts for sale of state owned royalty gas or oil.
12. AS 39.23.080 -- Approval of salary commission recommendations. (This is now repealed but until the pay bill this year went into effect, it was the basis on which higher government officials, including the governor, legislators and judges, were paid.)
13. AS 44.55.110 -- Approval of Alaska Power Authority plans. This approval is a specific condition on bonding.
14. AS 44.57.210 -- Approval of projects of the Alaska Toll Bridge Authority. This approval is required before bonds may be issued.
15. AS 46.03.758 -- Disapproval of regulations establishing civil penalties for discharge of oil.
16. AS 46.40.080 -- Approval of Alaska coastal management programs.

While all of these are clouded by the language in the majority opinion, that language is clearly dicta except on the point of annulment of regulations. In my opinion, an attempt to determine whether in later cases the court would follow the broad sweep in the instant case, narrow that sweep depending on the issue before it, or even confine the case to its facts would be pure speculation. Courts have frequently done all three. The majority opinion with its conclusionary approach unsupported by a coherent rationale is of little assistance in determining the scope of the opinion.

Earlier in the opinion, I discussed retro-activity as it applied to regulations annulled by concurrent resolution before the opinion. There is an even stronger case for holding that retroactive application cannot be given to a decision in the areas where annulment of regulations is not in question.

February 28, 1980

I am, however, very disturbed by the possibility that a future decision in this area could be retroactive to the date of this decision based on a finding by the Court that this decision "clearly foreshadowed" a subsequent decision that resolutions could not be used as prescribed in these statutes. I do not think this would be the decision since certainly at the time of enactment of the laws referred to there was no foreshadowing and bringing all legislative action to a halt in areas of major concern to the state while the legislature re-wrote the law in these areas is certainly not reasonable.

Since the alternative would be to halt, among other things, power development, coastal zone management, and oil and gas sales based on a possibility that the Court will look on legislative oversight in these areas as unfavorably as it does on legislative oversight of regulations, I recommend continuing to operate within the statutory framework now established until the Court, by a subsequent decision, clarifies its position.

I would also recommend that the legislature consider the question of what options are open to it to meet the serious problems created by the case.

BGB:jdn



STATE OF ALASKA
OFFICE OF THE GOVERNOR

JUNEAU
July 17, 1981

Governor veto
message of
1981 legislation
His second veto
was overridden
in 1982

The Honorable Joe L. Hayes
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

Under art. II, sec. 15, of the Alaska Constitution, I have vetoed HCS CSSS SB 5 (Rls) am H, relating to administrative regulations. As a policy matter, I have no quarrel with the bill's assignment to the legislature's standing committees the initial responsibility for reviewing administrative regulations. However, the entire bill is founded upon an unconstitutional existing statute -- AS 24.20.445, which provides for the "suspension" of an administrative regulation by the legislature's Administration Regulation Review Committee. While this bill does nothing to increase or decrease the unconstitutionality of that statute, the bill's reliance on that statute is unwise.

Moreover, there is substantial question whether this assignment of duties to the standing committees during the legislative interim is valid. Article II, sec. 11, of the Alaska Constitution, provides for the Legislative Council as an "interim committee" and authorizes the legislature to create additional interim committees. Rule 21(c), Uniform Rules of the Alaska State Legislature, adopted June 1, 1981, says that a "standing committee may meet between sessions." But various authorities and the wording of art. II, sec. 11, suggest that enactment of a statute is required in order to create an interim committee, which, in fact, has been the practice of the Alaska Legislature. See AS 24.20.010, 24.20.151, and 24.20.400.

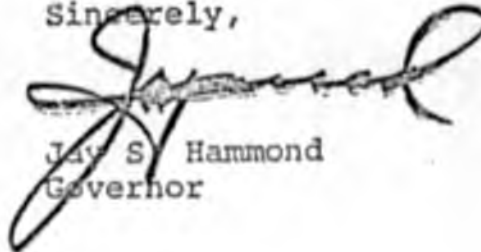
Finally, the new paragraphs being added to AS 44.62.190(a) appear to require wasteful duplication. The existing AS 44.62.190(a)(6) requires that a copy of the notice of proposed regulations adoption be furnished to every incumbent Alaska legislator and to the Legislative Affairs Agency. To require additional copies to be furnished to the standing committees (to the chair? to the staff? to the Legislative Affairs Agency?) and to the Administrative Regulation Review Committee staff appears unnecessary.

The Honorable Joe L. Hayes -2-

July 17, 1981

I share your interest in administrative regulations. My staff and I, along with the Department of Law, stand ready to assist you in developing legislation which addresses any particular problems in the process for adopting and reviewing administrative regulations. To do so, we must identify and analyze the specific problem and carefully consider alternative solutions, making certain to stay within the bounds of the constitution and the realm of feasibility.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jay S. Hammond". The signature is written in dark ink and is positioned above the printed name and title.

Jay S. Hammond
Governor

Back for you Reg Rev. file

§ 24.30.060

ALASKA STATUTES

§ 24.30.060

names
for
committee
to
submit
bills

Sec. 24.30.060. Introduction of bills. (a) A member of the legislature or a committee chairman, with the concurrence of a majority of the active members of the committee and on behalf of the committee, may introduce a bill or resolution. Bills and resolutions shall be prepared and introduced in the manner and form prescribed in the uniform rules and the legislative style manual.

(b) Bills introduced by the Legislative Council shall be delivered with a letter of explanation to the rules committee of either house and bear the inscription "Rules Committee by Request of the Legislative Council"; bills introduced by the Administrative Regulation Review Committee shall be delivered with a letter of explanation to the rules committee of either house and bear the inscription "Rules Committee by Request of the Administrative Regulation Review Committee"; bills introduced by the Legislative Budget and Audit Committee shall be delivered with a letter of explanation to the rules committee of either house and bear the inscription "Rules Committee by Request of the Legislative Budget and Audit Committee." Bills presented by the governor shall be delivered with a letter to the rules committee of either house and bear the inscription "Rules Committee by Request of the Governor"; bills so presented and inscribed shall be received as bills carrying the approval of the governor as to policy and budget impact. The governor may submit a statement of purpose and effect with each bill and appear personally or through a representative before any committee considering legislation. (§ 34 ch 157 SLA 1959; am § 10 ch 47 SLA 1961; am § 1 ch 2 SLA 1971; am § 38 ch 32 SLA 1971; am § 27 ch 1 SLA 1972; am § 1 ch 2 SLA 1977)

Effect of amendment. — The 1977 amendment inserted the language beginning "bills introduced by the Administrative Regulation Review Committee" and ending "the inscription 'Rules Committee by Request of the Administrative Regulation Review Committee'" near the middle of the first sentence of subsection (b).

Legislative committee reports. — For report on ch. 32, SLA 1971 (HB 111 am), see 1971 House Journal, p. 138. For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

Quoted in Homer Elec. Ass'n v. City of Kenai, Sup. Ct. Op. No. 390 (File No. 673) 423 P.2d 285 (1967).

Sec. 24.30.070. Numbering of bills. The chief clerk of the house in which the bill is introduced shall number it in the order of its introduction and thereafter the bill shall be designated by the number given to it. (§ 35 ch 157 SLA 1959; am § 11 ch 47 SLA 1961)

Sec. 24.30.080. Readings. No bill may become law unless it has passed three readings in each house on three separate days, except that a bill may be advanced from second to third reading on the same day by concurrence of three-fourths of the house considering it. (§ 36 ch 157 SLA 1959)

Part 4. Administrative Procedure.

Chapter

62. Administrative Procedure Act (§§ 44.62.010 -- 44.62.650)

Chapter 62. Administrative Procedure Act.

Article

1. Application and Effect (§§ 44.62.010 -- 44.62.030)
2. Submission, Filing and Publication of Regulations (§§ 44.62.040 -- 44.62.125)
3. The Alaska Administrative Register and Code (§§ 44.62.130 -- 44.62.170)
4. Procedure for Adopting Regulations (§§ 44.62.180 -- 44.62.290)
5. Judicial Review (§ 44.62.300)
6. Agency Meetings Public (§§ 44.62.310 -- 44.62.312)
7. Legislative Review of Rules (§ 44.62.320)
8. Administrative Adjudication (§§ 44.62.330 -- 44.62.630)
9. General Provisions (§§ 44.62.640 -- 44.62.650)

Revisor's note. — In this chapter the 1970 Alaska constitutional "secretary of state" has been changed to amendment (SJR 2) changing the "lieutenant governor" in conformity with the designation of that office.

Establishment of quotas by the Board of Game on the taking of game must be in accordance with this chapter. *State v. Tanana Valley Sportsmen's Ass'n*, Sup Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

As must be regulations promulgated under AS 16.05.257. — See *State v. Tanana Valley Sportsmen's Ass'n*, Sup Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

While AS 16.05.257, which authorizes the Board of Game to adopt regulations providing for subsistence hunting, does not specifically refer to this chapter, it appears clear that it merely sets forth an additional purpose for which regulations may be promulgated. *State v. Tanana Valley Sportsmen's Ass'n*, Sup Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

Issuance of permits for killing of caribou based on verbal instructions

to agents held improper. — The issuance of permits for the killing of caribou in certain specified areas of the state based on verbal instructions to the permit agents as to the need of individual applicants does not conflict with requirements of this chapter. *State v. Tanana Valley Sportsmen's Ass'n*, Sup Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

Nothing in this chapter authorizes the Board of Game to impose requirements not contained in written regulations by means of oral instructions to agents. Such verbal additions to regulations involving requirements of substance are unauthorized and unenforceable. *State v. Tanana Valley Sportsmen's Ass'n*, Sup Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

Cited in *Hammond v. Hichel*, Sup Ct. Order (File Nos. 4281, 4282, 4283, 4284, 4285, 4291), 588 P.2d 256 (1978).

Article 1. Application and Effect.

Section

- 10 Application to State Organization Act of 1959
- 20 Authority to adopt, administer or enforce regulations

Section

- 30 Consistency between regulation and statute

Sec. 44.62.010. Application to State Organization Act of 1959. Rule-making power conferred by ch 64 SLA 1959 is subject to this chapter. (§ 2(4) art I (ch 1) ch 143 SLA 1959)

Revisor's note. — It is not possible to eliminate the reference to ch 64 SLA 1959 in the above section. The rule-making powers referred to are scattered throughout this revision. However, most of ch 64 SLA 1959 is found in part 2 of this title.

Legislative history report. — F legislative history report on original bill, see House Journal (1959), pp. 394-397.

This chapter applies to the Alaska State Housing Authority. Alaska State Housing Auth. v. Dixon, Sup. Ct. Op. No. 793 (File No. 1529), 496 P.2d 649 (1972).

And its provisions must be adhered to. — There being no express exclusion of Alaska State Housing Authority from the Administrative Procedure Act, ASHA is

bound to adhere to the provisions of this chapter. ASHA's separate corporate nature does not detract from this conclusion. The legislature may have had a special reason for choosing the corporate vehicle; e.g., to insulate the state from potential liabilities. Alaska State Housing Auth. v. Dixon, Sup. Ct. Op. No. 793 (File No. 1529), 496 P.2d 649 (1972).

Cited in Pan American Petroleum Corp. v. Shell Oil Co., Sup. Ct. Op. No. 553 (File No. 916), 455 P.2d 12 (1969); Coghill v. Boucher, Sup. Ct. Op. No. 900 (File No. 1798), 511 P.2d 1297 (1973); In re Application of Sullivan, Sup. Ct. Op. No. 1274 (File No. 2783), 551 P.2d 531 (1976).

Am. Jur. 2d reference. — 1 and 2 Am. Jur. 2d, Administrative Law, § 1 et seq.

Sec. 44.62.020. Authority to adopt, administer, or enforce regulations. Except for the authority conferred upon the lieutenant governor in AS 44.62.130 — 44.62.170, AS 44.62.010 — 44.62.320 do not confer authority upon or augment the authority of a state agency to adopt, administer, or enforce a regulation. To be effective, each regulation adopted must be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law. (§ 4 art I (ch 1) ch 143 SLA 1959)

Meaning of "in accordance with standards prescribed by other provisions of law." — The words of this section, "in accordance with standards prescribed by other provisions of law," mean nothing more than if standards are prescribed by provisions of law other than those contained in this chapter, then they must be recognized and adhered to. This language does not mean that regulations cannot be validly adopted by an administrative agency "unless" standards have been prescribed. *Boehl v. Sabre Jet Room, Inc.*, Sup. Ct. Op. No. 17 (File No. 17), 349 P.2d 585 (1960).

Statute prevails over conflicting regulation. — The statute delegating its law-making power to government agencies to make law through regulations defines the agency's authority to promulgate regulations and thus if there is a conflict between the statute and a regulation, the statute prevails. *Chevron U.S.A., Inc. v. Hammond* (A77-195 Civil), F. Supp. (D. A. 1976).

Attorney general could not save provisions of former AS 30.25 from unconstitutionality under Alas. Const. art. IX, § 7, by directing promulgation of regulations inconsistent with statute. — See *Chevron U.S.A., Inc. v. Hammond* (A77-195 Civil), F. Supp. (D. Alas. 1976).

Judicial review of administrative regulation. — Where an administrative regulation has been adopted in accordance with the procedures set forth in the Administrative Procedure Act, and it appears that the legislature has intended to commit to the agency discretion as to the particular matter that forms the subject of the regulation, the supreme court will review the regulation in the following manner. First, it will ascertain whether the regulation is consistent with and reasonably necessary to carry out the purposes of the statutory provisions conferring rule-making authority on the agency. This aspect of review inures that the agency has not exceeded the power

delegated by the legislature. Second, the supreme court will determine whether the regulation is reasonable and not arbitrary. This latter inquiry is proper in the review of any legislative enactment. *Kelly v. Zamarello*, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 466 P.2d 906 (1971).

Standard of review. — This section

and AS 44.62.030 provide guidance as to the standard of review for regulations adopted pursuant to an administrative agency's quasi-legislative rule-making function. *Kelly v. Zamarello*, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 466 P.2d 906 (1971).

Sec. 44.62.030. Consistency between regulation and statute. If, by express or implied terms of a statute, a state agency has authority to adopt regulations to implement, interpret, make specific or otherwise carry out the provisions of the statute, no regulation adopted is valid or effective unless consistent with the statute and reasonably necessary to carry out the purpose of the statute. (§ 5 art I (ch 1) ch 143 SLA 1959)

Statute prevails over conflicting regulation. — The statute delegating its law-making power to government agencies to make law through regulations defines the agency's authority to promulgate regulations and thus, if there is a conflict between the statute and a regulation, the statute prevails. *Chevron U.S.A., Inc. v. Hammond* (A77-195 Civil), F. Supp. (D. Alas. 1978).

Attorney general could not save provisions of former AS 30.25 from unconstitutionality under Alas. Const., art. IX, § 7, by directing promulgation of regulations inconsistent with statute. — See *Chevron U.S.A., Inc. v. Hammond* (A77-195 Civil), F. Supp. (D. Alas. 1978).

Regulation accorded presumption of validity. — An administrative regulation must be accorded a presumption of validity, and the challenger of the regulation must demonstrate its invalidity. *Union Oil Co. v. State*, Sup. Ct. Op. No. 1563 (File No. 2650), 574 P.2d 1266 (1976).

Judicial review of administrative regulation. — Where an administrative regulation has been adopted in accordance with the procedures set forth in the

Administrative Procedure Act, and it appears that the legislature has intended to commit to the agency discretion as to the particular matter that forms the subject of the regulation, the supreme court will review the regulation in the following manner: First, it will ascertain whether the regulation is consistent with and reasonably necessary to carry out the purposes of the statutory provisions conferring rule-making authority on the agency. This aspect of review insures that the agency has not exceeded the power delegated by the legislature. Second, the court will determine whether the regulation is reasonable and not arbitrary. This latter inquiry is proper in the review of any legislative enactment. *Kelly v. Zamarello*, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 466 P.2d 906 (1971).

Standard of review. — This section and AS 44.62.020 provide guidance as to the standard of review for regulations adopted pursuant to an administrative agency's quasi-legislative rule-making function. *Kelly v. Zamarello*, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 466 P.2d 906 (1971).

Article 2. Submission, Filing and Publication of Regulations.

Section

- 40. Submitting regulations
- 50. Style and forms
- 60. Preparation and filing
- 70. Fees
- 80. Endorsement and file
- 90. [Repealed]

Section

- 100. Presumptions from filing
- 110. Presumptions from publication
- 120. Voluntary submitting and publication
- 125. Regulations attorney

Sec. 44.62.040. Submitting regulations. (a) Every state agency which by statute possesses regulation-making authority shall submit to the lieutenant governor for filing a certified original and one duplicate copy of every regulation or order of repeal adopted by it, except one which

- (1) establishes or fixes rates, prices or tariffs;
- (2) relates to the use of public works, including streets and highways, under the jurisdiction of a state agency if the effect of the order is indicated to the public by means of signs or signals; or
- (3) is directed to a specifically named person or to a group of persons and does not apply generally throughout the state.

(b) Citation of the general statutory authority under which a regulation is adopted, as well as citation of specific statutory sections being implemented, interpreted or made clear, shall follow the text of each regulation submitted under (a) of this section. (§ 1 art II (ch 1) ch 143 SLA 1959; am § 1 ch 40 SLA 1969)

Legislative history report. — For ref. 1 on ch. 40, SLA 1969 (HB 21 am S), see 1969 House Journal, p. 415.

Regulations adopted by the Commissioner of Natural Resources are subject to the rule-making provisions of the Administrative Procedure Act and must be adopted according to the procedures set forth therein. Among the required procedures for adoption of regulations are notice of the proposed adoption, a public hearing in which any interested person may submit statements to the agency, filing of the regulation, if adopted, with the secretary of state, and publication. *Kelly v. Zamarelli*, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Regulations promulgated under AS 15.15.330, dealing with the early counting of election votes, are not exempt from the requirements of the Administrative Proce-

dure Act (AS 44.62) by operation of this section and AS 44.62.640. *Coghill v. Boucher*, Sup. Ct. Op. No. 90 (File No. 1798), 511 P.2d 1297 (1973).

The lieutenant governor's supervision of personnel and activities relating to the conduct of a statewide election is not the same as the management of employees and internal affairs of a state agency. Executive organization of the election machinery goes well beyond the lieutenant governor's control of his own staff and their actions. *Coghill v. Boucher*, Sup. Ct. Op. No. 90 (File No. 1798), 511 P.2d 1297 (1973).

Failure to specify in regulation incorporating building code where copies of code could be obtained did not invalidate regulation. *Northern Light Motel, Inc. v. Sweener*, Sup. Ct. Op. No. 1366 (File No. 2476), 361 P.2d 1176 (1971).

Sec. 44.62.050. Style and forms. The Department of Law shall prepare and shall revise when necessary a drafting manual for administrative regulations which prescribes the style and forms for submitting regulations under AS 44.62.040. (§ 2 art II (ch 1) ch 143 SLA 1959; am § 3 ch 70 SLA 1966; am § 1 ch 57 SLA 1969; am § 1 ch 64 SLA 1978)

Effect of amendment. — The 1978 "Law" for "Legislative Affairs Agency" amendment substituted "Department of Law" near the beginning of the section.

Sec. 44.62.060. Preparation and filing. (a) Every state agency which by statute possesses regulation-making authority shall work

with the Department of Law, under AS 44.62.107, in the preparation and revision of its regulations and shall adhere to the drafting manual for administrative regulations prepared by the Department of Law under AS 44.62.050.

(b) In the performance of duties under AS 44.62.125, the Department of Law shall advise the agencies on legal matters relevant to the promulgation of regulations and may advise the agencies on the need for and the policy involved in particular regulations. In addition, the department shall prepare a written statement of approval or disapproval after each regulation has been reviewed in order to determine

(1) its legality, constitutionality and consistency with other regulations;

(2) the existence of statutory authority and the correctness of the required citation of statutory authority following each section;

(3) its clarity, simplicity of expression, and absence of possibility of misapplication;

(4) compliance with the drafting manual for administrative regulations.

(c) The lieutenant governor may not accept for filing a regulation, amendment or order of repeal required by AS 44.62.040 unless it is accompanied by the written statement specified in (b) of this section and the statement approves the regulation, amendment or order of repeal. (§ 3 art II (ch 1) ch 143 SLA 1939; am § 1 ch 149 SLA 1962; am § 4 ch 70 SLA 1966; am § 1 ch 58 SLA 1969; am § 2 ch 64 SLA 1978)

Effect of amendment. — The 1976 amendment substituted "Department of Law" for "Legislative Affairs Agency" near the end of subsection (a).

Agency cannot adopt future amendments to code, etc., by reference. — According to the Legislative Affairs Agency (now Department of Law) drafting manual, an administrative agency may not adopt by reference a code or set of standards from another state, the federal government or a private organization and provide that future amendments as they become effective are being adopted also. *Northern Lights Motel, Inc. v. Swesney*, Sup. Ct. Op. No. 1366 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

One reason for the prohibition against delegation of the future law-making power of the state to private groups is that when amendments are adopted by these groups the public does not necessarily receive

notice of, or have an opportunity to comment on or criticize, the amendments, as it does when they are adopted by the legislature or promulgated under this chapter. *Northern Lights Motel, Inc. v. Swesney*, Sup. Ct. Op. No. 1366 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

Clause of regulation incorporating future amendments held severable. — Clause of an administrative regulation incorporating 1955 Uniform Building Code which also incorporated all future amendments of the code was separable from the rest of the administrative regulation leaving the 1955 Uniform Building Code provisions applicable in a negligence action based on the death of a guest in a motel fire. *Northern Lights Motel, Inc. v. Swesney*, Sup. Ct. Op. No. 1366 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

Sec. 44.62.070. Fees. No state officer or public official may charge a fee to perform an official act in connection with the certification,

submission or filing of regulations under AS 44.62.040 — 44.62.120. (§ 4 art II (ch 1) ch 143 SLA 1959; am § 2 ch 40 SLA 1969)

Sec. 44.62.080. Endorsement and file. The lieutenant governor shall (1) endorse on the certified copy of each regulation or order of repeal filed by him, the time and date of filing, and (2) maintain a permanent file of the certified copies of regulations and orders of repeal for public inspection. (§ 5 art II (ch 1) ch 143 SLA 1959; am § 3 ch 40 SLA 1969)

This chapter does not require that a clause be inserted in each regulation stating where a text incorporated by reference can be found. *Northern Lights Motel, Inc. v. Sweaney*, Sup. Ct. Op. No. 1386 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

This appears to be unnecessary, since by law a copy of the text must be available at the lieutenant governor's office. *Northern Lights Motel, Inc. v.*

Sweaney, Sup. Ct. Op. No. 1386 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

And failure to so specify does not invalidate regulation. — Failure to specify in regulation incorporating building code where copies of code could be obtained did not invalidate regulation. *Northern Lights Motel, Inc. v. Sweaney*, Sup. Ct. Op. No. 1386 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

Sec. 44.62.090. Filing with local government unit clerks.
Repealed by § 2 ch 57 SLA 1969.

Editor's note. — The repealed section derived from § 6, art. II (ch. 1), ch. 143, SLA 1959.

Sec. 44.62.100. Presumptions from filing. (a) The filing of a certified copy of a regulation or an order of repeal by the lieutenant governor raises the rebuttable presumptions that

- (1) it was duly adopted;
- (2) it was duly filed and made available for public inspection at the day and hour endorsed on it;
- (3) all requirements of this chapter and the regulations relative to the regulation have been complied with;
- (4) the text of the certified copy of a regulation or order of repeal is the text of the regulation or order of repeal as adopted.

(b) The courts shall take judicial notice of the contents of the certified copy of each regulation and of each order of repeal duly filed. (§ 7 art II (ch 1) ch 143 SLA 1959; am § 4 ch 40 SLA 1969)

This section establishes a rebuttable presumption that the procedural requirements for the promulgation of administrative regulations have been satisfied. *Kingery v. Chapple*, Sup. Ct. Op.

No. 658 (File No. 1554), 504 P.2d 631 (1972)

Stated in *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 634 (1976)

Sec. 44.62.110. Presumptions from publication. (a) The publication of a regulation in the Alaska Administrative Code or register raises a rebuttable presumption that the text of the regulation as so published is the text of the regulation adopted.

(b) The courts shall take judicial notice of the contents of each regulation or notice of the repeal of a regulation printed in the Alaska Administrative Code or Alaska Administrative Register. (§ 8 art II (ch 1) ch 143 SLA 1959)

Sec. 44.62.120. Voluntary submitting and publication. With the approval of the lieutenant governor, a state agency may submit to the lieutenant governor for filing a regulation or order of repeal of a regulation not required by AS 44.62.040 to be submitted. If he accepts the regulation or order of repeal, the lieutenant governor shall endorse and file it as required in AS 44.2080, and may publish the regulation or order of repeal in the manner he considers proper. (§ 9 art II (ch 1) ch 143 SLA 1959; am § 5 ch 40 SLA 1969)

Sec. 44.62.125. Regulations attorney. (a) In the Department of Law a particular attorney, called the regulations attorney, shall be assigned, as his primary responsibility, the functions relating to the handling of administrative regulations.

(b) The department shall

(1) advise all state administrative agencies of the nature and use of administrative regulations;

(2) alert the agencies to statutes that need to be implemented, interpreted or made clear by regulation;

(3) continually review the regulations, make recommendations to the respective agencies concerning deficiencies, conflicts and obsolete provisions in and the need for reorganization or revision of the regulations, and prepare regulations to be promulgated by the agencies, correcting or removing the deficiencies, conflicts and obsolete provisions;

(4) work with all administrative agencies possessing regulation-making power in drafting all new regulations, advising the agencies of legal problems encountered and ensuring compliance with the drafting manual for administrative regulations prepared by the Department of Law under AS 44.62.050;

(5) assist the agencies in holding public hearings under AS 44.62.210;

(6) to the extent necessary after regulations have been filed by the lieutenant governor, edit and revise them for consolidation into the Alaska Administrative Code in the manner provided for the revisor of statutes in AS 01.05.031;

(7) draft bills for consideration by the governor to transfer matter which should be statutory law from the Alaska Administrative Code to the Alaska Statutes and to clarify agency regulatory power when clarification is needed. (§ 2 ch 58 SLA 1969; am § 3 ch 64 SLA 1978)

Effect of amendment — The 1978 amendment substituted "Department of Law" for "Legislative Affairs Agency" in paragraph (4) of subsection (b).

Article 3. The Alaska Administrative Register and Code

Section	Section
130. Codification and publication	160. Date and content of register
140. Distribution of code and register	170. [Repealed]
150. [Repealed]	

Sec. 44.62.130. Codification and publication. (a) The lieutenant governor shall provide for the continuing compilation, codification and publication, with periodic supplements, of all regulations filed by his office, or of appropriate references to any regulations the printing of which he finds to be impractical, such as detailed schedules or forms otherwise available to the public, or which are of limited or particular application. The publication of compiled regulations is the Alaska Administrative Code. The periodic supplements to it are the Alaska Administrative Register. The code and register shall contain appropriate annotations to judicial decisions and opinions of the Alaska attorney general.

(b) The legislative council shall prescribe a uniform system of indexing, numbering, arrangement of text and citation of authority and history notes for the Alaska Administrative Code. (§ 1 art III (ch 1) ch 143 SLA 1959; am § 1 ch 70 SLA 1966; am § 6 ch 40 SLA 1969)

Regulations adopted by the Commissioner of Natural Resources are subject to the rule-making provisions of the Administrative Procedure Act (AS 44.62) and must be adopted according to the procedures set forth therein. Among the required procedures for adoption of regulations are notice of the proposed adoption, a public hearing in which any interested person may submit statements to the agency, filing of the regulation, if adopted, with the secretary of state, and publication. *Kelly v. Zannallo*, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 466 P.2d 906 (1971). Failure to specify in regulation incorporating building code where copies of code could be obtained did not invalidate regulation. *Northern Lights Motel, Inc. v. Sweaney*, Sup. Ct. Op. No. 1366 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

Sec. 44.62.140. Distribution of code and register. The lieutenant governor shall supply a complete set of the Alaska Administrative Code, and of the Alaska Administrative Register, and of each supplement to the code or register to the clerk of each local government unit, or if the authority to accept filings on his behalf is delegated, to the person to whom this authority is delegated. (§ 2 art III (ch 1) ch 143 SLA 1959)

Sec. 44.62.150. Price.
Repealed by § 49 ch 127 SLA 1974.

Editor's note. — The repealed section derived from § 3, art III (ch 1), ch. 143, SLA 1959.

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Sec. 44.62.160. Date and content of register. (a) The Alaska Administrative Register shall be published quarterly on the first day of the month, beginning in a month to be designated by the Department of Law, but not later than October 1969. All regulations required to be submitted under AS 44.62.040 which are filed by the first day of the month preceding publication shall be published in the register for that quarter.

(b) If during a quarter no regulation, amendment or order of repeal has been filed the regular quarterly register shall be published reflecting that fact. (§ 4 art III (ch 1) c., 143 SLA 1959; am § 3 ch 58 SLA 1969)

Sec. 44.62.170. Form of publication.
 Repealed by § 2 ch 57 SLA 1969.

Article 4. Procedure for Adopting Regulations.

Section	Section
180. Effective date	250. Emergency regulations
190. Notice of proposed action	260. Limitation on effective period of emergency regulations
195. Fiscal notes on regulations	270. State policy
200. Contents of notice	280. Purpose of AS 44.62.180 — 44.62.290
210. Public proceedings	290. Limits of the application of AS 44.62.180 — 44.62.290
220. Right to petition	
230. Procedure on petition	
240. Limitation on retroactive action	

Sec. 44.62.180. Effective date. A regulation or an order of repeal filed by the lieutenant governor becomes effective on the 30th day after the date of filing unless

(1) otherwise specifically provided by the statute under which the regulation or order of repeal is adopted, in which event it becomes effective on the day prescribed by the statute;

(2) it is a regulation prescribing the organization or procedure of an agency, in which event it becomes effective upon filing by the lieutenant governor or upon a later date specified by the state agency in a written instrument submitted with, or as part of, the regulation or order of repeal;

(3) it is an emergency regulation or order of repeal adopted under AS 44.62.250, in which case the finding and the statement of the facts constituting the emergency shall be submitted to the lieutenant governor, together with the emergency regulation or order of repeal, which, in that event only, becomes effective upon filing by the lieutenant governor or upon a later date specified by the state agency, in a written instrument submitted with, or as part of, the regulation or order of repeal;

(4) a later date is prescribed by the state agency in a written instrument submitted with, or as part of, the regulation or order of repeal. (§ 3 art IV (ch 1) ch 143 SLA 1959; am § 7 ch 40 SLA 1969)

Cited in *Mukluk Freight Lines v. Nabors Alas. Drilling, Inc.*, No. 967 (File No. 1670), 516 P.2d 408 (1973), Sup. Ct. Op.

Sec. 44.62.190. Notice of proposed action. (a) At least 30 days before the adoption, amendment, or repeal of a regulation, notice of the proposed action shall be

(1) published in the newspaper of general circulation, or trade or industry publication, which the state agency prescribes;

(2) mailed to every person who has filed a request for notice of proposed action with the state agency;

(3) if the agency is within a department, mailed or delivered to the commissioner of the department;

(4) when appropriate in the judgment of the agency, (A) mailed to a person or group of persons whom the agency believes is interested in the proposed action, and (B) published in the additional form and manner the state agency prescribes;

(5) furnished the Department of Law together with a copy of the proposed regulation, amendment, or order of repeal for the department's use in preparing the opinion required after adoption and before filing by AS 44.62.060;

(6) furnished to all incumbent State of Alaska legislators and the Legislative Affairs Agency.

(b) If the form or manner of notice is prescribed by statute, in addition to the requirements of filing and mailing notice under this chapter, the notice shall be published, posted, mailed, filed or otherwise publicized as prescribed by the statute.

(c) The failure to mail notice to a person as provided in this section does not invalidate an action taken by an agency under AS 44.62.180 — 44.62.290. (§ 5 art IV (ch 1) ch 143 SLA 1959; am § 2 ch 149 SLA 1962; am § 1 ch 3 SLA 1968; am § 16 ch 143 SLA 1968; am § 4 ch 64 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "state of Alaska legislators" and the Legislative Affairs Agency" for "state legislators" in paragraph (6) of subsection (a).

The rule-making function of an administrative agency frequently resembles the legislative process of passing a statute. Each entity determines the need for a particular enactment in light of chosen policies; each has procedures for the expression of views upon the merits of the proposal; and each, after consideration of the relevant policies and arguments, decides whether to adopt the proposed enactment. When administrative rule making is based upon clear authority from the legislature to formulate policy in the adoption of

regulations, the rule-making activity takes on a quasi-legislative aspect. Under proper standards, such delegations of legislative power to administer agencies are constitutional. *Kelly v. Zamarelli*, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Regulations adopted by the Commissioner of Natural Resources are subject to the rule-making provisions of the Administrative Procedure Act (AS 44.62) and must be adopted according to the procedures set forth therein. Among the required procedures for adoption of regulations are notice of the proposed adoption, a public hearing in which any interested person may submit statements to the agency, filing of the regulation if adopted with the secretary of state, and

publication. *Kelly v. Zamarello*, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 466 P.2d 906 (1971).

Requirements and sufficiency of notice. — There are few cases and text discussion of the requirements of notice and the sufficiency of notice in proceedings for adoption of rules and regulations. 1959 Op. Att'y Gen., No. 26.

Lengthy regulation to be summarized. — Where a lengthy regulation on one subject is to be proposed the best policy would be to briefly summarize the content and purpose of the regulation. 1959 Op. Att'y Gen., No. 26.

But short regulation to be set forth in full. — Only a very short regulation is proposed then ordinarily it would be most practicable to set forth the regulation in full. 1959 Op. Att'y Gen., No. 26.

Procedure upon promulgation of many regulations of varied nature. — Where a great many regulations are to be promulgated which are of a varied nature, such as fish and game regulations or oil leasing regulations, then the only practical thing to do would be to give a general listing of the subjects to be covered, a reference to any other existing body of regulations which are being adopted, amended or superseded which might be informative to the particular public or industry concerned (such as a reference to existing regulations of a state agency or department or to existing federal regulations) and a brief listing of any significant changes which are proposed if an existing body of regulations is to be effected. In such case it would be well to indicate that copies of the proposed regulations can be obtained from the agency in order to indicate the agency has done everything reasonably possible to give the public affected by its regulations an opportunity to familiarize itself with the regulations and to prepare itself to submit its views at the hearing. This should constitute substantial compliance with the Administrative Procedure Act and would serve the purpose of the act. 1959 Op. Att'y Gen., No. 26.

And when a summary of a large number of proposed regulations is to be used it would be safe for the departments and agencies of the state government to follow the Ohio and federal practice and to give notice of the areas in which regulations may or may not be promulgated by listing the subject matter to which the proposed rules would relate. 1959 Op. Att'y Gen., No. 26.

Public notice referring only to regulation numbers and subject headings. — See 1959 Op. Att'y Gen., No. 26.

For illustrations of the notice required by this section, see 1959 Op. Att'y Gen., No. 26, Exhibits A, B, C and D.

Failure to specify in regulation incorporating building code where copies of code could be obtained did not invalidate regulation. *Northern Lights Motel, Inc. v. Sweaney*, Sup. Ct. Op. No. 1366 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

Agency cannot adopt future amendments to code, etc., by reference. — According to the Legislative Affairs Agency (now Department of Law) drafting manual, an administrative agency may not adopt by reference a code or set of standards from another state, the federal government or a private organization and provide that future amendments as they become effective are being adopted also. *Northern Lights Motel, Inc. v. Sweaney*, Sup. Ct. Op. No. 1366 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

One reason for the prohibition against delegation of the future law-making power of the state to private groups is that when amendments are adopted by these groups the public does not necessarily receive notice of, or have an opportunity to comment on or criticize, the amendments, as it does when they are adopted by the legislature or promulgated under the Alaska Administrative Procedure Act. *Northern Lights Motel, Inc. v. Sweaney*, Sup. Ct. Op. No. 1366 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

Clause of regulation incorporating future amendments held severable. — Clause of an administrative regulation incorporating 1955 Uniform Building Code which also incorporated all future amendments of the code was separable from the rest of the administrative regulation, leaving the 1955 Uniform Building Code provisions applicable in a negligence action based on the death of a guest in a motel fire. *Northern Lights Motel, Inc. v. Sweaney*, Sup. Ct. Op. No. 1366 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

Applied in *Kingery v. Chapple*, Sup. Ct. Op. No. 656 (File No. 1654), 504 F.2d 631 (1972).

Cited in *Buehl v. Sabre Jet Room, Inc.*, Sup. Ct. Op. No. 3 (File No. 171, 344 P.2d 565 (1960).

Sec. 44.62.195. Fiscal notes on regulations. If the adoption, amendment, or repeal of a regulation would require increased appropriations by the state, the department or agency affected shall prepare an estimate of the appropriation increase for the fiscal year following adoption, amendment, or repeal of the regulation and for at least two succeeding fiscal years. (§ 1 ch 16 SLA 1980)

Sec. 44.62.200. Contents of notice. (a) The notice of proposed adoption, amendment, or repeal of a regulation shall include

- (1) a statement of the time, place, and nature of proceedings for adoption, amendment or repeal of the regulation;
- (2) reference to the authority under which the regulation is proposed and a reference to the particular code section or other provisions of law which are being implemented, interpreted, or made specific;
- (3) an informative summary of the proposed subject of agency action;
- (4) other matters prescribed by a statute applicable to the specific agency or to the specific regulation or class of regulations;
- (5) a summary of the fiscal information required to be prepared under AS 44.62.195.

(b) A regulation which is adopted, amended or repealed may vary in content from the summary specified in (a) (3) of this section if the subject matter of the regulation remains the same and the original notice was written so as to assure that members of the public are reasonably notified of the proposed subject of agency action in order for them to determine whether their interests could be affected by agency action on that subject. (§ 6 art IV (ch 1) ch 143 SLA 1959; am § 1 ch 185 SLA 1970; am § 2 ch 16 SLA 1980)

Effect of amendment. — The 1980 amendment added paragraph (5) in subsection (a).

Applied in *Kingery v. Chapple*, Sup Ct Op. No. 858 (File No. 1554), 604 P.2d 631 (1972)

Stated in *State v. Tanana Valley Sportsmen's Ass'n*, Sup Ct. Op. No. 1716 (File No. 3433), 583 P.2d 654 (1978).

Cited in *Boehl v. Sabro Jet Room, Inc.*, Sup Ct. Op. No. 3 (File No. 17), 349 P.2d 585 (1960)

Sec. 44.62.210. Public proceedings. (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 shall consider all relevant matter presented to it before adopting, amending or repealing a regulation.

(b) At a hearing under this section the agency or its authorized representative may administer oaths or affirmations, and may continue or postpone the hearing to the time and place which it determines. (§ 7 art IV (ch 1) ch 143 SLA 1959)

Difference between hearings under this section and AS 44.62.450. — See 1960 Op. Att'y Gen., No. 7.

And distinction between "adjudicative facts" and "legislative facts." — See 1960 Op. Att'y Gen., No. 7.

Article applicable to exercise of quasi-legislative power. — This article sets forth the procedure which must be followed when an agency exercises its quasi-legislative power. 1960 Op. Att'y Gen., No. 7.

But not to quasi-judicial proceedings. — See 1960 Op. Att'y Gen., No. 7.

Article 8 of this chapter was intended to be applicable to quasi-judicial proceedings. 1960 Op. Att'y Gen., No. 7.

Regulations adopted by the Commissioner of Natural Resources are subject to the rule-making provisions of the Administrative Procedure Act (AS 44.62) and must be adopted according to the procedures set forth therein. Among the required procedures for adoption of regulations are notice of the proposed adoption, a public hearing in which any interested person may submit statements to the agency, filing of the regulation, if adopted, with the secretary of state, and publication. *Kelly v. Zamarello*, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Agency cannot adopt future amendments to code, etc., by reference. — According to the Legislative Affairs Agency drafting manual, an administrative agency may not adopt by reference a code or set of standards from another state, the federal government or a private organization and provide that

future amendments as they become effective are being adopted also. *Northern Lights Motel, Inc. v. Sweaney*, Sup. Ct. Op. No. 136 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

One reason for the prohibition against delegation of the future law-making power of the state to private groups is that when amendments are adopted by these groups the public does not necessarily receive notice of, or have an opportunity to comment on or criticize, the amendments, as it does when they are adopted by the legislature or promulgated under the Alaska Administrative Procedure Act. *Northern Lights Motel, Inc. v. Sweaney*, Sup. Ct. Op. No. 136 (File No. 2476), 561 P.2d 1176, aff'd on rehearing, 563 P.2d 256 (1977).

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Stated in *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 563 P.2d 854 (1978).

Cited in *Boehl v. Sabre Jet Room, Inc.*, Sup. Ct. Op. No. 3 (File No. 17), 349 P.2d 585 (1960).

Am. Jur. 2d reference. — 2 Am. Jur. 2d, Administrative Law, § 261, 292.

Sec. 44.62.220. Right to petition. Unless the right to petition for adoption of a regulation is restricted by statute to a designated group or the procedure for the petition is prescribed by statute, an interested person may petition an agency for the adoption or repeal of a regulation as provided in AS 44.62.180 — 44.62.290. The petition shall state clearly and concisely

(1) the substance or nature of the regulation, amendment, or repeal requested;

(2) the reasons for the request;

(3) reference to the authority of the agency to take the action requested. (§ 8 art IV (ch 1) ch 143 SLA 1959)

Sec. 44.62.230. Procedure on petition. Upon receipt of a petition requesting the adoption, amendment or repeal of a regulation under AS 44.62.180 — 44.62.290, a state agency shall, within 30 days, deny

the petition in writing or schedule the matter for public hearing under AS 44.62.190 — 44.62.210. However, if the petition is for an emergency regulation, and the agency finds that an emergency exists, the requirements of AS 44.62.190 — 44.62.210 do not apply, and the agency may submit the regulation to the lieutenant governor immediately after making the finding of emergency and putting the regulation into proper form. (§ 9 art IV (ch 1) ch 143 SLA 1959; am § 1 ch 45 SLA 1969)

Sec. 44.62.240. Limitation on retroactive action. If a regulation adopted by an agency under this chapter is primarily legislative, the regulation has prospective effect only. A regulation adopted under this chapter, which is primarily an "interpretative regulation," has retroactive effect only if the agency adopting it has adopted no earlier inconsistent regulation and has followed no earlier course of conduct inconsistent with the regulation. Silence or failure to follow any course of conduct is considered earlier inconsistent conduct. (§ 10 art IV (ch 1) ch 143 SLA 1959)

Sec. 44.62.250. Emergency regulations. A regulation or order of repeal may be adopted as an emergency regulation or order of repeal if a state agency makes a written finding, including a statement of the facts which constitute the emergency, that the adoption of the regulation or order of repeal is necessary for the immediate preservation of the public peace, health, safety, or general welfare. The requirements of AS 44.62.060 and 44.62.190 — 44.62.210 do not apply to the initial adoption of emergency regulations; however, upon adoption of an emergency regulation the adopting agency shall immediately submit a copy of it to the lieutenant governor for filing and for publication in the Alaska Administrative Register, and within five days after adoption the agency shall give notice of the adoption in accordance with AS 44.62.190(a)(1)—(6). Failure to give the required notice by the end of the 10th day automatically repeals the regulation. (§ 2(2) art IV (ch 1) ch 143 SLA 1959, am § 2 ch 45 SLA 1969; am § 1 ch 46 SLA 1972)

Quoted in *State v. Tanana Valley Sportsmen's Ass'n*, Sup Ct Op No 1716 (File No 3433), 553 P 2d 854 (1976)

Sec. 44.62.260. Limitation on effective period of emergency regulations. (a) No regulation adopted as an emergency regulation remains in effect more than 120 days unless the adopting agency complies with AS 44.62.060 and 44.62.190 — 44.62.210 either before submitting the regulation to the lieutenant governor or during the 120-day period.

(b) Before the expiration of the 120-day period, the agency shall transmit to the lieutenant governor for filing a certification that AS

44.62.060 and 44.62.190 — 44.62.290 were complied with before submitting the regulation to the lieutenant governor, or that the agency complied with those sections within the 120-day period. Failure to so certify repeals the emergency regulation; it may not be renewed or refiled as an emergency regulation. (§ 4 art IV (ch 1) ch 143 SLA 1959; am § 3 ch 45 SLA 1969)

Stated in *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 654 (1978).

Sec. 44.62.270. State policy. It is the state policy that emergencies are held to a minimum and are rarely found to exist. (§ 2(2) art IV (ch 1) ch 143 SLA 1959)

Quoted in *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 654 (1978).

Sec. 44.62.280. Purpose of AS 44.62.180 — 44.62.290. It is the purpose of AS 44.62.180 — 44.62.290 to establish basic minimum procedural requirements for the adoption, amendment or repeal of administrative regulations. Except as provided in AS 44.62.250, AS 44.62.180 — 44.62.290 apply to the exercise of quasi-legislative power conferred by a statute, but nothing in AS 44.62.180 — 44.62.290 repeals or diminishes additional requirements imposed by the statute. AS 44.62.180 — 44.62.290 are not superseded or modified by subsequent legislation except to the extent that the legislation does so expressly. (§ 1 art IV (ch 1) ch 143 SLA 1959)

Sec. 44.62.290. Limits of the application of AS 44.62.180 — 44.62.290. (a) AS 44.62.180 — 44.62.290 do not apply to a regulation not required to be submitted to the lieutenant governor under AS 44.62.010 — 44.62.320.

(b) Only this section and AS 44.62.180 apply to

(1) a regulation which prescribes the organization or procedure of an agency, or

(2) Repealed by § 4 ch 45 SLA 1969 (§ 2(1) art IV (ch 1) ch 143 SLA 1959; am § 17 ch 143 SLA 1968; am § 8 ch 40 SLA 1969; am § 4 ch 45 SLA 1969)

Am. Jur. 2d reference — 1 Am. Jur. 2d, Administrative Law, ¶ 42-45, 99 et seq

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IMPROVING BOND OVERSIGHT IN ALASKA

Prepared for

**THE LEGISLATIVE BUDGET AND AUDIT COMMITTEE
SENATOR ARLISS STURGULEWSKI, CHAIRMAN
ALASKA STATE LEGISLATURE**

Prepared by

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June 1982

STATE OF ALASKA

THE LEGISLATURE BUDGET AND AUDIT COMMITTEE

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July 28, 1982

Dear Reader:

As a part of the Legislative Budget and Audit Committee's review of the State of Alaska's debt and debt management policies, we requested Mr. Robert Terrell to prepare an overview of bonding oversight issues and to relate the experiences of other states to our situation. This report presents Mr. Terrell's findings.

This report is the first of several which will be available prior to February, 1983, as a part of the Legislative Budget and Audit Committee's work on debt management issues. This report is being made available at this time as it is thought provoking and should assist in future discussions of policy options for debt management.

Sincerely,



Senator Arliss Sturgulewski, Chairman
Legislative Budget and Audit Committee

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EXECUTIVE SUMMARY

The levels of debt being assumed by the state of Alaska, its municipalities and public corporations are of increasing concern to individuals both in and out of the state government. One important question is whether Alaska has adequate mechanisms for overseeing the assumption of debt by its agencies, municipalities and public corporations. The assumption of public debt for capital improvements has implications for both the financial situation of the state, and its future development. Both aspects should be addressed by debt oversight mechanisms. Considerations of whether the state and its residents can afford to go further into debt, as well as technical issues relating to the terms and timing of bond issues, are extremely important. Equally important, though, is the need to consider the long-term impact borrowing and construction decisions can have on the shape and direction of development. Public corporations in Alaska, with their autonomy and high level of borrowing, have the potential for making de facto development decisions which are more properly political decisions.

Arguments against active state bond oversight commonly state that the bond market plays the necessary role in weeding out unsound projects. However, the bond market does not judge the desirability of projects, and is not very efficient at spotting unsound projects. The financial interests of the state and of bond market participants often diverge; states wish to borrow for needed projects, while the bond market has an interest in selling as many bonds as the state can support.

Alaska, by improving its advising and oversight of municipal borrowing activities, could improve the terms on which local governments borrow. The Municipal Bond Bank already plays an important role, but so far its activities cover only a small fraction of municipal borrowing. The state also has an

interest in seeing that the borrowing decisions of local governments will not entail future large commitments of state resources. This could happen if boom areas build facilities that they will be unable to maintain after the boom.

Alaska's public corporations have more than \$1.4 billion dollars of debt outstanding, more than twice the total state debt. The fact that the bond market views the credit of legally autonomous public corporation to be linked to the credit of the state is a strong reason for the state to have a means of controlling the assumption of debt by its public authorities. State credit can be adversely affected by the default of a public corporation, even when the debts of the corporation are not legal liabilities of the state.

Borrowing decisions of public authorities shape development, can compete with state bond issues, and are often more expensive to state residents than if the state borrowed the money; these are additional reasons for state oversight of public corporation borrowing.

The bond oversight mechanisms of other states take on a wide variety of forms. Michigan employs a Municipal Finance Commission to oversee the borrowing activities of municipalities and public authorities. North Carolina's Local Government Commission plays a similar role and actually markets all state, municipal, and public corporation bonds. New York instituted a Public Authorities Control Board, after the default of its Urban Development Corporation, with the authority to approve bond issues of some public corporations. Vermont recently instituted a ceiling on the issuance of new state debt which is having a detrimental impact on state capital improvements. Vermont's State Planning Office carries out a detailed capital planning effort designed to provide a ten-year picture of capital needs and priorities. New Jersey's Commission of Capital Budgeting and Planning reviews and makes recommendations on all legislation that has a capital impact, as well as all state bond proposals.

Pennsylvania has a system of over 2300 municipal authorities spawned, in part, by overly restrictive local government debt limits. The Department of Community Affairs can review the activities of some of these authorities, but actual oversight is minimal.

The purpose of this report is to provide a discussion of the purposes, rationale, and major issues involved in state oversight of the issuance of debt by state agencies, municipalities and public corporations, to examine Alaska's current ability to oversee and/or control the debt activities of these subdivisions, and to provide an overview of the debt oversight mechanisms used by other states as examples which may be relevant to Alaska.

The question of whether the state of Alaska has adequate mechanisms for overseeing and regulating the assumption of debt by its agencies, public corporations and municipalities can be reasonably answered only once we know the goals and purposes oversight mechanisms can serve, and the problems that can arise if no such mechanisms exist. Borrowing for capital improvements raises concerns in two distinct areas: financial management, and development strategy. Inadequate controls over the assumption of debt may lead to financial difficulties, and/or to a course of development which is not in the public interest. Good oversight procedures will address both issues.

I. Framing the Problem

Financial Aspects of Debt. Foremost among the financial issues relating to bonded debt is the basic question whether the amount of debt anticipated is unwise, that is, whether the debt service that will result from issuing bonds will place too heavy a burden on the state and its residents. This is not solely a question of determining whether the strain on resources will be so great as to threaten default on the bonds. It is also a question of recognizing the tradeoffs between the use of limited financial resources for current operations and their use for capital improvements. To the extent that the state saddles itself with long-term commitments to repay debt, in times of

financial stress it may become necessary to forego expenditures for desirable current programs in order to meet debt repayment commitments. In addition, given that ability to assume debt is not limitless, any decision to incur debt now necessarily restricts the flexibility to incur debt later for other projects.

Linked to the question of the financial wisdom of incurring debt are a series of related technical issues. Are the bond issues being arranged in such a manner as to ensure the best possible deal for the state? Are bond issues competing with one another and resulting in higher than necessary costs? In an effort to make the issues more marketable are restrictive covenants being included which limit the ability of the state or its subdivisions to carry out the functions for which the money was raised?

Financial questions are raised also by the fact that debt issued independently by various levels of the state -- state agencies, municipalities, and public corporations -- are not independent in their effects on the credit-worthiness of the different levels of government. In assigning credit ratings the rating agencies take into account the total debt burden of an area in relation to its resources to repay additional debt. If, for example, a public power authority issues large amounts of debt to be repaid from user charges, this may limit the ability of municipal governments which draw on the resources of the same residents to issue debt on favorable terms. This fact, that the decisions of some units of government to assume debt generate externalities, or spillover effects, for other units of government argues for state oversight mechanisms which at minimum coordinate the activities of the various levels of government assuming debt.

In the worst case, history has shown that the inability of autonomous public corporations to meet their debt service commitments can have a negative

impact on the ability of state and municipal governments to borrow money, even when the chartering state government is not legally responsible for the debts of its creations. When the Urban Development Corporation, a New York public corporation, defaulted on its revenue bond payments (which were not legal responsibilities of the state) the bond market responded by avoiding all New York State and New York City bond issues. The fact that the bond market expects that state governments will make good on the commitments of their independent authorities, and does not clearly separate the credit-worthiness of the state from the credit-worthiness of its independent public authorities, is a strong reason for states to maintain controls over the financial activities of their public corporations. The lack of strong oversight and control mechanisms over public authorities can lead to a deterioration in state credit, regardless of the financial soundness of its own undertakings.

Development Aspects of Debt. Apart from the financial considerations surrounding the assumption of debt, borrowing to finance capital improvements has a number of development consequences which ought to be considered. Decisions to invest in infrastructure such as roads, port and power facilities, and buildings shape the course of development activities for years to come. The existence of transportation and other infrastructure determine where development can most easily take place. These facilities shape as well as respond to patterns of land use. The fast pace of development in Alaska, the relative paucity of infrastructure, and the interactive effects of providing facilities and the demand for facilities make it extremely important for Alaska to have a long-run development planning and predicting capability which influences decisions on public investment.

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Given the large resources available from oil and gas revenues, without planning there is a great potential for money to be invested in ways that do not contribute to long-term stable growth. A great deal of capital could be invested in facilities which serve the relatively immediate needs of powerful or vocal constituencies without providing a sensible base for sustained growth. The existence of a number of autonomous public corporations, each responsible for carrying out decisions in its area (power, renewable resources, housing) makes a coordinated pattern of development less likely, but no less imperative. The fragmented authority to decide on capital investment issues may increase the ability of special interests to influence decisions and secure state and authority actions which may not reflect the best use of public capital and borrowing capacity.

At the local level, ability to support large capital projects now from oil and gas revenues may not provide sufficient rationale for pursuing those projects. Capital projects are expensive to maintain and operate. If the tax base remaining after depletion of oil and gas reserves is insufficient to support the operation and maintenance costs of the improvements, local governments may find that they are left with monuments that they are unable to operate. The result could well be pressure for state subsidies to support the facilities, or the deterioration of the facilities. These considerations should encourage the state to take an active role in advising local governments on the broader issues of local investment such as life-cycle costs of capital facilities, long-term impact of capital improvements and how they relate to predictions of population and industrial growth.

While the choice of a development strategy is a political one, it is clear that the existence of such a strategy will have little impact on actual

development unless the state has means for monitoring and directing the pace and direction of capital investment. Bond oversight procedures should be designed with the goals of providing information relevant to long-range planning, and giving advance warning of important decisions to ensure that capital investments to be financed by bond issues fit into overall state development plans.

II. Is State Bond Oversight Necessary?

One argument that is made against expanding state oversight of the bond activities of its agencies, public corporations, and municipalities is that the bond market provides the necessary and sufficient analysis of the financial viability of the projects to be financed through bonds. Several points need to be made in response to this claim. The bond market does not assess the wisdom of the projects brought to it in the form of general obligation bonds backed by the full faith and credit of the issuing state or local government. The bond market makes a determination of the relevant government's ability to meet the debt service requirements of the issue, not a determination of the worth of the project itself. The interests of underwriters, bond counsel, and banks is to promote borrowing up to the point of the government's ability to support debt payments. This is not always in keeping with the public's interest in balanced, planned investment. Even when the bond market's willingness to buy bonds is an adequate reflection of the credit-worthiness of the issuing unit, state oversight can be useful as a checkpoint in the political process of deciding which capital projects, what type of development, to invest in.

In the case of revenue bonds, backed by the revenues of the proposed project, the bond market does try to assess the likelihood that the revenues raised will be sufficient to support the debt service. It does not judge the appropriateness of the project, except insofar as any financially viable project is considered to be desirable. Nor does it help choose between different projects. However, the bond market has not been particularly good even at predicting those projects that would run into trouble, such as the Urban Development Corporation. In addition, it is in the interests of the financial community to continue funding projects to which a large initial commitment has been made in order to ensure that revenues will be generated to pay off the bonds. Bonds of the Washington Public Power Supply System were still receiving AA and AAA ratings long after legislators and citizens' groups began to question the financial viability of the projects. However, those who were heavily invested in the projects had a strong interest in seeing them completed. The judgements made by the financial community on whether to invest or continue to invest in revenue-backed projects are not always the same as those that would be made by state analysts concerned with limiting state liability.

Given the bond market's tendency to view the credit of public corporations as ultimately backed by the state (regardless of the presence or absence of "moral obligation" language in the chartering statutes), and the fact of a continuing large surplus in the general fund which could be tapped in case of financial difficulties, investors are likely to apply less critical analysis of financial viability to proposed projects of public corporations than would state officials genuinely concerned with potential drains on state resources by proposed "self-supporting" enterprises. The bond market can be

relied on to provide neither a useful judgement on how capital projects will affect development, nor, in many cases, a reliable judgement on the viability of self-supporting projects. As it is the state that ultimately bears the costs and benefits of borrowing decisions, it is only proper that it should have an independent capability to assess what the impact of those decisions will be on its interests.

From the foregoing discussion we can define several purposes that bond oversight and regulating mechanisms could be designed to serve:

- 1) To protect the financial health and credit-worthiness of the state by ensuring that the state and its subdivisions do not assume levels of debt that are beyond their ability to support, or which adversely affect the ability of other units of government to borrow on favorable terms.
- 2) To gather information and provide advice so that the borrowing of the state, public corporations, and municipalities may be arranged on terms most advantageous to the state and its residents.
- 3) To provide a means of coordinating the capital improvements activities of various levels of government by incorporating them into state development plans, or by providing input into other state agencies charged with this responsibility.

Alaska currently has no single point where information on state agency, public corporation, and municipal debt is collected and analyzed. The state exerts little influence on municipal decisions to borrow, and has only limited information on and control over the capital borrowing of its public corporations. The state does control the technical aspects of general obligation bond issues of its state agencies through the State Bond Committee. However, as municipal and corporation debt are currently more than three times state general obligation debt, and as projected public corporation borrowing in 1982

will be five times state borrowing, it is clear that the State Bond Committee has jurisdiction over only a small part of Alaska's public borrowing.

There is both a need and room to improve Alaska's oversight and control of the bond activities of its agencies, public corporations, and municipal governments. Improving Alaska's bond oversight and control procedures should be viewed as an investment in preventive medicine. Even though the state's credit is now good and glaring financial problems do not exist, if regulatory action is postponed until problems become obvious the damage will already have been done.

Municipal Borrowing. Total municipal debt in Alaska is \$1,091 million, larger than the state's total general obligation debt. Municipal governments are likely to continue to need to borrow substantial sums in the future. Although the Alaska Department of Community and Regional Affairs collects and publishes information yearly on local government general obligation debt, this information is not utilized for planning purposes or as a means of limiting municipal debt.

Municipal governments face a number of problems in issuing debt. They are at a disadvantage when they enter the bond market to issue relatively small amounts of bonds. Few local governments have the capabilities to design and carry out bond issues most advantageously. Many end up paying too much for financial and legal advice. Local governments generally do not have sophisticated accounting systems, nor capacities for projecting future needs or the costs of capital investments accurately. The state, by improving its oversight and advisory capacity over municipal borrowing activities, could reduce the effective cost of borrowing for municipal governments and improve their borrowing decisions.

The Alaska Municipal Bond Bank is already playing an important role in improving the ability of small municipal governments to borrow cheaply. The Bond Bank sells bonds on the national market and uses the proceeds to buy the bond issues of municipalities. It has received appropriations to reduce the rate of interest it charges local governments below the rate at which it borrows. However, Bond Bank indebtedness of roughly \$83 million is a small fraction of total municipal debt of \$1,091 million. A large amount of municipal borrowing thus goes on without the advice and coordination of the Municipal Bond Bank.

Although it is unlikely that the default of a small municipal government would have a large impact on state credit, the state has an interest in ensuring the soundness of local investment decisions. Local governments, overcome by the sudden riches of oil revenues, may be tempted into investing in capital projects for which there is no significant need, or which, even if needed, will require large operation and maintenance appropriations which the governments may not be able to support after the booms. The burden will then fall to the state to maintain the facilities with state funds. It is advisable for the state to have financial and planning advisors available to local governments who can help them make capital borrowing decisions with these factors in mind. One way of increasing state oversight would be to require local governments to submit all planned bond issues to the state for approval or, at least, for comment. A logical home for these functions would be the State Bond Committee. Its role could be expanded to provide advice to localities, approve their bond issues, coordinate the timing of issues, and keep records of municipal debt.

Public Corporation Borrowing. The report of the Institute of Public Administration entitled Alaska's Public Corporations: A Framework for Assessment discusses in some detail many of the issues that need to be considered with regard to the activities of these bodies and the state's role in overseeing their actions. Without repeating all the findings it may be useful to point out some of the issues relating to the debt and state oversight of public corporations. Alaska's public corporations, as of June 30, 1981, had debt principal outstanding of more than \$1,400 million, more than twice the state's general obligation debt. New borrowing by these corporations is expected to exceed \$1,000 million this year, while new general obligation borrowing by the state was \$200 million. In addition, public corporations cannot borrow on as favorable terms as the state. Differences in the ratings and terms of state general obligation bonds, and those of public corporation bonds in general make the cost of borrowing for public corporations significantly higher than for the state. Since the state and its residents ultimately pay the higher costs of public corporation borrowing, it is important for the state to have a means of evaluating, coordinating, and controlling the issuance of debt by its public corporations.

The levels of debt being accrued by public corporations should be a matter of concern, particularly given the impact such borrowing can have on state credit. Although Alaska's public corporations are legally separate from the state, a number of factors would make it practically impossible for the state to avoid committing its resources to bailing out public corporations should they run into difficulty meeting their debt services. The fact that Alaska has provided capital appropriations and/or subsidies to each of its public corporations, and is involved in lease-back arrangements with several, makes

the separation of state and public authority responsibility for debt of the authorities problematic. A failure of one of these corporations would probably have, at minimum, a short-term negative impact on the state's credit rating, just as New York's credit was affected by the failure of the Urban Development Corporation. If the state refused to take part in refinancing loans and providing subsidies the adverse reaction of investors would probably be more drastic and longlasting.

Another reason for the state to take a more active role in overseeing the activities of its corporations is that if the high level of authority borrowing is not properly coordinated, state and public authority bond issues may compete with one another, to the detriment of both. Finally, the large amount of borrowing for capital improvements being carried out by Alaska's public authorities necessarily means that a large fraction of the decisions relating to the speed and direction of development in the state is being carried on by these authorities. It is in the public interest to ensure that Alaska maintains mechanisms for reviewing and influencing the decisions of its public authorities. Ideally, all important development decisions of public authorities would be subject to prior public debate and would be required to fit into the state's development strategy.

III. Debt Oversight Mechanisms Used by Other States

Although Alaska's current situation of financial health is unparalleled among the other 49 states, it is hoped that the foregoing discussion has pointed to reasons why Alaska could benefit from developing more formal and extensive methods of debt oversight than presently exist. Obviously, Alaska's vast resources and small population make its situation unique, and any new

debt oversight mechanisms must be tailored to meet its specific needs. However, other states with longer histories have been concerned with levels of state, municipal, and public corporation debt, and have implemented a variety of mechanisms to deal with the problem which may serve as useful examples -- both positive and negative -- for Alaska. The mechanisms used range from almost nonexistent, to legislative or executive department responsibility for auditing books and reviewing budgets of political subdivisions, to a variety of institutional boards charged with reviewing or approving issuance of debt by public corporations and/or municipalities, to statutory or constitutional limitations on debt, to even absolute constitutional prohibition on state debt (Nebraska).

The following states have been chosen to illustrate the range of bond oversight mechanisms currently in use. These examples have been selected from references in the literature and do not represent a comprehensive search of the mechanisms of all states. Although statutory or constitutional debt ceilings are common, because they are rather blunt instruments more emphasis has been placed on examining other institutional methods of overseeing debt activities. It is worth noting that "bond oversight" is a broad term that falls under the jurisdiction of different agencies and boards in different states. The variety of constitutional and statutory limits on the issuance of debt by state agencies, municipalities, and public corporations, and the differing extent to which corporations and municipalities are used to finance capital improvements in different states, makes generalizations difficult. However, certain common concerns emerge, as well as some examples which may be useful as models for Alaska.

Michigan. Michigan has a relatively forceful mechanism for regulating the accumulation of debt by its agencies, municipalities, and public authorities

in its Municipal Finance Commission. The mission of the Commission is to protect the credit of the state and its municipalities. To carry out this responsibility the Commission is given the power to approve or disapprove all bond issues (short and long-term, general obligation and revenue) of state agencies, municipal governments, and public corporations. Any of these units wishing to issue bonds must submit a plan to the Commission's staff which, after reviewing the proposed project and its financing, makes a recommendation to the Commission. The staff considers such questions as the need for the facility, revenue projections, cost estimates, and the amount of debt already outstanding in order to make a judgement on the financial viability of the project. If they have objections to parts of the proposal they inform the issuing agency and try to work out satisfactory arrangements. The Commission, consisting of the Attorney General, State Treasurer, and Superintendent of Public Construction, meets each week to vote on proposed bond issues.

The Commission takes a strict view of the types of financing that are allowable. Methods not specifically approved in the statutes are considered suspect. Once projects have been approved there is some monitoring of agency compliance. Each agency is required to submit yearly audit reports. Compliance with this rule is good, in part because the penalty for non-compliance can be withdrawal of state funds. However, due to staff limitations and inadequate enforcement mechanisms the Commission has little ability to monitor whether agencies comply with the terms of the approval orders. The staff will provide technical and planning assistance to local governments if asked, but is not often asked to do so.

The biggest complaint of the Commission staff is that the Commission has insufficient legal power (and insufficient staff) to enforce the terms of its

approval orders. They would like to be able to better monitor such things as whether rate structures are being set which are sufficient to generate revenues to cover debt service. Where they find that the local agency is not complying they would like the power to take enforcement action. One proposed mechanism would be to give the State Treasurer, upon recommendation of the Commission, the power to withhold state revenues from agencies or municipalities which are not complying with the terms under which they received approval to issue bonds.

In general, the Commission is viewed as successful in performing its task, and effective in weeding out unwise or financially unsound borrowing projects. It is one of the most comprehensive oversight mechanisms in the country, since all local, state agency, and most authority debt comes under its scrutiny.

New York. In the wake of the adverse effect on state and city credit that resulted from the financial difficulties of the Urban Development Corporation in 1975-76, it is not surprising that New York has taken a number of steps to gain greater control over the activities of its public corporations. The most important step was the creation in 1976 of the Public Authorities Control Board (PACB). The Board consists of a chairman appointed by the governor who has always been the Budget Director, along with the chairmen of the Assembly Ways and Means Committee and the Senate Finance Committee. Some, but not all, of the largest public authorities fall under the jurisdiction of the Board and must submit applications to issue bonds to the PACB for approval. The Board's primary interest is in evaluating the financial viability of the projects, and in determining that the bonds will be properly secured and will not result in future claims on state resources.

Although this mechanism provides some check on public authority borrowing that could affect state credit, there is some criticism that the PACB does not consider all the relevant factors in evaluating proposed projects. One reason is that staff resources are too limited to perform in-depth analyses of all proposals. Another criticism has been that the PACB does not have power over all public authorities, and that some of the larger ones are outside its control. Initially only a few authorities thought to be in trouble were included. Others have been added, but many have used their influence to maintain their autonomy.

All authorities under the Public Authorities Act (which includes most, but not all, state authorities) are required to submit annual budgets to the Division of Budget and to the legislative fiscal committees. In fact, compliance with this regulation is uneven. The Comptroller can audit the books of each authority and ask for relevant financial data. Some authorities are reluctant to provide all the information requested by the Comptroller. Those authorities which receive appropriations from the state must have new projects added to a list of approved projects by legislative action. Thus a final means of d railing undesired projects is for the governor to veto additions to the list.

Another mechanism of New York is designed to improve the terms on which state agencies and public authorities borrow. In 1977 the state established the New York State Securities Coordinating Committee. The Committee is composed of the heads of ten of the state's largest authorities along with the Budget Director and State Comptroller. The purpose of the Committee is to coordinate the scheduling of bond issues of the state and authorities in order to minimize competition, enhance the marketability of the obligations and raise capital more efficiently. Although the Committee has eliminated

the worse inefficiencies, some believe that it should be expanded to include all authorities and a means devised for coordinating the scheduling of state and authority debt with municipal borrowing plans.

The oversight mechanisms employed in New York emphasize the financial integrity of authorities. Overall development direction embodied in authority decisions are not a major concern. The budget and audit procedures are viewed as ways of ensuring sound management and keeping the state informed of plans so that problems such as those which arose from UDC debt do not occur again. Although the legal requirements for reporting budgets and providing financial information are clear, there is less than full compliance. Moreover, it is doubtful that the agencies receiving the data have sufficient staff resources to evaluate it effectively.

Vermont. Vermont has very few public authorities. It has a Municipal Bond Bank similar to Alaska's which helps package small municipal bond issues to obtain better terms. Most of the state's debt, however, is in the form of general obligation bonds. In 1975, as a result of the state losing its AAA bond rating, the legislature passed a statute which limits the amount of new state debt that can be issued to 90% of the amount to be retired in that year. The effect of this statute is progressively to reduce the amount the state can borrow in any year (eventually to 0). Inflation has exacerbated the effects of this rule. While the law was intended to slow the growth of debt, it is beginning to have undesired consequences: 1) Needed capital improvements are being put off. The resulting backlog will be difficult to finance once the law is modified, and will result in uneven debt service requirements. 2) Capital improvements which should be paid for over a number of years are competing with current programs for limited appropriations. Many in Vermont now believe

that the debt limit is far too restrictive and is distorting investment decisions. It is likely that it will be repealed before long. Such consequences demonstrate the need for careful consideration of the forms oversight and limitations of debt should take. Poorly designed statutes may create problems as severe as those they were intended to alleviate.

The restrictive borrowing policy outlined above contrasts sharply with the capital planning effort being carried out in the Vermont State Planning Office. Since 1977, every two years each state agency is required to submit a 10-year capital facilities plan in which they list by order of priority their projected capital needs. A detailed two-year plan is also required. According to those in the Planning Office this information enables them to devise a capital investment strategy which is in keeping with the development goals of the executive branch. It facilitates the examination of projects to see if they meet identifiable needs, the identification of deferred maintenance problems, and consideration of long-term operation and maintenance requirements. Finally, by bringing together projected capital requirements in one place it provides a basis for legislative discussions on appropriations and the need for bond issues. It is hoped that this planning will provide some of the impetus to liberalize the state's debt limitation.

New Jersey. In 1975, due to the failure of five bond proposals at the polls, the Governor of New Jersey created the New Jersey Commission of Capital Budgeting and Planning. The Commission is composed of four private citizens, four members from the Executive and four members from the Legislature. The mandate of the Commission is to review the capital plans of all state agencies and all legislation that has a capital impact in order to create an annual

capital plan for the state which evaluates the state's needs for capital investments and recommends ways of financing needed investments. The Commission has evidently brought some coherence to the process of capital planning. Commission recommendation has become a near prerequisite for legislative consideration of capital legislation. In addition, 11 of 12 bond proposals recommended by the Commission have passed at the polls.

Although the Commission technically has the power to review and make recommendations on the capital plans of state authorities, as a practical matter many authorities do not supply requested financial plans. As a result, the Commission has little impact on the decisions of public authorities. The Commission Director cited inadequate staff and the political power of the authorities as reasons why authorities are not coming under the watch of the Commission. Thus, while the Commission has improved New Jersey's ability to develop priorities for state capital expenditures, and to evaluate state bond proposals, it has not been a mechanism for bringing the debt of municipalities or public authorities under state scrutiny.

Pennsylvania. One unique feature of Pennsylvania's debt structure is the role played by the more than 2300 municipal authorities. Most of these authorities are created to build schools, sewers, or water facilities for municipal governments. Most of them are "lease-back" authorities in which the revenue bonds issued by the authority are guaranteed by rental agreements with the local government. After the debt is repaid title to the facility passes from the authority to the local government.

After enactment of the Municipal Authorities Act of 1935 authorities became a popular way of circumventing the constitutional debt limit on local

governments. The courts held that contractual agreements to rent facilities did not count as debt for purposes of the debt ceilings and were not subject to requirements for voter approval, even though taxpayers were just as obligated to pay for facilities so financed as they were for facilities financed by municipal general obligation debt. This convenient legal fiction led to the creation of hundreds of municipal authorities and generated a booming business for local bond lawyers and underwriters.

A constitutional amendment in 1968 and the Local Government Unit Debt Act of 1982 significantly reduced the incentive to create municipal authorities by changing the debt ceiling from a percentage of assessed property values to a percentage of total municipal revenues, removing the debt ceiling entirely for debt approved by voters, and counting authority debt that is guaranteed by municipal rents or subsidies as municipal debt. These changes increased the flexibility of municipal financing options and decreased the advantages of creating municipal authorities. Nonetheless, municipal authorities are still flourishing despite financing costs that are higher than those municipalities themselves incur for similar purposes. This is probably due in part to greater legal and financial flexibility of municipal authorities, and in part to the continuing financial interests local bond lawyers, underwriters and bankers have in promoting municipal authorities.

For years the activities of municipal authorities were beyond the jurisdiction of any state agency. With the statutory changes the Department of Community Affairs was given review power over borrowing of local governments and municipal authorities which draw their revenues from rent payments of municipal governments. In practice, because of the large number of municipal governments and municipal authorities, review is minimal. The Department of

Community Affairs tends to become involved only when a local government gets into difficulty in meeting its debt service payments.

The Pennsylvania example illustrates how an arbitrary debt ceiling, designed to limit local debt, led to efforts to circumvent the ceiling which, aided by judicial approval and local business financial incentives, fostered a system of local debt that was less controlled than the one it replaced. Recent changes in the law have served to re-establish some state control, but the bond activities of statewide and regional authorities remain beyond the jurisdiction of state agencies.

North Carolina. Of the states surveyed, North Carolina maintains the most stringent controls over the borrowing activities of its municipalities and public authorities. Since 1931 cities, counties, and public authorities have had to submit proposed bond issues to the Local Government Commission for approval. The Local Government Commission, in addition to evaluating the proposals, puts together the necessary documents, sells the bonds (as well as all state bonds), and monitors repayment. In evaluating the proposals the Commission looks at financial criteria, such as whether the costs are reasonable and whether the unit issuing the debt can afford it, but they also look at factors such as the need and demand for the facilities. In the case of revenue-backed projects they require that feasibility studies be submitted.

In monitoring debt repayment the Commission requires that each unit submit a yearly independent audit. Each unit must report regularly that it is meeting its debt service payments. If problems in meeting debt payments develop, the Commission is empowered to issue mandatory tax orders (for general obligation bonds) and, if necessary, to take over the management of

the local unit. In its history the Commission has issued only one tax order and has never taken over local management. In general, its monitoring is good enough to allow it to identify potential difficulties in advance and to work with local officials to rectify any problems. Although most local units retain their own bond counsel to work on bond issues, the Local Government Commission provides free advising and auditing services to any unit that requests it.

Having bond approval, sale and monitoring functions located in one agency allows North Carolina to coordinate and control the borrowing of its subdivisions more readily than many other states. Such centralization limits the authority of local governments and public authorities, but the degree to which municipalities and public authorities find the controls and reporting requirements excessive is not known. Although having the state sell all bonds may provide some of the benefits to small units that a bond bank provides in other states, the financial advantages and desirability of having the state market all bond issues are debatable.

Recommendations

Oversight of Public Corporations

1. Alaska should create a formal mechanism for overseeing and regulating the financing and development activities of all public corporations in the state. This mechanism could take the form of a new committee, with representation from the Executive and Legislative branches, similar to the Public Authorities Control Board in New York. Or, the role and powers of the State Bond Committee could be expanded to include oversight of public authorities.

2. The board or committee designated to oversee public authorities should have the authority:

- a. To disapprove or alter the terms, covenants, and timing of bonds to be issued by public corporations.
- b. To set rules and issue orders, including rules governing the disclosure of financial information to the rating agencies and investors.
- c. To receive and review audits, financial reports, and capital budgets already required under existing statutes.
- d. To impose appropriate sanctions for failure to comply with reporting requests or the terms of orders approving the sale of bonds.

3. If the State Bond Committee is chosen as the appropriate vehicle, consideration should be given to expanding its membership to include members of the legislature. Since the Committee, to be most effective, must have

significant power to approve or disapprove bond issues, participation by both the executive and legislative branches is desirable in order to make the Committee's actions credible and to help prevent charges of abuse of authority.

4. The effective functioning of this oversight mechanism depends on the provision of technical staff sufficient to evaluate the financial viability and desirability of proposed capital projects. Whatever structure is chosen additional resources will need to be provided as current staff of the Bond Committee is insufficient to take on these additional duties.

Oversight of Municipal Governments

1. The state's interests in overseeing the borrowing activities of municipalities are:

- a. To reduce the cost of borrowing for local governments.
- b. To prevent borrowing decisions that may result in deterioration of municipal or state credit, or which may lead to future claims on state resources.
- c. To collect information which can provide the basis for coordinating the issuance of debt at all levels of government in the state, and which can be used for long-range planning.

2. The Alaska Municipal Bond Bank is carrying on a number of activities designed to facilitate borrowing by small municipalities. The Bond Bank handles only a fraction of municipal borrowing. There is room to expand its activities so that they cover more municipal borrowing.

3. The state's interest in protecting its credit and the credit of its municipalities, as well as limiting demands for future subsidies are reasons

to consider making proposed local bond issues subject to approval of an expanded State Bond Committee described above. Although the need for such oversight is not as pressing as for oversight of public corporations, it could prove beneficial to both the state and municipalities. North Carolina and Michigan have used similar mechanisms for many years. They have proved useful in identifying ill-conceived borrowing projects, and by providing monitoring of debt repayment have helped give advance warning of impending problems which the state can take action on.

Long-range Planning

The role of an expanded State Bond Committee, or Authorities Control Board, should not be viewed simply as that of ensuring the financial soundness of incurring debt. Decisions to borrow for capital improvements which affect not only the financial situation of the state and its residents, but also the shape of development for years to come should be subject to public debate and control. It would be desirable for the State Bond Committee to work closely with the Division of Policy Development and Planning to ensure that capital borrowing and expenditure activities of state agencies, municipal governments, and public corporations fit into a coherent plan for state development. Consideration should be given to periodically compiling a statewide 5-year or 10-year capital investment plan similar to the ones utilized in Vermont.

The recommendations above vest quite a lot of power in an expanded State Bond Committee, or Public Authorities Control Board. However, if Alaska is to develop a sound debt policy it must have the authority to gather relevant information. Moreover, it must have the authority to act on that information when analysis indicates that assuming additional debt is either financially unsound, or does not serve a desired public purpose.

APPENDIX

Mechanisms for Influencing the Activities of Public Authorities*

Ways that the state can exert influence over its chartered entities include powers of appointment, legislative action, executive supervision, court review, local approval, and voter control.

Powers of Appointment. The statutes which create public corporations usually specify the composition of their board of directors, their terms, and which officials are responsible for appointing them. Although theoretically government officials can influence the orientation of public authorities by judicious appointments, as a practical matter these appointments are often made as political rewards or trades. This limits the influence an appointing official can have over the decisions made by the corporation. Staggered terms make it difficult for newly elected officials to change the direction of the boards they inherit. Occasionally elected officials have the power to veto decisions of authority boards. The usual mechanism is for board decisions to take effect unless vetoed by the official. Effective use of the veto power depends on up-to-date review of authority board minutes -- no small task. Authority boards can often shield important decisions from review by simply making them off the official record or administratively.

Legislative Action. The legislative bodies which create authorities by statute have the power to amend the enabling statutes. This power is often limited by difficulties inherent in changing the rules of authorities with bonds outstanding. However, if the interests of bondholders are protected there is no reason why legislatures should not alter the form or mandates of

* This section is in large part summarized from A.H. Walsh, The Public's Business, pp. 278-313.

their public authorities. Such flexibility is needed to ensure that authorities do not become ossified and outlive their usefulness. The power of appropriation, which legislatures wield over state agencies, is more limited when corporations are largely self-supporting. One way of increasing such control is to require all agencies which receive subsidies or loans from the state to submit their budgets for approval, and be subject to audits. However, legislative oversight of corporation decisions is probably even more difficult to carry out effectively than supervision by executive agencies.

The legislature's greatest influence over the activities of public corporations comes at the time they are established. Clearly defined missions and powers, as well as rules for reporting financial plans and budgets, and being audited can make control after establishment of public authorities far easier, since many important authority decisions are made incrementally. Keeping watch over the day-to-day operations, and predicting actions is probably handled much more easily by state agencies responsible for the authority's activities than by legislative committees which are following current legislation.

Supervision by Executive Agencies. Statutes creating public authorities often specify types of supervision over them by executive agencies. The most common are: requirements for submission of budgets to budget offices and legislative committees, powers of audit granted to comptrollers, review of bond prospectuses by the attorney general's office, and power to approve or limit bond issues and coordinate activities vested in special commissions or line departments.

Requiring public authorities to submit their budgets for prior approval to the state's budget office and appropriate legislative committees is a potentially powerful means of gaining information and influencing authority

decisions. Requiring capital budgets to be submitted is one way to coordinate the long-run capital plans of public authorities with state goals.

Requirements that authorities be subject to financial and performance audits is another way for the state to keep itself apprised of the financial health and efficiency of organizations whose decisions can significantly affect state credit.

Placing authorities within the jurisdiction of regular state departments (as Alaska has done) is still another way for the state to keep informed on authority activities and exert control. However, to be effective the regulatory power of the department, especially the relationship between decisions made by the authority's board of directors and the department's review and/or veto power, need to be clearly defined.

Although legislators may see little need to review the budgets of authorities which do not utilize large state appropriations, the ability of these corporations to take actions which place an implicit lien on state funds, and which can profoundly affect the state's ability to borrow, gives sufficient reason to scrutinize their activities carefully.

Court Review. So far the courts have failed to provide unambiguous guidelines in their reviews of public authority powers. In judicial decisions authorities enjoy the best of both worlds, being considered arms of government for the purposes of issuing tax-exempt bonds, but being held to be independent agents not subject to administrative control statutes. This duality of interpretation is evidence of the importance in creating authorities of clearly defining the objectives of public corporations, limitations on their powers, and types of legislative or executive control that may be exercised over them. The quasi-independent nature of public corporations has made it difficult for

taxpayers and citizens' groups to legally challenge the expenditure plans of public corporations. This too argues for creating mechanisms whereby such input can be incorporated into authority decisions.

Local Government Controls. In general, public corporations reduce the power of local governments. Regional authorities often skim off revenue-producing projects and leave local governments with the tasks of providing tax-supported services. Local governments often can exert some control over authority decisions if they control zoning issues. They can sometimes use this power over land to stop projects, or to bargain for payments in lieu of taxes.

Voter Control. Because the decisions of public authorities can place a direct burden on taxpayers through lease-back arrangements or an indirect burden in the form of "moral obligation" language, and the fact that states can ill afford to let public authorities default on their loan payments, many people have argued that the borrowing of all government subdivisions should be subject to voter approval. While this proposal appeals to popular democratic notions, it would be likely to have some serious negative consequences. It was the existence of unrealistic debt limits in many states that prompted the growth of public authorities. By the time a bond issue comes before the voters many of the important decisions have already been made: choice of options, site decisions, type of development. It is therefore an open question whether voter ratification of complicated bond issues, themselves the result of political haggling, represent the type of public input the proponents are striving for. Finally, although making all government borrowing subject to voter approval--given that voters on average have approved about half of the borrowing asked for--would eliminate some projects that are not wise, it would also tend to eliminate a large amount of capital investment that is productive and

necessary. If the level of investment in public capital goods declines the result would be a deteriorating infrastructure, and a corresponding decline in the productivity and services that infrastructure supports. Voter preference is for projects that are revenue-producing such as bridges and tunnels, rather than education and low-income housing. The result of shifting to voter approval of all bond issues will be a decline in capital investment and a shift in type of public investment.

A less disruptive means of achieving more accountable debt policies may be to loosen the restrictions that have led to the overuse of public authorities, and at the same time make the investment and borrowing decisions of public authorities more subject to control by elected officials, and formalize mechanisms for citizen input into the decisions of public authorities.

*Signet
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**LEGISLATIVE BUDGET AND AUDIT
COMMITTEE HANDBOOK**

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ORGANIZATION AND FUNCTION

The Legislative Budget and Audit Committee is a permanent interim committee of the Legislature. It was established in 1955 as the Legislative Audit Committee. The Committee is composed of ten members and two alternates: the chairpersons of the Senate and House finance committees; one member selected from each of the Senate and House finance committees and appointed by the President of the Senate and the Speaker of the House, respectively; and three members and an alternate appointed from each house by the respective presiding officer. If the chairperson of a finance committee chooses not to serve, the presiding officer appoints a replacement from the finance committee.

The Committee has the responsibility for providing the Legislature with fiscal analysis, budget reviews, and audits of State government agencies, and for approving requests from the Governor to revise the appropriations act. As a result of the passage of Chapter 18, SLA 1980, the Committee has authority to monitor lending and investment activities of the State.

To provide the necessary technical assistance to accomplish the purposes, two permanent staff agencies have been created: the Legislative Finance Division and the Legislative Audit Division. These divisions report directly to the Legislative Budget and Audit Committee and are independent of Executive and Judicial agencies. The Committee also has some temporary employees to assist with Committee activities.

Legislative Finance Division

One of the primary responsibilities of a State legislative body is to research, draft and enact revenue and appropriation measures. The Legislative Finance Division was created in 1971 and assigned the following duties:

1. Analyze the budget and appropriation requests of each department, institution, bureau, board, commission or other agency of State government.
2. Analyze the revenue requirements of the State.
3. Provide the finance committees of the Legislature with comprehensive budget review and fiscal analysis services.
4. Cooperate with the Division of Budget and Management in establishing a comprehensive system for State program budgeting and financial management as set out in the Executive Budget Act (AS 37.07).

5. Complete studies and prepare reports, memoranda or other materials as directed by the Legislative Budget and Audit Committee.

The Finance Division reviews proposed changes to the operating budget for the Budget and Audit Committee and prepares necessary backup information for Committee decisions on proposed "revised programs".

During the interim, the Finance Division functions with a staff of seven fiscal analysts, one EDP Coordinator, one Data Control Clerk, one Administrative Assistant and one clerical position. The Division also houses the staff assigned to the two finance committee chairpersons. During Legislative sessions, the Division increases staff to meet the additional needs of the two standing finance committees.

Legislative Audit Division

In accordance with the Constitution of the State of Alaska and Title 24 of the Alaska Statutes, the Legislative Auditor and his staff conduct the post-audit function in the budget cycle. The Division was created in 1955.

All audits performed by the Division are external audits, that is, they are performed by an auditor who is independent of the executive head of the government unit or agency being audited. The three major types of audits performed by the Division are financial-compliance audits, performance audits, and special audits or reviews.

1. Financial-Compliance Audit

A financial-compliance audit determines (a) whether financial operations are properly conducted; (b) whether the financial reports of an agency are presented fairly; and (c) whether the entity has complied with applicable laws, regulations, administrative policies, and legislative intent.

2. Performance Audit

A performance audit is conducted to provide the Legislature with an evaluation and report on the manner in which administrators of an agency have faithfully, efficiently, and effectively administered a program. Faithfulness refers to whether or not programs have been administered in accordance with promises made to the Legislature and the expression of legislative intent. Effectiveness refers to whether or not planned program objectives have been achieved. Efficiency refers

to whether or not program accomplishment has been achieved by using the least-cost combination of resources and with a minimum of waste.

The 1971 Legislature gave the Legislative Audit Division the authority to conduct performance audits of any agency of State government at the direction of the Budget and Audit Committee. The Committee has instructed the Legislative Auditor to review all audit assignments and conduct performance audits whenever considered practical and beneficial to the State.

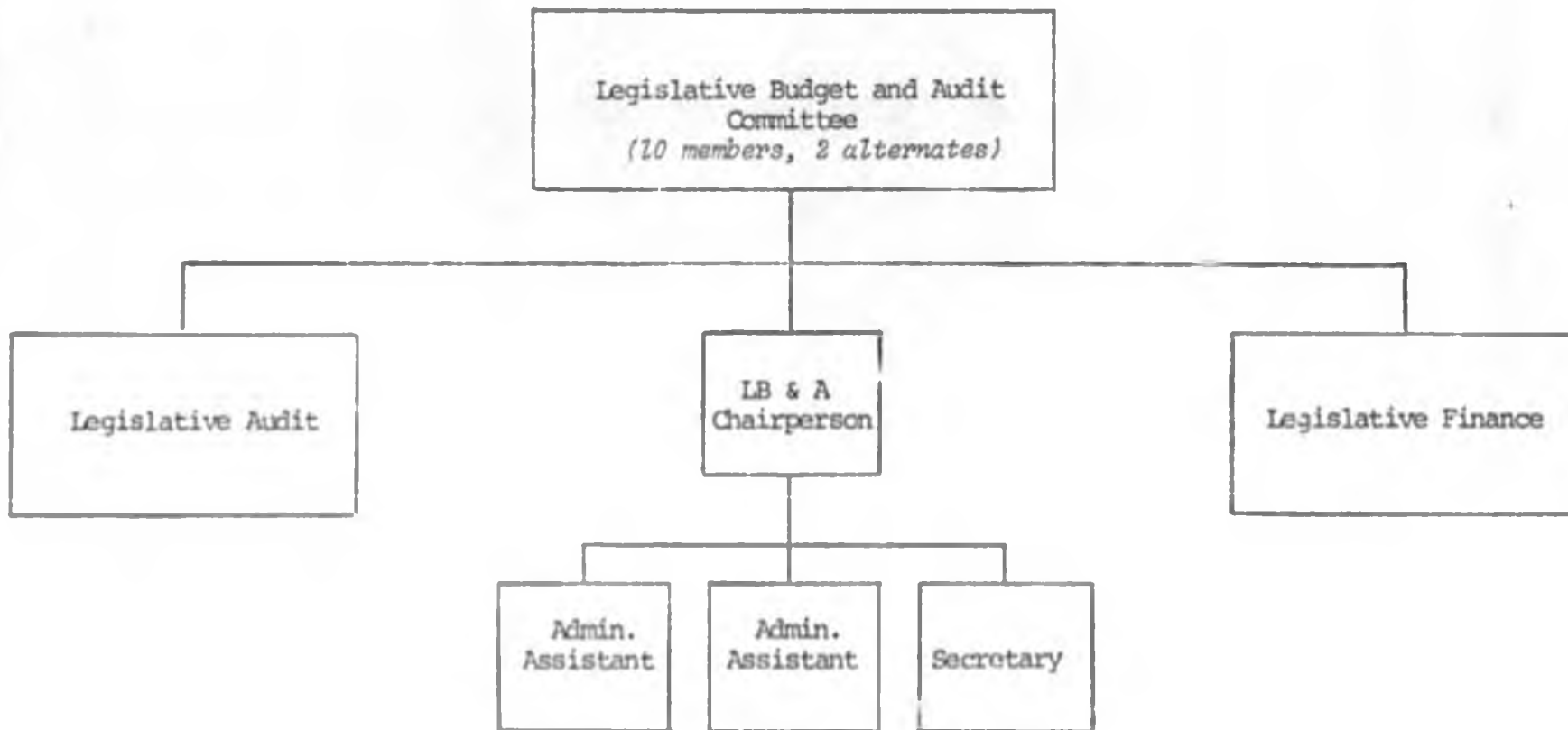
The 1977 Legislature passed a "Sunset Law" which requires the Division to conduct performance audits of boards, commissions, and agency programs subject to termination under AS 44.66. The audit report, along with other reports and testimony, is considered when determining if there is a public need for a board, commission, or program.

3. Special Audit or Report

All special reports or special audits are conducted at the request of the Committee. Any member of the Legislature may request, through the Committee, a special audit or report. A special audit can cover many things. It can be an audit that is restricted to one part of an agency's operations or it can be an audit reviewing financial transactions for a period of time shorter or longer than a fiscal year. The special report is often an information type report.

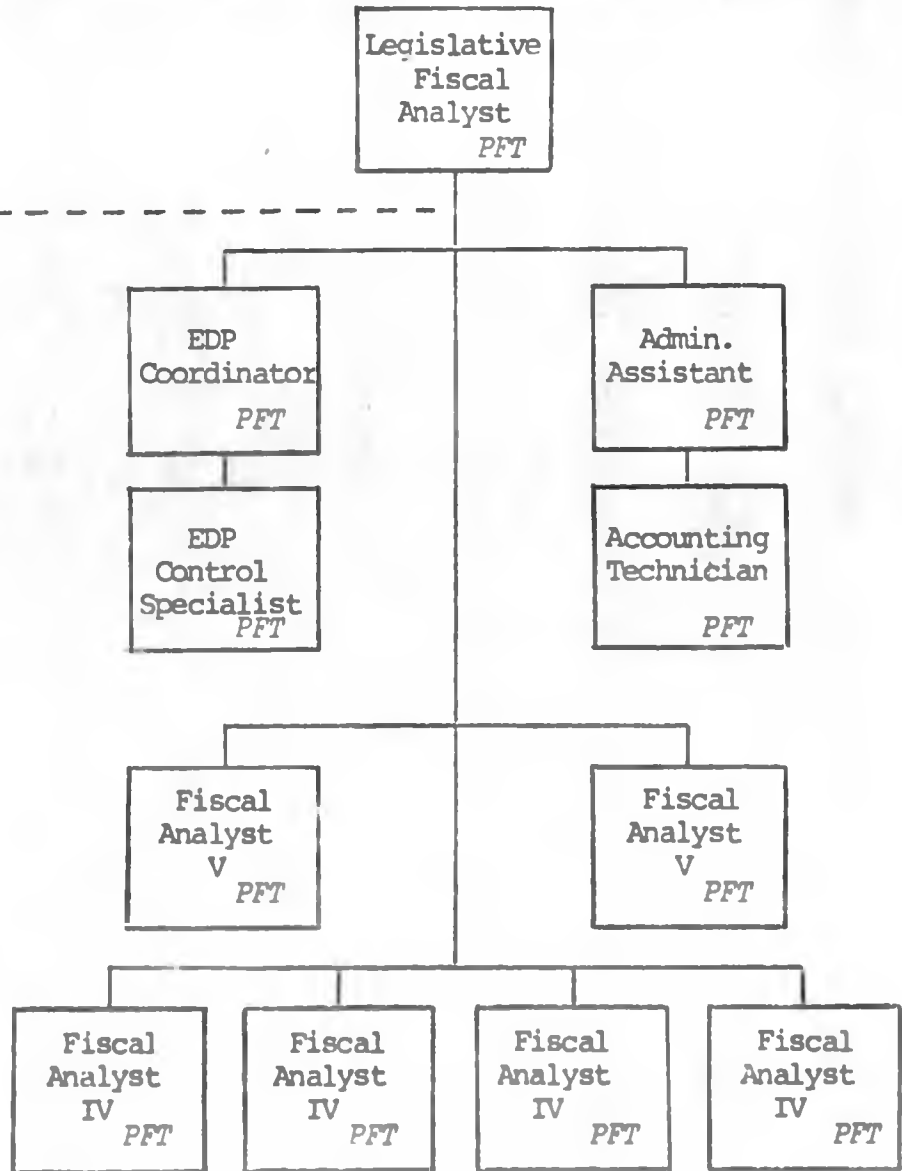
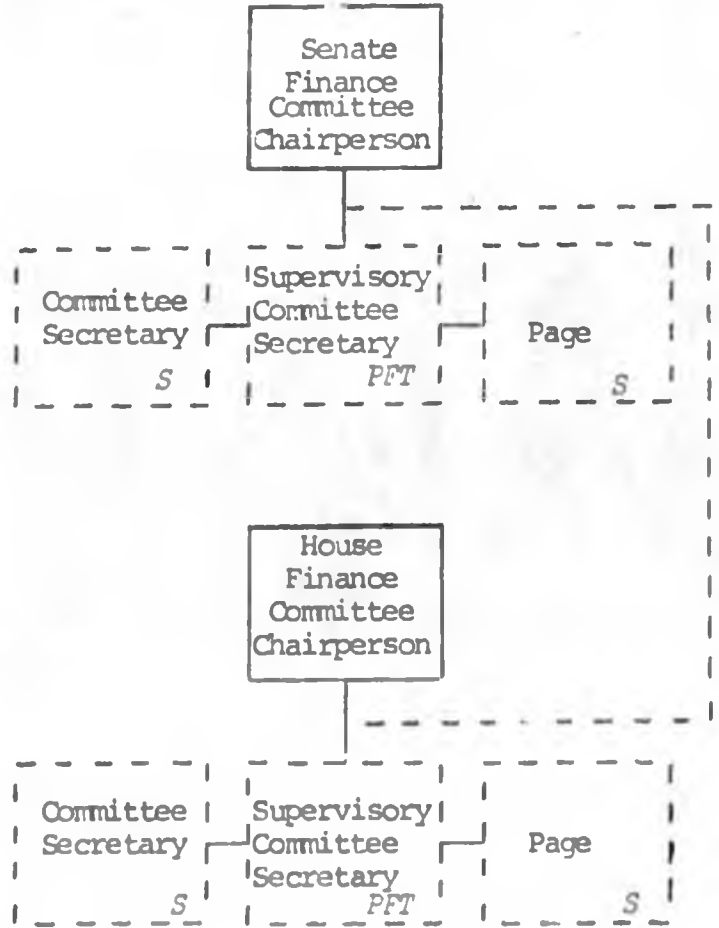
STAFF ORGANIZATION

Legislative Budget and
Audit Committee



NOTE: Additional employees may be hired based on need
(within budget limitations).

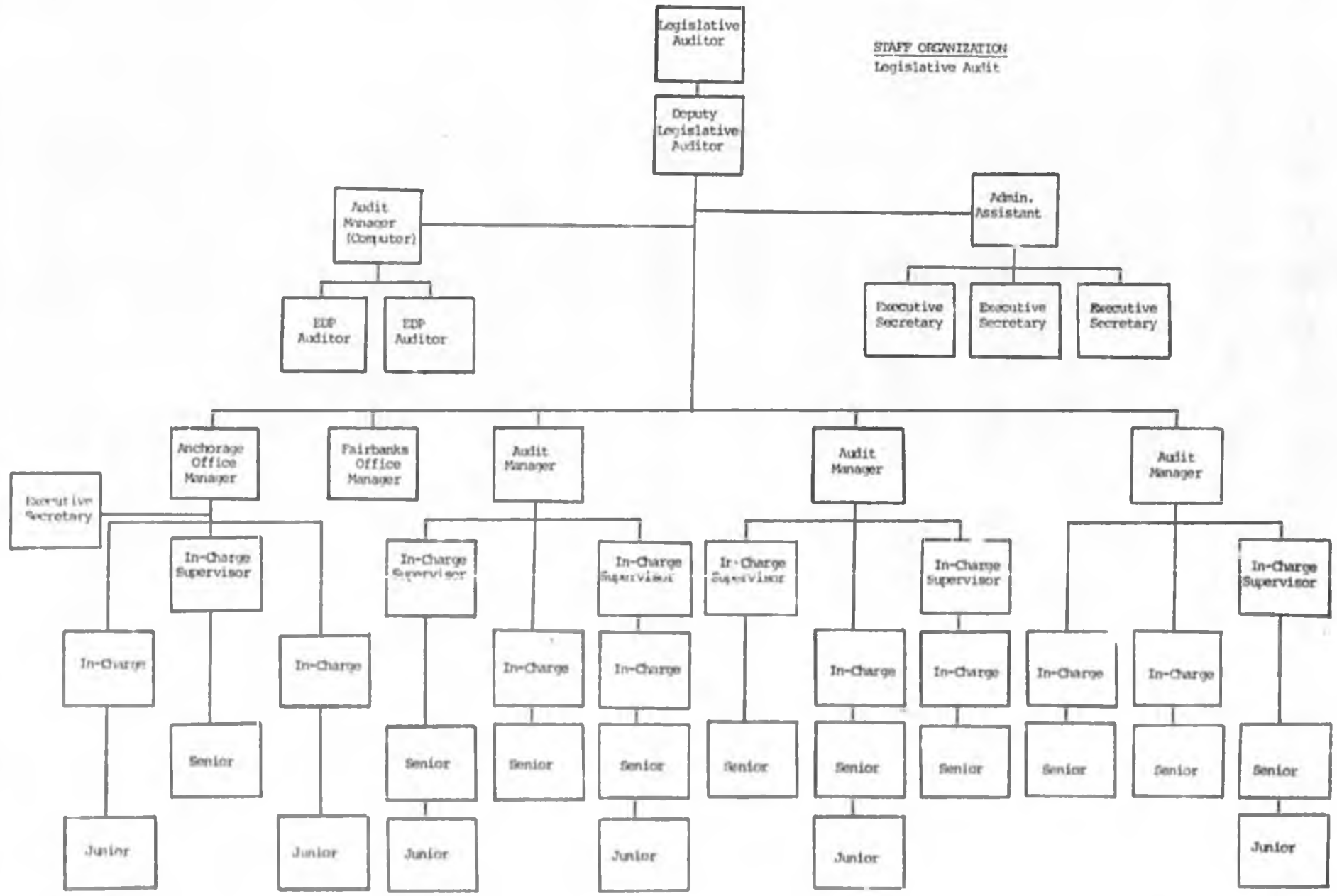
Legislative Finance



NOTE: These positions are under Legislative Finance for budgetary purposes, but actually work for the finance committees. Additional employes may be hired based on need (within budget limitations).

PFT = Permanent Full Time
 S = Seasonal

STAFF ORGANIZATION
Legislative Audit



DIVISION OF LEGISLATIVE AUDIT
STAFF DUTIES

Legislative Auditor

Acts as liaison between the Budget and Audit Committee and the audit staff.

Makes the final review of all audit reports and issues the opinion on the financial statements presented in the report.

Serves as Fiscal Officer for the Division.

Prepares the budget for the Division.

Provides day-to-day supervision for the Division.

Deputy Legislative Auditor

Directs recruitment of new personnel.

Acts as EEO Officer.

Makes audit assignments.

Coordinates audit schedule.

Approves preliminary and revised audit budgets.

Performs special projects as assigned by Legislative Auditor.

Performs all duties of Legislative Auditor when required.

Audit Manager

Supervises multiple audit teams in the daily conduct of field work.

Approves audit programs and selection of audit procedures during planning stage of audit assignments.

Reviews preliminary audit budget request and subsequent revisions prior to submission to Deputy Legislative Auditor.

Confers frequently with in-charge auditor to assist in problem areas and assures proper coverage within audit scope.

Reviews all work papers and audit reports and presents the completed audit to the Legislative Auditor.

Evaluates in-charge auditors.

Assists the Deputy Legislative Auditor and the Legislative Auditor in selecting audit assignments, scheduling of audit staff and promotion decision for subordinate staff.

Makes recommendations for audit manual revisions.

Performs special projects as assigned by Legislative Auditor.

Anchorage Office Manager

Performs duties listed above under "Audit Manager".

Performs the necessary administrative functions to oversee the branch office.

Computer Audit Manager

Directs and supervises the Division's computer audit team in all computer audits.

Establishes and presents computer related training programs.

Supervises the FDP section in day-to-day support operations.

Performs duties listed above under "Audit Manager".

In-Charge Supervisor

Supervises multiple concurrent audit assignments.

Performs in-charge functions for the most complex audit assignments.

Performs the preliminary review of all workpapers and audit reports.

Works closely with audit manager during all stages of the audit assignment.

Performs all other duties of in-charge auditor in the absence of an in-charge.

In-Charge Auditor

Plans audit work including preparation of budget, selection of audit procedures, and detailing of audit programs.

Performs auditing procedures and techniques in the more difficult sections of the audit assignment.

Prepares audit workpapers for work performed and has overall responsibility for quality and content of working papers prepared by subordinate auditors.

Prepares written explanations of all major audit findings for presentation to the auditee.

Has overall responsibility for the preparation of financial statements, notes to financial statements, and all narrative included in the audit report. Supervises field work of subordinate auditors assigned to job, including the review of all work performed on the job.

Prepares evaluations of subordinate auditors.

Makes recommendations for audit manual revisions.

Recommends to the Deputy Legislative Auditor future audits and special reports based on results of and observations during current audits.

Communicates frequently with audit manager to discuss audit findings, progression of work within budget constraints, and performance of subordinate auditors.

Senior Auditor

Under direct supervision of in-charge auditor, performs auditing procedures and techniques on major sections of audit assignment. Responsible for workpaper preparation covering all criteria of audit findings revealed during testing.

Under supervision of in-charge auditor, assists in preparation of audit reports, financial statements, and notes to financial statements.

Performs entire audits of limited scope under direct supervision of audit manager. Responsibilities include planning, testing, and preparing workpapers, financial statements, and audit reports.

Junior Auditor

Performs routine audit steps under the supervision of an in-charge or senior auditor.

Responsible for workpaper preparation and summarization of results of testing performed.

Performs small, simple audits under the direct supervision of an audit manager.

EDP Auditor

Works under direct supervision of the Computer Audit Manager.

Designs and writes data processing programs used in conduct of audits.

Processes data processing work through the Department of Administration.

Provides support to in-charge auditors in determining specialized areas where data processing applications can be used.

Administrative Assistant

Manages functional and service operations in preparing audit reports.

Maintains accounting and payroll records for the Division of Legislative Audit and the Legislative Budget and Audit Committee.

Plans, assigns, supervises, and evaluates the work of the clerical staff.

Executive Secretary

Works under direction and supervision of Administrative Assistant (Anchorage Secretary under supervision of Office Manager).

Performs general office duties and prepares audit reports.

LEGISLATIVE AUDIT DIVISION
POLICIES AND PROCEDURES

The following policies and procedures for the Legislative Audit Division have been adopted by the Committee.

Legislative Auditor and His Staff

1. The auditor shall be strictly non-partisan in conduct of his business.
2. The auditor shall not belong to any association or union of State employees that might create a conflict of interest with staff work.
3. The auditor shall maintain a confidential relationship between himself and the agency being examined. No reports or information gained during the course of an examination shall become public information until approved for release by the Committee.
4. The auditor shall provide security over information that has been established by law to be confidential and shall restrict access to such information to members of his staff with a need to know.
5. The auditor shall advise the Budget and Audit Committee when an audit is expected to include examination of information classified by law to be confidential. Upon receipt of such notification, the Committee will take whatever action it deems appropriate to allow the auditor to withhold such information from the Committee.

If it is considered desirable for the Committee to have access to the confidential information, it will establish necessary restrictions to prevent Committee members from publicizing the information.

Release of Reports

1. When an audit report is complete and has been reviewed and signed by the Legislative Auditor, 15 copies of the report will be prepared and marked PRELIMINARY REPORT. In addition to the report, 15 copies of a digest of report highlights will also be prepared and marked PRELIMINARY REPORT (1975).
2. The PRELIMINARY REPORT will be approved or disapproved for release to the Governor, Department of Administration, and auditee by a majority vote of the Committee (1975).

3. Upon approval, the auditee will be requested to respond to the report within 20 days. The Department of Administration will be invited to respond if they wish (1979).
4. Upon receipt of the agency response, the audit report will be compiled (including Legislative Audit's rebuttal if needed) as the FINAL REPORT (1979).
5. The FINAL REPORT will be submitted to each member of the Legislative Budget and Audit Committee approximately 10 days prior to the next scheduled Committee meeting after the 20-day response period (1979).
6. The FINAL REPORT will be either approved or disapproved for public release by a majority (six members) of the Committee (1975).
7. One copy of the approved FINAL REPORT will be mailed to the Governor, Department of Administration and the auditee (1975).
8. When approved for public release, a copy of the digests will be mailed to each member of the Legislature with a letter stating the complete report may be obtained upon request (1975).
9. Twenty copies of each report are filed with the Alaska State Library in Juneau for further distribution to other libraries in the State.
10. All reports that are approved for public release will be included in the Annual Report of the Division of Legislative Audit to the Legislature.

Special Reports

1. Special reports will be presented to the Committee for approval before they are released to the Governor, Department of Administration and affected agency. The agency will then be requested to respond to the report within 20 days. After the response is received, the Committee will either approve or disapprove the report for public release (1979).
2. Special reports classified as "confidential" or "for Committee information" shall be kept on file in the Division of Legislative Audit for use of the Committee only, unless the Committee wishes them distributed to interested parties (1971).
3. All requests for audits or special reports will be directed to the Committee.

Workpapers

1. Workpapers prepared by the auditor during the course of his work shall remain confidential. However, the workpapers may be reviewed by outside auditors if considered appropriate by the Legislative Auditor and he has instructed them to treat the workpapers as confidential.
2. The auditor shall, upon direction from the Budget and Audit Committee, make workpapers available to members of the Committee.
3. Workpapers containing information classified by law to be confidential will be separated from the regular workpapers and filed in the Legislative Auditor's office. Access will be limited to only those auditors in the Division of Legislative Audit directly connected with the examination or members of the Budget and Audit Committee if the Committee has so directed.

General

1. When requested, by either party, the auditor shall serve as an arbitrator between an agency and the Division of Finance in connection with differences of opinion on the accounting treatment of transactions (1957).
2. The auditor shall render assistance, when appropriate, in connection with accounting matters, to any agency, or he may act in an advisory capacity with respect to an agency's accounting problems - subject to the provisions of the Fiscal Procedures Act and amendments thereto (1957).
3. The auditor and his staff should not make any attempt to direct the procedures of any agency with regard to accounting practices (1959).
4. The Committee considered the request of the Internal Auditor to use Audit Division reports and workpapers. The Committee unanimously approved a motion that the reports be released to him and that he be instructed to treat them as confidential information (1966).
5. The Committee reviewed the audit of the Division of Legislative Audit for the period July 1, 1957 to June 30, 1959. The Audit was released to the Office of the Governor. Some discussion followed regarding the practice of having the Audit Division audit their own records, and it was agreed that this was a practice that should be corrected. A motion passed that the Audit Division be audited by an independent auditing firm and that monies for this be included in the budget request (1959).

6. The Legislative Auditor will pay all travel expenses connected with Committee meetings and travel directed by the Committee Chairman during Budget and Audit meetings. If a Committee members travels on Budget and Audit business that wasn't covered during a regular or special Budget and Audit meeting, the Legislative Auditor will pay all expenses incurred upon written direction from the Chairman or Vice-Chairman.
7. The Legislative Auditor will, when requested, offer testimony to any House or Senate Standing Committee when he or a member of his staff has knowledge that could be helpful to the Committee as a result of:
 - a. Having conducted an audit in an area of Committee interest.
 - b. Their general background and experience as auditors.

Information which is confidential under Budget and Audit Committee procedures will not be related to the Standing Committees by the Legislative Auditor or his staff.

This assistance to Standing Committees will be in the form of testimony only. Requests for studies or additional fact-finding work must be approved by the Budget and Audit Committee.

Extracts of routine information in the State's accounting records will be furnished to Standing Committees upon request provided that new data processing programs need not be developed to produce the information requested (1979).

Legislative Budget and Audit Committee Contracting Procedures

The following contracting procedures were adopted by the Legislative Budget and Audit Committee on April 10, 1981.

A. Intent

These contracting procedures apply only to contracts administered directly by the Legislative Budget and Audit Committee. No contracts shall be let and no funds shall be expended by the Budget and Audit Committee for purposes that are outside the statutorily proscribed duties and responsibilities of the Legislative Budget and Audit Committee.

These procedures apply to all contracts with a total value of \$10,000 or more, including contract amendments, phased contracts and individual contracts which are components of a single work element.

Contracts are to be used for independent consulting services. Contracts are not to be used to provide day-to-day staff services or to maintain Committee staff during the interim between sessions.

The contracting process will be open to the public upon the initial direction by the Committee that a contract be developed to complete a specific project. (Step 2 of the proposed procedures.)

B. Procedural Steps

1. Staff or Committee identify subject area that might require contract work.
2. Committee directs staff to proceed with contract process for the specific subject area identified. Committee approves request for sole source contract at this time. Contract process becomes public information upon Committee approval.
3. Staff develops work program.
4. Staff develops RFP list, based on master contractor file, open solicitation, etc. Master contract file, RFP list and solicitation results are open to the Committee and the public.
5. Request proposals from consultants. Proposals are to be submitted sealed. The request for proposals will include a deadline for receipt of proposals and date for the public opening of proposals.
6. Prepare method of evaluating proposals.
7. Evaluate consultant proposals.
8. Draft final contract, including detailed work program and performance requirements.
9. Final contract document and evaluation of all consultant proposals forwarded to the Committee by the chair. Committee approval of both contract document and consultant selection.
10. Signing of contract.
11. Monitor contract performance.
12. Present status reports products and completion reports to Committee.

LEGISLATIVE BUDGET AND AUDIT
RELATED LEGAL PROVISIONS

<u>Page</u>	<u>Citation</u>	<u>Applicable to</u>		
		<u>LB&A</u>	<u>Audit</u>	<u>Finance</u>
19	AS 14.17.081	X		
19	AS 14.17.082	X		
19	AS 14.40.296	X		
19	AS 14.40.903(a)(7)	X		
20	AS 18.55.996(1)		X	
20	AS 18.56.045	X	X	X
20	AS 24.05.087	X		
20	AS 24.05.200	X		
21	AS 24.20.151	X		
21	AS 24.20.156	X		
22	AS 24.20.161	X		
22	AS 24.20.165	X		
23	AS 24.20.171	X		
23	AS 24.20.181	X		
23	AS 24.20.191	X		
23	AS 24.20.201	X		
24	AS 24.20.206	X		
25	AS 24.20.209	X		
25	AS 24.20.211			X
26	AS 24.20.221			X

LEGISLATIVE BUDGET AND AUDIT
RELATED LEGAL PROVISIONS

<u>Page</u>	<u>Citation</u>	<u>Applicable to</u>		
		<u>LB&A</u>	<u>Audit</u>	<u>Finance</u>
26	AS 24.20.231			X
26	AS 24.20.241		X	
26	AS 24.20.251		X	
27	AS 24.20.261		X	
27	AS 24.20.271		X	
29	AS 24.20.281	X	X	
29	AS 24.20.291		X	X
29	AS 24.20.301		X	X
29	AS 24.20.311	X	X	
29	AS 24.30.060(b)	X		
30	AS 24.40.031	X		
30	AS 29.18.590	X		
32	AS 37.05.210(2)		X	
32	AS 37.07.020	X		
32	AS 37.07.040			X
32	AS 37.07.050			X
32	AS 37.07.080	X		
32	AS 37.07.090(a)			X
33	AS 37.10.087	X		
33	AS 37.10.088(c)	X		
33	AS 37.12.100		X	
33	AS 37.13.120(d)	X		

LEGISLATIVE BUDGET AND AUDIT
RELATED LEGAL PROVISIONS

<u>Page</u>	<u>Citation</u>	<u>Applicable to</u>		
		<u>LB&A</u>	<u>Audit</u>	<u>Finance</u>
33	AS 37.13.120(k)	X		
34	AS 37.13.160	X	X	
34	AS 39.20.245(b)		X	X
34	AS 43.08.035(b)	X		
34	AS 43.21.110(b)		X	
34	AS 44.07.200	X	X	
34	AS 44.07.270(5)	X		
35	AS 44.07.280		X	X
35	AS 44.07.320	X		
35	AS 44.08.020(b)	X		
35	AS 44.08.040(b)	X		
35	AS 44.46.090(a)		X	
35	AS 44.66.020(6)	X		
36	AS 44.66.030	X		
36	AS 44.66.050(a)		X	
36	AS 44.81.260(b)(1)		X	
36	AS 44.81.270		X	
37	AS 44.81.280		X	
37	AS 44.82.180		X	
37	AS 44.82.190		X	
37	AS 44.83.191	X		
37	AS 44.88.700		X	
37	AS 47.30.370	X		
37	AS 47.40.030		X	

AS 14.17.081 relates to the minimum amount of school operating expenditures (55%) that a school district must spend on the instructional component of the district budget. Subsection (d) and (e) state:

(d) A district which has been determined by the commissioner to be out of compliance with the requirements of this section may, within 20 days of the commissioner's determination, request a waiver by the state Board of Education of the imposition by the commissioner of any reduction in state aid payments under (b) or (c) of this section. The request must be submitted to the Legislative Budget and Audit Committee and must be in writing and include an analysis of the reasons and causes for the district's inability to comply with the requirements of this section. The Legislative Budget and Audit Committee shall review the district's request and forward it, along with the committee's recommendations on it, to the state Board of Education which shall either grant or deny the waiver.

(e) The commissioner shall submit an annual report on actions taken by him or the state Board of Education under this section to the Legislative Budget and Audit Committee by April 15 of each year. (Sec 15, Ch 26, SLA 1980)

AS 14.17.082 relates to school district fund balances. Districts that have at least 400 instructional units may accumulate a fund balance in the school operating fund of seven percent of its expenditures. Districts having less than 400 instructional units may accumulate a fund balance of 10 percent of its expenditures. The commissioner of Education is required to ascertain compliance and report non-compliance, through means of a written report, to the districts and the state Board of Education. The Board of Education shall submit a report making recommendations with respect to the legislative treatment of the fund balances of those districts to the Legislative Budget and Audit Committee by April 15 of each year. (Sec 15 ch 26 SLA 1980)

AS 14.40.296 relates to the establishment of a working capital reserve fund at the University of Alaska. It states, in part, that a quarterly report of the activity of the working capital reserve fund shall be submitted by the University of Alaska to the Legislative Budget and Audit Committee. (Sec 1 ch 117 SLA 1980)

AS 14.40.903(a)(7) mandates that the Alaska Commission on Postsecondary Education, within the Department of Education, consists of two members from the legislature, one of whom shall be designated by the Legislative Budget and Audit Committee. (Ch 78 SLA 1974)

AS 18.55.996(i) states in part, that the Legislative Auditor may prescribe the form and content of the financial records of the regional housing authority and shall have access to these records at any time. (Ch 86 SLA 1981)

AS 18.56.045 states in part, that the Board (of the Alaska Housing Finance Corporation) shall keep minutes of each meeting and send a certified copy to the governor and the Legislative Budget and Audit Committee. (Ch 115 SLA 1981)

AS 24.05.087 requires a member of the legislature who serves on the Legislative Budget and Audit Committee (or any other interim committee) who files a declaration of candidacy for an elective office other than that of a member of either house of the legislature and that person has not resigned from membership on the interim committee, that person's membership terminates on the date of filing. (Ch 11 SLA 1975)

AS 24.05.200 states in part, that except for fiscal and personnel services for the Legislative Budget and Audit Committee, the Legislative Council will provide the administrative services necessary to the operation of the legislature. (Sec 23 ch 157 SLA 1951; am sec 6 ch 47 SLA 1961; am sec 35 ch 53 SLA 1973)

Note: Line 25 Ch 120 SLA 1980 included a provision that space occupied by legislative agencies on the fifth floors of the capitol and state office buildings is under the control of and subject to assignment by the Legislative Budget and Audit Committee. As this provision is somewhat in conflict with AS 24.05.190 which gives the Legislative Affairs Agency control over subject spaces, it appears this provision may be considered intent only. As it is also contained in the appropriation act, it may also be interpreted as having a one year existence.

Article 2. Legislative Budget and Audit Committee.

Section

- 151. Legislative Budget and Audit Committee established
- 161. Membership
- 165. Alternate members
- 171. Term of membership
- 181. Vacancies
- 191. Meetings
- 201. Powers
- 211. Legislative Finance Division
- 221. Staff
- 231. Duties
- 241. Legislative Audit Division
- 251. Qualifications and appointment of legislative auditor
- 261. Staff
- 271. Powers and duties
- 281. Special audit
- 291. Conflict of Interest
- 301. Records
- 311. Reports

Repeal of former article. - Section 1, ch 95, SLA 1971, repealed former Article 2, entitled "Legislative Post Audit". The former article consisted of Sec 24.20.150-24.20.370, and derived from ch 86, SLA 1959.

Legislative committee report. - For report on ch 95, SLA 1971 (FCCS SCS CS#B 14 am 2d FCC), see 1971 House Journal, p. 121.

AS 24.20.151. Legislative Budget and Audit Committee established. The Legislative Budget and Audit Committee is established as a permanent interim committee of the legislature. The establishment of the committee recognizes the need of the legislature for full time technical assistance in accomplishing the fiscal analysis, budget review and post-audit functions. (Sec 2 ch 95 SLA 1971)

AS 24.20.156. Purposes. The purposes of the Legislative Budget and Audit Committee include:

- (1) monitoring and reporting
 - (A) the performance of the agencies of the state which perform lending or investment functions,
 - (B) the extent to which the performance of these agencies has contributed to the fiscal, financial, economic and social improvement of the state and its citizens,
 - (C) the extent to which these agencies and the executive have prepared and coordinated short-term and long-term economic, fiscal, investment and financial planning;
- (2) holding these agencies accountable to statutory intent in their performance by recommending, where appropriate, changes in policy to the agencies or changes in legislation to the legislature;

(3) annually reviewing the extent of capitalization of the investment funds of the state and alternative investment policy for the general fund surplus and recommending needed legislation. (Sec 2 ch 18 SLA 1980)

Effective date. - Section 11, ch 18 SLA 1980, makes the section effective April 9, 1980, in accordance with AS 01.10.070(c).

Editor's note. - Section 1, ch 18 SLA 1980, effective April 9, 1980, provides "FINDINGS. The legislature finds that there is a substantial need for oversight of the performance of those agencies of the state which perform lending or investment functions since those functions do not receive the detailed review to which other expenditures of public money are subject, and therefore the knowledge necessary for sound legislation in this area is not readily available. There is a need for legislative oversight which will provide information on the policy and performance of these agencies, the extent to which the agencies conform to statutory intent, and the impact of their performance on the economy and the state treasury."

AS 24.20.161. Membership. The Legislative Budget and Audit Committee is composed of 10 members: the chairmen of the senate and house finance committees; one member selected from each of the senate and house finance committees and appointed by the president of the senate and the speaker of the house, respectively; and three members appointed from each house by the respective presiding officer. The chairman of the finance committee may choose not to serve on the committee. If this occurs, the presiding officer of the appropriate house shall appoint a replacement from the finance committee. The membership from each house shall include at least one member from each of the two major political parties. The committee shall select its own chairman. (Sec 2 ch 95 SLA 1971)

AS 24.20.165. Alternate Members. The Legislative Budget and Audit Committee shall have two alternate members in addition to the members designated in AS 24.20.161. The president of the senate shall appoint one alternate member from the senate finance committee and the speaker of the house shall appoint one alternate member from the house finance committee. The alternate members shall serve on the committee when a meeting of the committee has been called and the chairman determines that there will not be enough members in attendance at the meeting to provide a quorum. While serving as alternates, the alternate members have the same duties and responsibilities as committee members appointed under AS 24.20.161, and they are entitled to the same travel and per diem allowances. (Sec 1 ch 57 SLA 1979)

AS 24.20.171. Term of membership. (a) The committee shall be organized within 15 days after the organization of each legislature. Members serve for the duration of the legislature during which they are appointed. If they are re-elected or their term of office extends into the next succeeding legislature, they continue to serve until reappointed or the appointment of their successor.

(b) When a member of the committee files a declaration of candidacy for an elective office other than that of member of either house of the legislature, and he has not resigned from membership on the committee, his committee membership terminates on the date of filing. (Sec 2 ch 95 SLA 1971; am Sec 3 ch 11 SLA 1975)

Effect of amendment. - The 1975 amendment added subsection (b).

AS 24.20.181. Vacancies. When a vacancy occurs in the statutory or appointive membership of the committee, the presiding officer of the house incurring the vacancy shall choose a successor. If the officer of the president of the senate or speaker of the house of representatives becomes vacant and a vacancy from the affected house occurs among the membership of the committee, the remaining committee members from the house incurring the vacancy shall appoint a new member. (Sec 2 ch 95 SLA 1971; am Sec 4 ch 11 SLA 1975)

Effect of amendment. - The 1975 amendment inserted "statutory or appointive" in the first sentence.

AS 24.20.191. Meetings. The budget and audit committee may meet during sessions of the legislature and during the interim between sessions at such times and places in the state as the chairman may determine. Members may receive, for the minimum time required to get to and from meetings and for the period while attending meetings the same travel and per diem allowances provided by law for members of the legislature when attending sessions, except that members of the committee receive no per diem during legislative sessions other than the per diem allowance paid to other members of the legislature. (Sec 2 ch 95 SLA 1971)

AS 24.20.201. Powers. (a) The Legislative Budget and Audit Committee has the power to:

(1) organize, adopt rules for the conduct of its business and prescribe procedures for the comprehensive fiscal analysis, budget review and post-audit functions;

(2) hold public hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and production of papers, books, accounts, documents and testimony, and have the deposition of witnesses taken in a manner prescribed by court rule or law for taking depositions in civil actions;

- (3) require all state officials and agencies of state government to give full cooperation to the committee or its staff in assembling and furnishing requested information;
- (4) review revenue projections, state agency appropriation requests, the expenditure of state funds, including the relationship between state agency program accomplishments and legislative intent, and the fiscal policies and procedures of state government;
- (5) review and approve proposed changes to agency authorized budgets as provided in the Executive Budget Act (AS 37.07);
- (6) make recommendations concerning appropriations, their expenditure and the fiscal policies and procedures of state government to the governor when appropriate, and to the legislature;
- (7) prepare and distribute reports, memoranda or other necessary materials;
- (8) sue in the name of the legislature during the interim between sessions if authorized by majority vote of the full members of the committee;
- (9) hold public hearings on the confirmation of the members of the Board of Trustees of the Alaska Permanent Fund Corporation, and the members of the Board of Trustees of the Alaska Renewable Resources Corporation;
- (10) make recommendations to the legislature and to agencies of the state which perform lending or investment functions concerning the structure and operating practices of the agencies;
- (11) enter into and enforce all contracts necessary or desirable for the functions of the committee;
- (12) provide for annual post-audits of the Alaska Housing Finance Corporation and the Alaska Industrial Development Authority.

(b) Nothing in this chapter authorizes the referral by the presiding officer of legislation to the committee at regular or special sessions of the legislature. (Sec 2 ch 95 SLA 1971; am Sec 1 ch 74 SLA 1977; am Sec 2 ch 57 SLA 1979; am Sec 3 ch 18 SLA 1980; am Sec 32 ch 106 SLA 1980)

Effect of amendments. - The 1979 amendment added paragraph (8) of subsection (a). The first 1980 amendment, effective April 9, 1980 added paragraphs (9) through (11) in subsection (a). The second 1980 amendment, effective June 21, 1980 added paragraph (12).

AS 24.20.206. Duties. The Legislative Budget and Audit Committee shall

- (1) report to the legislature its recommendations relating to the confirmation of appointees to the Board of Trustees of the Alaska Permanent Fund Corporation and the Board of Trustees of the Alaska Renewable Resources Corporation;
- (2) annually review the long-range operating plans of all agencies of the state which perform lending or investment functions;

(3) review periodic reports from all agencies of the state which perform lending or investment functions;

(4) present a complete report of investment programs, plans, performance, and policies of all agencies of the state which perform lending or investment functions to the legislature within 30 days after the convening of each regular session;

(5) present to the legislature within 30 days after the convening of each regular session a review of the report of the governor under AS 37.07.020(d) with recommendations for needed legislation;

(6) in conjunction with the finance committee of each house recommend annually to the legislature the investment policy for the general fund surplus and for the income from the permanent fund;

(7) provide for an annual post audit and annual operational and performance evaluation of the Alaska Permanent Fund Corporation investments and investment programs;

(8) provide for an annual operational and performance evaluation of the Alaska Housing Finance Corporation and the Alaska Industrial Development Authority; the performance evaluation shall include, but is not limited to, a comparison of the impact on various sectors of the economy by public and private lending, the impact on resident and nonresident employment, the impact on real wages, and the impact on state and local operating and capital budgets of the programs of the Alaska Housing Finance Corporation and the Alaska Industrial Development Authority. (Sec 2 ch 18 SLA 1980; am sec 33 ch 106 SLA 1980)

Effect of amendment. - The 1980 amendment, effective May 1, 1980, added paragraph (9). Effective date. - Section 11, ch 18 SLA 1980, makes this section effective April 9, 1980 in accordance with AS 01.10.070(c).

AS 24.20.209. Records. The Legislative Budget and Audit Committee shall keep a complete file of all reports presented to it and all reports presented by it to the legislature or to a legislative committee. (Sec 2 ch 18 SLA 1980)

Effective date. - Section 11, ch 18 SLA 1980, makes this section effective April 9, 1980, in accordance with AS 01.10.070(c).

AS 24.20.211. Legislative finance division. The legislative finance division is established as a permanent staff agency responsible to the Legislative Budget and Audit Committee for performance of fiscal analysis and budget review functions. (Sec 2 ch 95 SLA 1971)

AS 24.20.221. Staff. (a) The committee shall hire and determine the salary of the legislative fiscal analyst who shall serve both at the direction and pleasure of the committee. The fiscal analyst shall serve as head of the finance division and, within the limits of the budget approved by the committee, shall employ and determine the compensation of the professional and clerical staff of the division. (b) The fiscal analyst and members of the professional and clerical staff shall not join or support a partisan political organization. This prohibition does not prevent the fiscal analyst or members of the staff from joining social organizations, expressing private opinion, registering as to party or voting. (Sec 2 ch 95 SLA 1971)

AS 24.20.231. Duties. The Legislative Finance Division shall

- (1) analyze the budget and appropriation requests of each department, institution, bureau, board, commission or other agency of state government;
- (2) analyze the revenue requirements of the state;
- (3) provide the finance committees of the legislature with comprehensive budget review and fiscal analysis services;
- (4) cooperate with the division of budget and management in establishing a comprehensive system for state program budgeting and financial management as set out in the Executive Budget Act (AS 37.07);
- (5) complete studies and prepare reports, memoranda or other materials as directed by the Legislative Budget and Audit Committee;
- (6) with the governor's permission, designate the legislative fiscal analyst to serve ex officio on the governor's budget review committee. (Sec 2 ch 95 SLA 1971)

AS 24.20.241. Legislative Audit Division. The legislative audit division is established as a permanent staff agency responsible to the Legislative Budget and Audit Committee for completion of the post-audit function. (Sec 2 ch 95 SLA 1971)

AS 24.20.251. Qualifications and appointment of legislative auditor. (a) the legislative auditor shall be a certified public accountant of this state, or of another state having requirements equivalent to those of this state, with at least five years of practice in the profession, or the equivalent, before his appointment.

(b) The Legislative Budget and Audit Committee shall examine persons to serve as legislative auditor and, upon completion of the examination, place the name of the person selected in nomination before the legislature. If the legislature is not in session, the person nominated shall

carry out the duties of the office until the next session of the legislature at which time the name of the person nominated shall be presented to the legislature for appointment.

(c) The legislative auditor serves at the pleasure of the legislature. However, when the legislature is not in session, the auditor may be removed for cause by a majority vote of the Legislative Budget and Audit Committee after notice by, and a hearing before, the committee. (Sec 2 ch 95 SLA 1971)

AS 24.20.261. Staff. (a) The legislative auditor shall serve as head of the audit division and, within the limits of the budget approved by the committee, shall employ and determine the compensation of the professional and clerical staff of the division.

(b) The auditor and members of the professional and clerical staff may not join or support any partisan political organization. This prohibition does not prevent the auditor or members of the staff from joining social organizations, expressing private opinion, registering as to party or voting. (Sec 2 ch 95 SLA 1971)

AS 24.20.271. Powers and duties. The legislative audit division shall (1) conduct a performance post-audit of boards and commissions designated in AS 44.66.010 and of those programs and activities of agencies subject to termination as determined in the manner set out in AS 44.66.020-44.66.040, and submit the audit, together with a written report, not later than the first day of the regular session of the legislature convening in each year set out with reference to boards, commissions or agency programs whose activities are subject to termination as prescribed in AS 44.66;

(2) audit at least once every three years the books and accounts of all custodians of public funds and all disbursing officers of the state;

(3) at the direction of the Legislative Budget and Audit Committee, conduct performance post-audits on any agency of state government;

(4) cooperate with state agencies by offering advice and assistance as requested in establishing or improving the accounting systems used by state agencies;

(5) require the assistance and cooperation of all state officials and other state employees in the inspection, examination and audit of state agency books and accounts;

(6) have access at all times to the books, accounts, reports or other records, whether confidential or not, of every state agency;

(7) ascertain, as necessary for audit verification, the amount of agency funds on deposit in any bank as shown on the books of the bank; no bank may be held liable for making information required under this paragraph available to the legislative audit division;

(8) complete studies and prepare reports, memoranda or other materials as directed by the Legislative Budget and Audit Committee;

(9) have direct access to any information related to the management of the University of Alaska and have the same right of access as exists with respect to every other State agency. (Sec 2 ch 95 SLA 1971; am Sec 4 ch 46 SLA 1977; am sec 4 ch 149 SLA 1977)

Effect of amendments. - The first 1977 amendment added paragraph (9). The second 1977 amendment rewrote paragraph (1).

Editor's note. - Section 1, Ch. 149 SLA 1977, provides: "The legislature finds that the substantial increase in the number of state agencies, boards and commissions, and the proliferation of rules and regulations which each has adopted have contributed to a public disenchantment with the operation of state government, and that there is need for an effective and regular system of scrutiny of the programs and activities of all agencies, boards and commissions. The legislature further finds that the establishment of a system for periodic review by the public and the executive and legislative branches of certain state agencies, boards and commissions will help the governor and the legislature to determine the need for the continued existence of each of the agencies, boards and commissions."

Legislative committee report. For a report on ch 46 SLA 1977 (HCSSB 261), see 1977 House Journal, p. 1019.

Subsection (6) gives audit division access to state agency records. - Although AS 23.3.110(a) and 43.20.190(a) guarantee confidentiality of records in the Department of Labor and Revenue, subsection (6) of this section enables the Division of Audit to have access to the records of every state agency whether confidential or not. 1972 Op. Att'y Gen.

But confidential tax and wage records held protected by Alaska Const., art I, sec 22. - A legislative auditor may not examine confidential records on file for state income tax returns and wage information submitted by employees and employers to the Department of Labor in connection with the administration of the State Employment Security Act to determine if persons receiving assistance from the Department of Health and Social Services under their Adult Public Assistance and Aid to families with dependent children were eligible. Such data is within the ambit of protection intended to be afforded the right of privacy under Alaska Const., art I, sec 22. 1972 Op. Att'y Gen.

AS 24.20.281. Special Audit. A member of the legislature may, in writing and with at least six days notice, request that the Budget and Audit Committee direct a special audit of any state agency or determine the propriety of any expenditure of state funds received by any political subdivision or other entity obtaining state funds. Should a majority of the committee vote to approve the request, the legislative audit division shall make the audit. (Sec 2 ch 95 SLA 1971)

AS 24.20.291. Conflict of interest. The legislative auditor, the supervisor of audit, the legislative fiscal analyst and members of the staff of the legislative finance and audit divisions may not serve in ex officio or other capacity on any board (except as authorized in Sec 231 (6) of this chapter), commission or other administrative agency of state government; nor may they have a financial interest in transactions involving any agency of state government. (Sec 2 ch 95 SLA 1971)

AS 24.20.301. Records. (a) The legislative audit division shall keep a complete file of all audit reports and other reports or releases issued by the division, and a complete file of audit work papers and other related supportive material. The division shall also keep a complete and accurate record of all fiscal transactions involving the division.

(b) The legislative finance division shall keep a complete file of all budget reports and other reports or releases issued by the division and a complete and accurate record of all fiscal transactions involving the division. (Sec 2 ch 95 SLA 1971)

AS 24.20.311. Reports. The committee shall file copies of its approved audit reports including any committee recommendations with the governor, the agency concerned and the legislature. An annual report summarizing the audit reports and committee recommendations made during the year shall be filed with the governor and with the legislature within the first five days of each regular session of the legislature. Reports shall be approved by a majority of the committee before their release and shall be open to public inspection after their release to the legislature. (Sec 2 ch 95 SLA 1971)

AS 24.30.060(b) "... bills introduced by the Legislative Budget and Audit Committee shall be delivered with a letter of explanation to the rules committee of either house and bear the inscription "Rules Committee by Request of the Legislative Budget and Audit Committee."

AS 24.40.031. Postponement of civil proceedings when a party or attorney is a member of the legislature. When it appears that a party or an attorney of record of a party to a civil action is a member of the legislature of this state, and that the legislature is in session, the action shall be continued until 10 days after the legislature has adjourned, unless the party or attorney upon the call of the action for trial waives the benefit of this section. When it appears that a party or an attorney of record of a party to a civil action is a member of the Alaska Legislative Council, the Legislative Budget and Audit Committee, or one of their subcommittees, the action shall be continued when the legislative council, budget and audit committee, or the subcommittee, as the case may be, is holding a meeting, unless the party or attorney upon the call of the action for trial waives the benefit of this section. When it is necessary to file a brief or memorandum of law in an action which has been continued under the provisions of this section, the action shall be continued for a time sufficient to prepare and file the brief or memorandum. (Sec 1 ch 131 SLA 1974)

Editor's note. - Section 2, ch 131, SLA 1974, provides: "In sec 1 of this Act, AS 24.40.031 has the effect of changing Rule 4C(f) of the Alaska Rules of Civil Procedure, by providing for the continuance of a trial of a civil action or other court proceeding when a party or attorney is a member of the legislature."

AS 29.18.590. Transfer of utilities to capital city. The development corporation, in cooperation with the capital city, shall arrange for and agree to an orderly schedule for transferring to the capital city ownership of, and financial and operational responsibility for utilities and any other facilities which the development corporation considers to be integral parts of the capital city infrastructure. Before January 1, 1985, the development corporation and the council of the capital city shall jointly retain independent consultants to study and determine an orderly schedule for transfer of these utilities and facilities to the capital city. The study shall consider the capabilities of the capital city and its existing and anticipated residents to finance the cost of these utilities and other facilities and their operating expenses. The consultants shall propose a recommended schedule for and terms of transfer which are commensurate with the capital city's existing and anticipated population, tax base and any other factors relating to its capability to finance and operate these facilities as they consider appropriate. The development corporation shall, after considering the consultants' report propose a schedule of and terms and conditions of the transfer to the capital city, which shall, upon review and approval by the

council, be included in an agreement between the development corporation and the capital city. If the development corporation and the capital city are unable to agree within six months after the development corporation submits its proposal, the development corporation shall submit the proposal to the Legislative Budget and Audit Committee which shall consider the proposal, and if the committee considers it appropriate to do so, shall recommend to the legislature legislation it considers desirable for the disposition of the utilities and other facilities. If the legislature does not enact legislation regarding the disposition within one year after the proposal is submitted to the Legislative Budget and Audit Committee, the development corporation may at any time thereafter sell or dispose of the utilities and facilities or any of them to a private person or entity or government body, or continue to operate them. (Sec. 3 ch 143 SLA 1978)

AS 37.05.210(2). The Department of Administration shall "file with the governor and with the legislative auditor before October 16 a report of the financial transactions of the preceding fiscal year and of the financial condition of the state as of the end of that year, with comments and supplementary data which he considers necessary; this report shall be printed for the information of the legislature and the public." (Sec 1 ch 11 SLA 1965)

AS 37.07.020. Responsibilities of the governor.

(d) The governor shall annually, before the convening of the legislature, report to the legislature through the Legislative Budget and Audit Committee the long-range fiscal and economic consequences of

(1) alternate levels of capitalization of the investment funds of the state; and

(2) alternative investment policy for the general fund surplus. (Sec 4 ch 18 SLA 1980)

AS 37.07.040. "The budget and management division shall...

(6) provide the legislative finance division with the budget information it may request; (7) provide the legislative finance division with an advance copy of the governor's budget workbooks by the first Monday in January of each year, except that following a gubernatorial election year the advance copy shall be provided by the second Monday in January.

AS 37.07.050. Each state agency, on the date and in the form and content prescribed by the division of budget and management, shall prepare and forward to the division and legislative finance division various program and budget information on the agency's program.

AS 37.07.080. Program execution.

(e) Transfers or changes between objects of expenditures or between allocations may be made by the head of a state agency upon approval of the division of budget and management. No transfers may be made between appropriations except as provided in an act making the transfers between appropriations.

(h) The increase of an appropriation item based on additional federal or other program receipts not specifically appropriated by the full legislature may be expended in accordance with the following procedures:

(1) the governor shall submit a revised program to the Legislative Budget and Audit Committee for review;

(2) 45 days shall elapse before commencement of expenditures under the revised program unless the Legislative Budget and Audit Committee earlier recommends that the state take part in the federally or otherwise funded activity;

(3) should the Legislative Budget and Audit Committee recommend with the 45-day period that the state not initiate the additional activity, the governor shall again review the revised program and if he determines to authorize the expenditure, he shall provide the Legislative Budget and Audit Committee with a statement of his reasons before commencement of expenditures under the revised program. (am sec 4, 5 ch 60 SLA 1979)

Effect of amendments. The 1979 amendment substituted "an act making the transfers between appropriations" for "(h) of this section" at the end of the second sentence of subsection (c) and rewrote subsection (h). As the rest of the section was not affected by the amendment, it is not set out.

Encroachment on executive power. - Vesting authority in the legislative Budget and Audit Committee to approve transfers between appropriation items violates the separation of powers doctrine and is an improper delegation of a legislative function to an interim committee. July 22, 1976, Op. Att'y Gen. Section 13(3) of the 1976 budget bill, which authorized the Budget and Audit Committee to supervise the governor's execution of the budget act, specifically over that portion of it which permitted him to transfer appropriation items, constituted an encroachment on executive power and offended the Alaska Constitution. July 22, 1976, Op. Att'y Gen.

AS 37.07.090(a) states in part, each agency shall submit a performance report to the budget and management division no later than September 1 for the preceding fiscal year. These reports shall be in the form prescribed by the division after consultation with the legislative finance division, and shall include identifying program objectives, assessment of program achievement, program accomplishments, etc. (Sec 1 ch 188 SLA 1970; am sec 5 ch 95 SLA 1971; am sec 6 ch 149 SLA 1977)

AS 37.10.087. Loans to bond construction funds. (a) When a construction fund or account established to receive the proceeds of state general obligation bonds is temporarily exhausted the commissioner of administration on recommendation of the state bond committee, and with the approval of the Legislative Budget and Audit Committee, may temporarily transfer money from the general fund to the bond construction fund or account.

(b) Transfers under (a) of this section may be made only when the commissioner of revenue determines and certifies to the state bond committee that there is in the general fund an amount sufficient to meet current cash expenditure needs of the state.

(c) The amount transferred to a construction fund or account under (a) of this section may not exceed anticipated receipts from the unsold general obligation bonds to be issued and the federal programs receipts estimated to be received from the general obligation bond construction program financed from the construction fund or account.

(d) Money transferred from the general fund under (a) of this section shall be immediately returned to the general fund as soon as sufficient money has been received in the bond construction fund or account to which the transfer was made. (Sec 1 ch 126 SLA 1972)

AS 37.10.088(c), in part, requires the Commissioner of Administration to submit a quarterly report of all advances and reimbursements under this section that are made to the University of Alaska against verified receivables from appropriations for grants and contracts from private or federal sources, to the Legislative Budget and Audit Committee. (Sec 8 ch 46 SLA 1977) (am sec 79 SLA 1978)

AS 37.12.100. The Alaska Renewable Resources Corporation "shall have its financial record audited annually by an independent outside auditor. The legislative auditor may prescribe the form and content of the financial record of the corporation and shall have access to these records at any time." (Sec 3 ch 179 SLA 1978)

AS 37.13.120(d). The board (of Trustees of the Alaska Permanent Fund) shall submit long-range and quarterly investment reports to the Legislative Budget and Audit Committee.

AS 37.13.120(k) "... the board (of Trustees of the Alaska Permanent Fund) shall establish and from time to time as necessary modify guidelines for the investment of the assets of the (Alaska Permanent Fund) corporation. Before adoption of any guidelines the guidelines shall be reported to the Legislative Budget and Audit Committee for review and comment.

AS 37.13.160 . Audits. The Legislative Budget and Audit Committee shall provide for an annual post audit and annual operational and performance evaluations of the corporation's investments and investment programs. (Sec 5 ch 18 SLA 1980)

Cross reference. - For the responsibilities of the Legislative Budget and Audit Committee, see AS 24.20.206.

AS 39.20.245(b). An employee of the legislature or of a legislative agency with the approval of the person authorizing the employment may donate accrued personal leave to another employee of the legislature or of a legislative agency only for use as leave for medical reasons. The official responsible for legislative employee accounts shall debit the donor's personal leave account and credit the donee's personal leave account, for medical reasons only, by converting the donated leave into cash value at the donor's rate of pay and reconverting the cash value to hours of leave at the donee's rate of pay. Leave donated under this subsection is not leave taken by the donor for purposes of AS 39.20.225'. (Ch 75 SLA 1981)

AS 43.08.035(b) states, in part, the commissioner of Revenue shall obtain approval of the Legislative Budget and Audit Committee for the expenditure of appropriations made from the general fund for the payment of interest and revenue anticipation notes issued under chapter 08.

AS 43.21.110(b) states, in part, the legislative auditor shall transmit to the legislature an annual report reviewing the actions of the Department of Revenue in administering AS 43.21 which relates to Oil and Gas Corporate Income Tax. (Sec 3 ch 110 SLA 1978). Repealed effective January 1, 1982, Sec 19, ch 116, SLA 1981.

AS 44.07.200. Money of the corporation. The legislative auditor may examine all the accounts and books of the Alaska Capital City Development Corporation and all other records and papers relating to its financial standing. The Legislative Budget and Audit Committee shall conduct an examination at least once every two years or may accept an independent audit of the corporation by a firm of certified public accountants made at the request of the corporation in satisfaction of the examination requirement. (Sec 2 ch 143 SLA 1978)

AS 44.07.270(5) states, in part, the Capital City Development Oversight Committee has the power to review all reports of the Alaska Capital City Development Corporation and of the Legislative Budget and Audit Committee relating to the corporation. (Sec 2 ch 143 SLA 1978)

AS 44.07.280 states, in part, the legislative audit division and the legislative finance division shall provide audits, reports and analyses requested by the Capital City Development Oversight Committee. (Sec 2 ch 143 SLA 1978)

AS 44.07.320. Annual report. The corporation shall submit to the governor and the Legislative Budget and Audit Committee, within three months after the end of the corporation's fiscal year, a complete financial report audited by a certified public accountant or firm of certified public accountants, which shows

- (1) its receipts and expenditures during its fiscal year;
 - (2) its assets and liabilities at the end of its fiscal year, including a schedule of its leases and mortgages and the status of reserve, special and other funds;
 - (3) the progress of fulfillment of the financial and economic projections contained in the general development and specific development plans; and
 - (4) its operations and accomplishments and any material problems encountered in implementing the development plan.
- (Sec 2 ch 143 SLA 1978)

AS 44.08.020(b) states, in part, the Commissioner of Community and Regional Affairs shall submit applications for reimbursement on business capital assets to the Legislative Budget and Audit Committee for a determination as to whether the decline in market value is attributable to the capital relocation initiative. (Sec 3 ch 59 SLA 1975)

AS 44.08.040(b) states, in part, the Commissioner of Community and Regional Affairs, or his designee, after consultation with the Legislative Budget and Audit Committee, may authorize withdrawals from the capital relocation revolving fund for the purpose of implementing the provisions of AS 44.08.020-AS 44.08.035. (Sec 7 ch 59 SLA 1975)

AS 44.46.090(a) states, in part, the Alaska Council on Science and Technology (established in the Office of the Governor) shall have its financial records audited by an independent certified public accountant. The internal auditor and the Legislative auditor shall jointly prescribe the form and content of the financial records of the council and shall be afforded access to these records at any time. (Executive Order No. 46 Sec 3 1980)

AS 44.66.020(b) relates to the "Sunset" process and states in part, that an agency program or activity designated in AS 44.66.020(a) shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination during the

regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under AS 44.66.030. (Sec 3 ch 149 SLA 1977)

AS 44.66.030 relates to selecting programs for Sunset purposes and states in part, that during the legislative session preceding each of the years set out in AS 44.66.020(a), the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category which shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill which, if enacted into Law, would terminate those designated programs and activities on or before July 1 of the following year. (Sec 3 ch 149 SLA 1977).

AS 44.66.050(a) states, in part that the legislative committee of reference shall hold one or more hearings to evaluate agencies subject to "Sunset" review. The committee shall consider the performance audit of the activities of board, commission, or agency program, prepared by the Legislative Audit division as prescribed in AS 24.20.271(1). (Sec 3 ch 149 SLA 1977)"

AS 44.81.260(b)(1) states that the Legislative Audit Division has access to records of the Alaska Commercial Fishing and Agriculture Bank (CFAB) to perform an audit authorized under AS 44.81.270. (Ch 109 SLA 1981)

AS 44.81.270 relates to powers of the legislative auditor to audit CFAB. The legislative auditor may cause the bank to be audited in the manner and under the conditions prescribed by AS 24.20.271 for audits performed by the legislative audit division. The legislative audit division has free access to all books and papers of the bank that relate to its business and books and papers kept by a director, officer or employee relating to or upon which a record of its business is kept, and may summon witnesses and administer oaths or affirmations in the examination of the directors, officers or employees of the bank or any other person in relation to its affairs, transactions, and conditions, and may require and compel the production of records, books, papers, contracts, or other documents by court order if not voluntarily produced. (Ch 109 SLA 1981)

AS 44.81.280. The legislative auditor and his employees may not disclose information acquired by them in the course of an audit of the bank concerning the particulars of the business or affairs of a borrower of the bank or another person, unless the information is required to be disclosed by law or under a court order. (Ch 109 SLA 1981)

AS 44.82.180 states, in part, that the Alaska Gas Pipeline Financing Authority shall have its financial records audited annually by the legislative auditor or by a certified public accountant approved by the legislative auditor. The legislative auditor may prescribe the form and content of the financial records of the authority and is entitled to access to these records at any time. (Sec 2 ch 90 SLA 1978)

AS 44.83.190. Annual audit. The authority shall have its financial records audited annually by a certified public accountant. The legislative auditor may prescribe the form and content of the financial records of the authority and shall have access to these records at any time. (Sec 1 ch 278 SLA 1976)

AS 44.83.191. The Alaska Power Authority may not issue bonds except after 60 days notification of its intent to issue bonds is given to the governor and to the legislature, if the legislature is in session, or to the Legislative Budget and Audit committee, if the legislature is not in session. (Sec 24 ch 83 SLA 1980).

AS 44.88.200 '... the (Alaska Industrial Development) Authority shall have its financial records audited annually by the legislative auditor or by a certified public accountant approved by the legislative auditor. The legislative auditor may prescribe the form and content of the financial records of the authority and shall have access to these records at any time. (Sec 1 ch 64 SLA 1967)

AS 47.30.370 states, in part, that before implementation, the programs, plans and actions of the Department of Health and Social Services made under AS 47.30.350, which relate to the construction and equipping of mental health hospitals, except for the proposed geographic location of the mental health hospital, shall be reviewed by the Legislative Budget and Audit Committee.

AS 47.40.030 states, in part, anyone who solicits or receives funds from the Department of Health and Social Services for the cost of services for persons for whom the state has assumed legal responsibility, shall (1) upon request, submit a complete financial statement by an independent, certified public accountant to the division of legislative audit; (3) upon request, furnish the division of legislative audit all fiscal information, books, records, and accounts pertaining to services paid for under AS 47.40. (Sec 1 ch 136 SLA 1970)